

**INTA's Comments  
on Article 52 of the draft withdrawal agreement  
published by the EU Commission on March 19, 2018**

INTA is a global association of brand owners and professionals dedicated to supporting trademarks and related intellectual property (IP) to foster consumer trust, economic growth and innovation. INTA's members are more than 7,700 organizations from 191 countries. The Association has a particularly strong presence in both the UK (311 members) and the EU27 (1,272 members). Our global membership also is quite diverse with some 30,000 trademark professionals from major corporations as well as SMEs, and from law firms and academia. All this places INTA in a unique and balanced position to provide input on Brexit from the perspective of businesses operating in and with the UK.

INTA would like to provide the following comments on Article 52 of the draft withdrawal agreement TF510(2018) 35, published by the European Commission on March 19, 2018, and which could impact right holders.

INTA is pleased that Article 52 of the draft withdrawal agreement provides for measures to ensure that holders of international trademark registrations designating the European Union (EU) under the Madrid Protocol who have obtained protection in the EU for such international registrations before the end of the transition period will enjoy protection in the United Kingdom for their trademarks in respect of those international registrations after the end of the transition period. However, the said article infers that those (unspecified) measures could differ from those spelt out in Articles 50 and 51 of the draft withdrawal agreement.

Under Article 4 of the Madrid Protocol and Article 189 of the European Union Trade Mark Regulation, unless protection is refused, an international registration designating the EU shall have, as from the date of the international registration (or that of a subsequent designation of the EU), the same effect as an European Union Trade Mark. It follows from the said provisions that the rights acquired by virtue of an international registration designating the EU should enjoy the same protection as those acquired through a direct filing with the EUIPO. Hence, though not necessarily the same as regards the procedures referred to in Article 51 of the draft withdrawal agreement, in order to take into account the specificities of the international procedure, the measures applicable under Article 52 of the draft withdrawal agreement should in no way be less favorable to holders of international registrations protected in the EU than those applicable under Articles 50 and 51.

INTA can understand that the procedures for ensuring the continued protection in the United Kingdom, after the end of the transition period, of the international registrations concerned could not be specified in the draft withdrawal agreement, since they involve not only the United Kingdom and the EU – insofar as they concern rights granted by the EU which effectively enjoy the same status and deserve the same protection as EU trade marks – but also the International Bureau of WIPO. Nevertheless, INTA would appreciate an early clarification of the measures contemplated under Article 52 of the draft withdrawal agreement and an opportunity to comment thereon before their finalization.

Finally, although the foregoing addresses specifically international registrations protected in the EU under the Madrid Protocol, it is to be understood as applying equally, *mutatis mutandis*, to international registrations of designs protected in the EU under the Geneva Act of the Hague Agreement.