

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT DESIGNS AND INTERNATIONAL TRADE  
MARKS (AMENDMENT ETC.) (EU EXIT)  
REGULATIONS 2019

*Tuesday 5 March 2019*

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**Saturday 9 March 2019**

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**The Committee consisted of the following Members:**

*Chair:* DAVID HANSON

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|--|--|
| † Allan, Lucy ( <i>Telford</i> ) (Con)                                   | † Moore, Damien ( <i>Southport</i> ) (Con)   |
| † Beckett, Margaret ( <i>Derby South</i> ) (Lab)                         | † O'Brien, Neil ( <i>Harborough</i> ) (Con)  |
| † Esterson, Bill ( <i>Sefton Central</i> ) (Lab)                         | † O'Hara, Brendan ( <i>Argyll and Bute</i> ) (SNP)                                       |
| † Harris, Rebecca ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) | † Skidmore, Chris ( <i>Minister for Universities, Science, Research and Innovation</i> ) |
| Hayes, Helen ( <i>Dulwich and West Norwood</i> ) (Lab)                   | † Smith, Jeff ( <i>Manchester, Withington</i> ) (Lab)                                    |
| † Hayes, Sir John ( <i>South Holland and The Deepings</i> ) (Con)        | Thomas, Gareth ( <i>Harrow West</i> ) (Lab/Co-op)  |
| † Hollinrake, Kevin ( <i>Thirsk and Malton</i> ) (Con)                   | † Warman, Matt ( <i>Boston and Skegness</i> ) (Con)                                      |
| † Johnson, Dr Caroline ( <i>Sleaford and North Hykeham</i> ) (Con)       | † Western, Matt ( <i>Warwick and Leamington</i> ) (Lab)                                  |
| † McMorrin, Anna ( <i>Cardiff North</i> ) (Lab)                          | Zoe Grunewald, <i>Committee Clerk</i>  |
|  | † <b>attended the Committee</b>  |

# Third Delegated Legislation Committee

Tuesday 5 March 2019

[MR DAVID HANSON *in the Chair*]

## Draft Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019

8.55 am

**The Minister for Universities, Science, Research and Innovation (Chris Skidmore):** I beg to move,

That the Committee has considered the draft Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Hanson.

The framework for protecting intellectual property is a vital part of our industrial strategy. The UK's strong IP system drives creativity and showcases UK innovation. Leaving the European Union will not change that. We will continue to deliver quality rights-granting services, lead the world in IP enforcement and engage in international IP discussions.

This draft statutory instrument uses powers provided by the European Union (Withdrawal) Act 2018 to ensure that protection continues in the UK for registered and unregistered Community designs, and international trademarks and designs in the event of no deal. It also addresses other deficiencies in UK law that would arise on exit.

Under the EU designs regulation, the shape and appearance of a product can be protected under a registered Community design granted by the EU Intellectual Property Office. That system runs in parallel to our domestic system, so protection in the UK can currently be obtained by registration under either or both of the EU and UK systems.

Shape and appearance can also be protected under the unregistered Community design. That right is established automatically when a design is first shown to the public, and it is particularly valued by design-intensive sectors such as the fashion industry. As with registered design, the UK provides a parallel domestic system. However, the scope of UK unregistered design is different from that of the EU equivalent because protection is afforded only to three-dimensional designs.

In addition to the rights granted by the EU Intellectual Property Office, businesses can obtain EU-wide registered design and trademark protection through an international system administered by the World Intellectual Property Organisation. That system enables business to protect designs and trademarks in multiple territories via a single application, filed in one language. Both the EU and the UK are contracting parties to that system. As with registered EU trademarks and designs, international EU rights are protected through EU regulations, meaning that a failure to act will result in the protections afforded to those rights being lost.

The draft regulations in Committee provide replacement rights for those who own registered EU designs on exit day in the form of a "re-registered" UK design. For those holding unregistered Community design, we will preserve UK protection through the "continuing unregistered" design. The new UK rights will be fully independent of the corresponding EU right. However, they will retain the effective date of the EU design and, in the case of a re-registered design, any other relevant dates filed as part of the original EU application.

The scope of protection for EU unregistered designs is broader than that provided by existing UK unregistered design, so we are introducing a new type of UK right called supplementary unregistered design. By doing so, we will ensure that the full range of design protection provided in the UK before exit day will remain available after we leave the EU. That new right will function alongside existing UK unregistered design.

