



United Kingdom Working Conditions Intellectual Property

Brexit trademark ruling leaves British brands exposed in EU disputes

# EU's Court of Justice ruled that UK trademark rights cannot challenge EU trademark applications after December 31, 2020, forcing British brands to secure separate EU trademark protections.

The European Union's highest court has delivered a significant ruling on the status of British trademark rights in EU proceedings, drawing a sharp line under a long-running legal uncertainty that has affected brand owners on both sides of the Channel.

The Court of Justice of the European Union handed down its [judgment](#) in the Case of EUIPO v Nowhere Co. Ltd on February 5, 2026, confirming that UK trademark rights cannot be used to challenge EU trademark applications where the relevant decision by the EU Intellectual Property Office (EUIPO) was made after the end of the Brexit transition period on December 31, 2020.

The dispute centred on a Japanese company, Nowhere Co. Ltd, which had in 2015 opposed an EU trademark application by relying on earlier unregistered rights protected under UK law. The EUIPO dismissed the opposition after the transition period ended, ruling that UK rights no longer produce legal effects within the EU. The EU General Court initially overturned that decision, but the CJEU has now reversed the General Court, siding with the EUIPO.

The court held that for an opposition to succeed under [Article 8\(4\) of the EU Trade Mark Regulation](#), the earlier right relied upon must exist and carry legal force within the EU at the time the EUIPO issues its decision — not merely at the time the original application was filed. Rights grounded solely in UK law

fail that test for any decision issued after December 31, 2020.

The ruling reflects the unitary character of EU trademarks, which are designed to have a uniform effect across all member states. The court declined to extend any transitional protection to UK-only rights in proceedings that were still ongoing when the transition period expired.

## Implications for brand owners

The judgment provides legal certainty but places a practical burden on businesses that have historically used UK rights as the basis for EU oppositions. Any brand owner who has relied, or intends to rely, on UK trademarks or unregistered UK rights to challenge EU applications must now ensure they hold separately registered EU protections.

UK "clone" marks—the equivalent national registrations automatically created for UK businesses when Britain left the EU—are treated as distinct from their EU counterparts and must be maintained through use in the UK under standard UK rules.

The decision also has broader application beyond Brexit: the principle that earlier rights must remain valid and enforceable at the date of the EUIPO's final decision applies to any lapsed rights, not only those affected by the UK's departure from the EU.