To ensure continued protection in the UK for international designs that are protected through EU designations under the Hague agreement, we will create comparable re-registered UK designs just as we are doing with registered Community designs. For international trademarks designating the EU, we will create a comparable UK trademark, using an approach similar to that set out in the EU trademarks exit SI, recently approved by both Houses; the Committee in this place was attended by several members of this Committee today.

As with re-registered designs and comparable trademarks created from registered EU rights, the new UK designs and trademarks will be fully independent of the corresponding international rights, but they will inherit their effective dates and be treated as if applied for and registered under UK law.

For those with registered Community design and international EU design and trademark applications that are pending on exit day, we will allow corresponding UK applications filed after exit day to claim the EU right's earlier filing and priority date. To do so, an application must be submitted to the UK Intellectual Property Office within nine months of exit day.

The draft regulations also set out provisions to accommodate other particulars of EU and international design and trademark protection, including deferment of design publication and the use of subsequent designations to create multiple EU protections under a single international registration. The new UK rights can be challenged, assigned, licensed and renewed, so the instrument also sets out how such procedures will be accommodated. The IPO provided an outline of the changes through technical notices published last year, and it will provide full business guidance once the instrument has been made.

**Sir John Hayes** (South Holland and The Deepings) (Con): On pending applications, people have proceeded using the existing system and will reapply to the new system. Can the Minister assure us that there will be no delay there? If people have had an application in for some time, that could affect their business. Can the Minister send out a clear signal from the Government that those people will not be adversely affected?

**Chris Skidmore:** I can absolutely give that assurance. I have full confidence in the IPO, in both London and Newport. I have visited the office to see its ongoing work in ensuring that the registration process is clear

and consistent. When it comes to registered Community designs, it is important that the information is there—with many other issues, there is a lack of data—and that there is a simple transfer across. I am confident that that will minimise the impact on businesses; in fact, it will give them greater flexibility by providing that nine-month window for registration in the new UK-wide system.

**Anna McMorrin** (Cardiff North) (Lab): Will the Minister confirm that there will be no additional cost to those making the international applications?

**Chris Skidmore:** I can confirm that there will be no additional cost to the businesses or to any rights holders wishing to register registered or unregistered designs. A schedule of payments has obviously been in existence for a while, and we brought it down significantly after the 2014 legislation. For instance, the £60 for a single application for an unregistered design is now down to £70 for 10 applications. With registered designs, the price has also come down, from £450 to approximately £150. I can touch on that later, but the important thing is that there is no cost for transferring registered design rights across to the new system. It is almost business as usual; we have just created a new system that continues the protection for rights holders.

The regulations are vital in ensuring that the intellectual property system continues to function if the no-deal outcome arises. They are essential for safeguarding rights, and for providing businesses with maximum certainty and clarity, and I commend them to the House.

9.3 am

**Bill Esterson** (Sefton Central) (Lab): It is a pleasure, as ever—but especially at this hour of the morning—to serve under your chairmanship, Mr Hanson.

I start by picking up one of the Minister's comments. He said that this is business as usual—but if there is one thing that Brexit is not, it is that. We can probably all agree on that, whatever our stance on the subject.

**Chris Skidmore:** If you vote for the deal, it will be.

**Bill Esterson:** I think, Mr Hanson, we are in danger of wandering into a slightly different part of the forest.

The Minister set out the arguments in favour of creating a system that addresses what will be needed in this country for both registered and unregistered designs to apply in the UK, and I have relatively few concerns about his remarks. However, as always with such regulations, there is the question of whether Opposition Members are in a position to give our full judgment on both the available information and the responses from the technical experts in the sector.

I put on the record, again, our concern about our ability to fully scrutinise what we are being asked to support. It is a common problem with regulations, often related to the speed with which they are being pushed through, their detail and technical content, and their importance. As ever, it is important to get that point across, as this is another example of costs—albeit the Minister is claiming that they are relatively small—for creating a functioning regime after we leave the European Union.

As the sifting Committee said in its report when it recommended that the draft regulations be considered in Committee,

“The work of conversion is clearly a major exercise.”

That work will involve 700,000 registered Community designs alone. The preliminary estimate is of £375,000, which may appear to be a relatively small amount of money, but that is clearly not without significant amounts of work. The Intellectual Property Office says that it is able to address that and that costs are recovered through fees. The Minister has pointed out that the fees have come down. I have no reason to doubt him on that, but it will take time, both for the authorities to process the change in arrangements and for businesses to make sure they are covered. I believe there is a nine-month window for businesses to adapt to the new regime—the Minister may wish to correct me on that. Perhaps he could also answer how the Government intend to make sure that everybody has the cover that they need and is aware of the changes that they need to make during that transition period.

I have one question for the Minister, the answer to which I did not catch in his opening remarks. Perhaps he can explain how the unregistered Community design system operates and how businesses obtain their protection without having to register for it. I note that there is a three-year period. Can he clarify how that system operates so that the protection is in place? From what he said, it is clearly an important part of intellectual property protection. Perhaps he could give us some clarity on how it operates.

As ever, there is the thorny issue of consultation or, to be strictly accurate, the lack of public consultation that we see with the regulations going through Committees every single week. I notice that no formal consultation was carried out, but that stakeholders were asked to give their opinions. Perhaps the Minister can tell us—I cannot find the information anywhere—who was consulted and what their responses were to those informal consultation discussions. It would have been very helpful to have that information in front of us; it would have helped to ensure that we were in the best possible position to judge whether we should or should not support the regulations. I hope that the Minister, if he does not already, will soon have a note on what the consultations were, who was consulted and what the responses were.

I want to tell the Committee of the key concern raised by the Alliance for Intellectual Property. It is not particularly concerned with the continuing regime in the UK; it is relatively confident that what the Minister has described meets its requirements. Its concern is the lack of reciprocity. If equivalent protection is achieved through the withdrawal Bill, it believes that the design sector will still be gravely at risk without reciprocal protection from the EU27. After we have left the European Union, designs that are first disclosed in the UK might well be sufficiently protected here, but will receive no unregistered Community design protection in the EU, because we will no longer be members. The AIP's view is that this would have grave consequences for UK designers: according to a recent survey by Anti Copying In Design, almost 80% of them rely on the unregistered Community design right to protect their designs.

The EU is the largest export market for many UK design sectors, contributing over two-thirds of UK furniture manufacturers' export revenue. Such a loss of



[*Bill Esterson*]

reciprocity poses a serious threat to leading industry events such as 100% Design, London Fashion Week and Top Drawer, which creators from all over the world attend in order to reveal new and innovative designs. Without protection, designers will either have to run the risk of copying throughout the EU27 following disclosure, or simply avoid first disclosure in the UK altogether. Perhaps the Minister can advise on which route the Government think designers should take.

**Matt Western** (Warwick and Leamington) (Lab): On the point about designers and furniture manufacturers, there is a company in my constituency—a small business, which exports to 70 countries around the world—that faces significant costs in the enforcement of this design legislation and is up against a lot of copycat manufacturers, particularly in the far east. The company will be especially exposed, because Europe is such a big market for it.

**Bill Esterson:** Using the example of his constituents' business, my hon. Friend has set out the sector's exact concerns and the challenge for the Government to ensure protection of our innovative and creative exporters. Given the end of the parallel system to which the Minister referred in his opening remarks, perhaps the Minister can tell us how the Government will provide assurances.

What is the state of negotiations on achieving protection in this area in the European Union? We cannot overstate the importance of that protection for businesses such as that of my hon. Friend's constituents. I hope that there is an answer to that, and that the Minister can give us some assurances. We know that all too often negotiations on the details of post-Brexit arrangements have not gone as well as they need to—I hope that this issue is not one of those.

I asked the Minister about consultation. As ever, the approach to impact assessment is limited. Paragraph 13 of the explanatory memorandum discusses regulating small businesses. How well prepared will they be? This picks up on my earlier point on ensuring that all businesses are aware of the changes that will happen and the actions they need to take. Again, the Government have chosen a very narrow interpretation of "impact" in their approach to impact assessment; they are not taking the wider impact on the economy as a whole. As I said on previous occasions, that is regrettable and does not set out the true impact of regulations such as these.

That brings me to a number of questions that arise from the commentary in the explanatory memorandum. Can the Minister explain how the system will work for existing rights that are granted by the European Union's IPO? I am not entirely sure whether that question follows on from that asked by the right hon. Member for South Holland and The Deepings, but I think it is similar. If the Minister has not already answered it, perhaps he can pick up the point about ongoing validity for five years.

My next question is about paragraph 2.8 of the explanatory memorandum, which references action being taken by EU rights holders and their protections in the UK. My assumption is that those rights holders will be protected in the UK, and that the concern is about that

lack of equivalence. Perhaps the Minister could clarify that point, along with the ones about protections of UK designers in the EU.

According to paragraphs 7.17 and 7.27 of the memorandum, 12,000 international trademark applications and 1,000 design applications are estimated to be pending on exit day. How are the Government making sure that all those applying know that they need to file a new application? That point is similar to the earlier questions about making sure that all businesses understand what they need to do.

Paragraph 13.3 of the memorandum states that "there is sufficient time for all businesses to familiarise themselves with the changes"

before the regulations take effect, but there is a difference between there being time and businesses taking up the option. Certainly, many small businesses are not always equipped to address the regulations that come to them, so I really want to press the Minister on the impact on our small and medium-sized enterprise community.

In paragraph 7.33, there is a reference to "the right to opt out".

Again, what are the Government doing to make sure that businesses are fully aware of the options available to them, which are referred to in that paragraph?

I think this is my final question—[*Laughter.*] I am sure I can find some more if Members want me to, but on balance, I will stick to this one. The memorandum refers to fees of £63,000. Are those fees payable by businesses of all sizes, and is that going to continue to be the case? The Minister mentioned lower fees in his opening remarks, so perhaps he could link what he said then with the figure of £63,000 cited in the explanatory memorandum.

The example that my hon. Friend the Member for Warwick and Leamington gave about the furniture manufacturer in his constituency demonstrates how important it is that we get these regulations right and have arrangements in place. It is particularly important for designers for whom the EU is a major market; as we have heard, two thirds of designers export to the EU. I would particularly like to hear the Minister's answer about reciprocal arrangements, and I hope he is also able to answer the other questions that I have asked.

9.19 am

**Chris Skidmore:** I thank the hon. Member for Sefton Central for the contribution he has made to this debate, as well as the other right hon. and hon. Members who have contributed through interventions. I will endeavour to respond to the questions that have been raised.

I will first turn to the issue of public consultation, which has been familiar terrain in several of these no-deal statutory instrument Committees. The Intellectual Property Office has been engaging with businesses about the implications of exit since the referendum result, and I will turn to that engagement in a moment. The Department has used the existing Cabinet Office principles for consultation on all EU exit SIs and non-exit SIs, and details of any consultations undertaken are explained in all SIs' accompanying explanatory memorandums. The Government have sought to maximise continuity in a no-deal scenario. At the early stages of the negotiations on the future partnership, as I have explained before in

previous Committee debates, revealing the details of our continuity approach to public consultation would have risked our negotiating position.

**Bill Esterson:** I have heard the line about risking our negotiating position from Ministers before. Over the weekend we heard the US give exactly what its negotiating mandate would be in a trade deal. If the United States can do it, why can't we?

**Chris Skidmore:** It is important to reflect on the fact that the process of the negotiations is one that we do through Brussels and across 27 other member states. It is right that we take a nuanced position. I note, however, the hon. Gentleman's support for President Trump in this debate.

**Bill Esterson:** That really is a stretch!

**Chris Skidmore:** The individuals who took part in the technical review did so in a personal capacity. They were chosen because of their past experience as representatives of various stakeholder bodies, usually engaged in consultation with the IPO. The technical review required a fairly detailed knowledge of legislation—its practical implications as well as the context of the wider industry—and the framework of the EU international trademarks and designs legislation as a whole. We are confident that those individuals have the relevant knowledge and will be able not only to follow the approach being taken by the instrument in order to follow and identify any errors, but, importantly, any other issues that we might have missed. In no way was the IPO looking for people who would just agree with the approach or raise no issues. Although it is important for us, that would not have been for anyone's benefit. Indeed, the discussions at meetings were robust and forthright, and attendees were keen to challenge the instrument and make sure it was the best possible going forward.

**Bill Esterson:** Other Ministers have told us who has been consulted when we have asked these questions. Is there any reason why he is not telling us who was consulted on this occasion? Perhaps he will write to me.

**Chris Skidmore:** In terms of the consultation process and the individuals acting in a personal capacity, I am not sure whether I have the authority to divulge their names on the Floor of the Committee at this particular moment. Perhaps I can write to the hon. Gentleman if I can request their permission to be named. They acted in a personal and private capacity as part of the consultation following the Cabinet Office statutory instrument guidelines on consultations. The framework and process was a trusted one. I am sure that having an opportunity to give private views provided for a greater opportunity to scrutinise the legislation and to be more honest and robust as a result.

We assessed the impact of the SI using the better regulation framework in line with the Treasury's Green Book guidance. It was obviously deemed to be less than £5 million, so a full impact assessment was not required. Analysis has been focused on the direct impact of the relevant SI compared with current legislation, and analysis of wider impacts on the UK's exit from the EU has

been previously published in the form of long-term economic analysis, which was published in November 2018.

On the impact on business and the conversion of existing rights to comparable UK rights, we have committed to ensuring that the administrative burden on business is minimal. The teams at the ICO are making good progress on numbering systems for the new comparable rights and will communicate the changes as soon as possible. The IPO will also publish guidance in every language of the EU on its website so that rights holders in every member state will be able to access all the necessary information on their UK rights.

When it comes to the process of notification both within the EU and the UK, the IPO will publish a standard website notice in all languages, as I have said, confirming that holders of re-registered UK designs and comparable UK trademarks have been granted equivalent UK rights. The notice will continue to remain on the website after exit, and individual notifications to holders of EU and international trademark designs will not be issued. We are confident that there has been significant interest that will be progressed towards the guidance being published.

If rights holders do not want to be given the new rights, the statutory instrument contains an opt-out provision that allows the holder of a comparable UK design or trademark to request that it be treated as if it was never registered in the UK. That process can be exercised via completion of a no-fee letter or email to the registrar, requesting an opt-out.

Several issues related to costs for businesses. This has been covered in interventions, but I state again that there will be no fee associated with the creation of the new UK rights. The comparable UK registered design or trademark rights will be independent from the corresponding EU rights. Obviously, there will continue to be charges for renewal. When the comparable UK right expires, the standard UK renewal fees will apply. In terms of comparable UK registered design, the renewal fee, which will be the same as it is at the moment, will increase for each successive five-year period of protection, from £70 for the first renewal up to £140 for the fourth and final renewal period. That is consistent with current practice. The holder of the comparable UK registered design will be required to pay these UK renewal fees in addition to those associated with the corresponding EU right in order to preserve protection in both the UK and the EU. For a comparable UK trademark, renewal fees will be charged according to the goods and services protected under the mark.

The hon. Member for Sefton Central raised the issue of the costs for Government—trading funds. The IPO receives no central Government funding, so costs are recovered through fees. In terms of the process for creating UK comparable rights, the actual process will be automated. Because these rights are currently valid and enforceable in the UK, the IPO already has access to related data—these are recorded in the IPO's records system and published on web-based search platforms—and as a result we will be able to create the new comparable UK rights without a significant amount of additional work.

When it comes to the issues about preparation for EU exit by the IPO, resources have been managed as part of the preparations. That includes staff recruitment

[Chris Skidmore]

and training. The creation of new rights on exit day will not itself create a need for additional resources beyond those already being addressed as part of our business-as-usual operational management.

**Matt Western:** Can the Minister—perhaps in writing, because I assume that he will not have the numbers at his fingertips—provide detail about the staffing that has been brought in, to provide reassurance to businesses? They are really concerned. Intellectual property, as we well know, is an incredibly valuable thing for this country, and it would be very helpful for us to explain the scaling up that has been going on in that department.

**Chris Skidmore:** I thank the hon. Gentleman for his point. I would be happy to write to him with some of the details on the resource issues of staffing. I went to visit the IPO's headquarters down in Newport and was deeply impressed by the organograms and the plans that it had put in place. Almost week by week and day by day, it has been planning for EU exit. Its staff morale is one of the highest for a Government organisation across the country, not just in Wales. I really got the sense that the IPO was content with the process, was managing the process and was a happy organisation in taking forward the process, but I will write to the hon. Gentleman on some of those details. I got no sense that there was undue pressure on the IPO as a result of the changes taking place.

Let me turn to the issues raised about designers and disclosure of unregistered designs. An unregistered design will need to be first disclosed in the EU to be protected in the EU should we leave without a deal. However, disclosure in the EU may have implications regarding any corresponding UK unregistered rights, such as the supplementary unregistered design and the existing UK unregistered design rights. This statutory instrument contains provisions to allow us to negotiate reciprocal arrangements on first disclosure with third countries, which may be the EU, individual countries within the EU, or more widely, but that will still be subject to future agreement.

If we retain first disclosure in the EU as a basis for establishing post-exit UK unregistered design, we will create an imbalance between the UK and EU systems, providing EU-based designers with an unfair advantage. Designs disclosed in the EU would count for establishing both UK and EU protection, whereas designs disclosed in the UK would count for establishing UK protection only.

The law in this area remains unclear, with prominent legal commentators disagreeing on the subject, but our approach reflects the published interpretation of the EU IPO. We think that that provides a more consistent approach for designers to understand and apply. The approach may be subject to future change if courts decide to take a different interpretation, but the SI does recognise disclosure in other qualifying territories, and although we will not have a reciprocal arrangement with the EU on exit day, we may have the opportunity to reach such an arrangement in the future.

**Bill Esterson:** The Minister's answer on that point justifies the concerns raised by the Alliance for Intellectual Property, some of which I listed. He gave great cause for

concern about the uncertainty and the differing legal opinions there. Can he give the Committee an indication about the discussions that have already taken place with our EU counterparts on how we achieve a reciprocal arrangement and what estimate the Government have at the moment of how long it will take to reach a system where we can avoid the problem he set out, which is of real concern, over damage being caused to a designer by registering in one jurisdiction and not in any other?

**Chris Skidmore:** The context of Government negotiations have been prioritised around that future relationship and finding a deal with the European Union. I am sure that, having raised these points of uncertainty, the hon. Gentleman will want to vote for this deal, to ensure that he can—there is no point in frowning at me. In every Committee meeting we come to, the hon. Gentleman raises points of concern and then goes into the House of Commons and votes the opposite way. Designers need to know that the hon. Gentleman is taking an approach that will provide maximum possible uncertainty to the sector. For him to raise these points here today is completely paradoxical to the approach that he takes in the Chamber.

We have agreed provisions on IP that will provide legal certainty and protect the interests of rights holders in the withdrawal agreement. It is important for the Committee that I place this on the record. It includes that registered Community designs should continue to be protected in the UK after the implementation period; that existing unregistered Community designs should continue to be protected in the UK after the implementation period; that the UK should take measures to ensure that international trademarks and designs designated in the EU, which are protected prior to the end of the implementation period, continue to enjoy protection in the UK; that IP rights exhausted in the UK and EU before the end of the implementation period shall remain exhausted in both areas; and that UK legal representatives will be allowed to continue to represent their clients before the EU IPO in cases that are ongoing at the end of the implementation period and in addition to the implementation period, which means that the current regime and arrangements for intellectual property will continue to operate as they do now until the end of that period. The provisions ensure that existing EU-level IP rights and the international rights designated in the EU will continue to be protected in the UK after the end of the implementation period.

I am sorry to sound so passionate about the deal, but I truly believe that, when it comes to IP, the deal is the best possible solution on the table to ensure that we can protect the interests of rights holders. I urge the hon. Gentleman to vote for it.

**Bill Esterson:** The problem is that, whatever deal goes through—and even if we leave without a deal—the same problem applies: that this issue of registering either in the EU and affecting UK rights, or registering in the UK and affecting EU rights, applies. That is the bit that has not been resolved. It is a complete red herring to say that which deal we vote for affects the outcome of these regulations.

**Chris Skidmore:** As I said, we have got this as the withdrawal agreement going forward; however, we must also turn to the issue of the future partnership.



Arrangements on future co-operation will be a key part of the future partnership. We will seek a comprehensive arrangement on trade that will cover a wide range of sectors, including IP. As part of going forward with that future relationship, the UK will continue to explore participation within the unitary patent system and the unified patent court. It is important that we reflect on that going forward.

In summary, I want to make sure that when we come to consistency, UK law says that anyone who lives in or carries on a business in a member state can claim UK unregistered design protection. That is because of section 217 of the Copyright, Designs and Patents Act 1988, which says any qualifying person—that is, any person who lives in and runs a business in a qualifying country, as defined to include member states—can claim the UK unregistered design right. We did not make any change to that. After exit day, people in businesses in the EU will continue to claim the UK unregistered design right while people and businesses in the UK would lose that equivalent right in the European Union. That creates an

imbalance between UK rights holders and EU rights holders that we must change. UK law is therefore being amended to limit the geographical criteria for a qualifying person to claim the UK unregistered design protection. That is important for providing certainty, clarity and consistency, above all, as part of this SI.

I hope that my answers have been helpful. These regulations are an absolutely necessary part of making sure that the IP continues to function if no deal is agreed. Above all, I hope that Members will consider that a deal will be in the best interests of IP rights holders; but I also hope that the Committee will now support this statutory instrument today.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019.

9.35 am

*Committee rose.*

