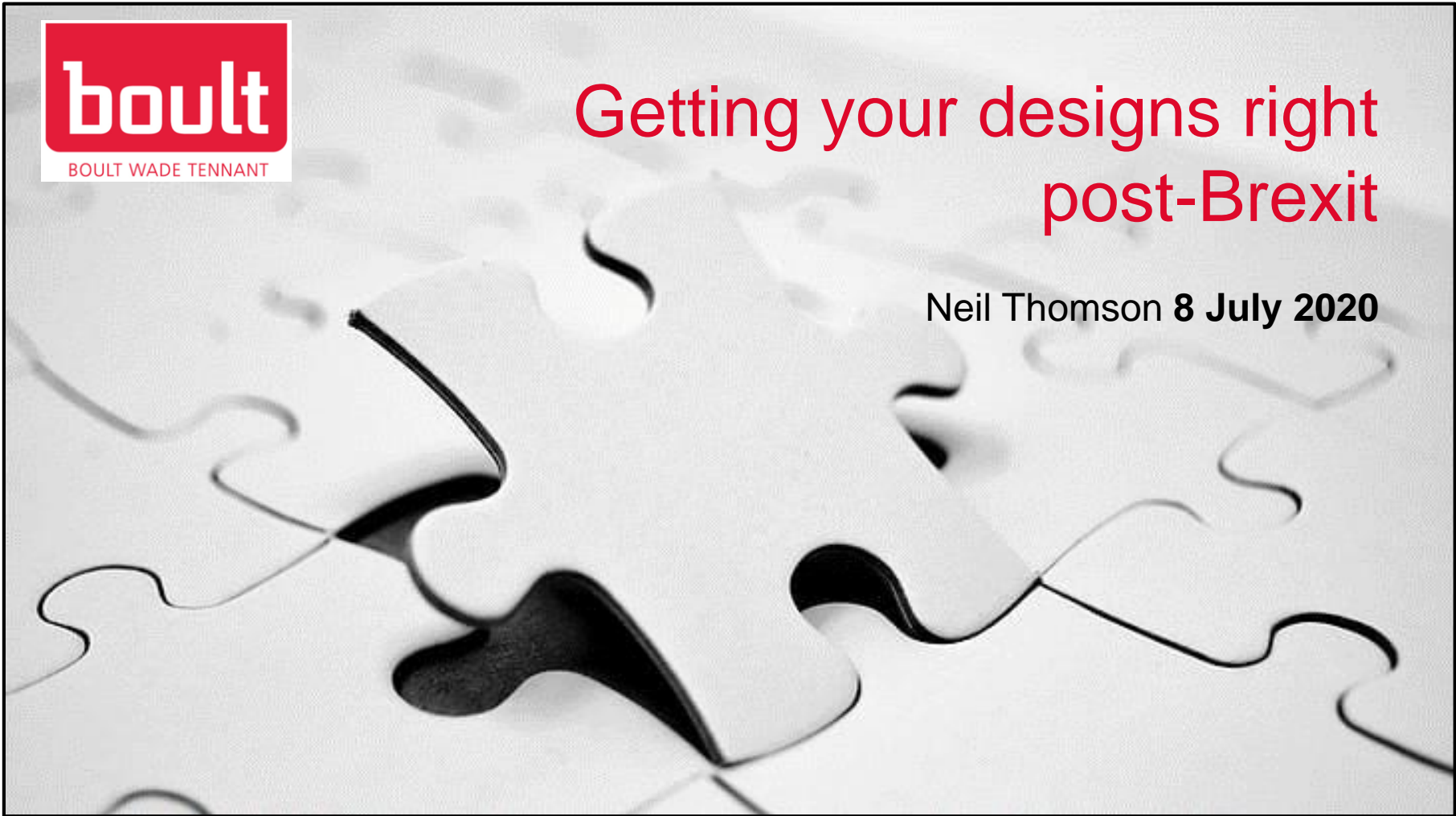


# Getting your designs right post-Brexit

Neil Thomson 8 July 2020



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## Introduction

Which design rights currently cover the UK and EU?

What is changing in January 2021?

Practical tips to get ready



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### Current design rights in the UK and EU

#### Registered design rights:

- Registered Community Design (RCD)
- UK Registered Design
- International (EU) Design or International (UK) Design

#### Unregistered design rights:

- Unregistered Community Design Right (CUDR)
- UK Unregistered Design Right (UKUDR)



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### Changes to registered design rights

UK will no longer be covered by RCD or International (EU) designs

Effective as of end of 2020

From 1 January 2021 “re-registered” designs will be created in the UK to protect any RCD or International (EU) registered, published and in force on 31 December 2020

International (UK) designs unaffected

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Re-registered designs

Automatically created

No official fees

Filing and priority dates preserved



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### Re-registered designs

An RCD with number:

*004048098-0004*

Will have a re-registered UK design  
with number:

*90040480980004*

An Int. (EU) with number:

*DM/069 629*

Will have a re-registered UK design  
with number:

*806962900010000*  
*806962900020000*

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### Re-registered designs

Does not cover RCDs or Int. (EU) pending at the end of 2020

Does not cover RCDs still subject to deferred publication at the end of 2020

For these there will be the option to file a UK design by end of **September 2021**

Option to opt out

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### Practical tip 1 – renewal fees

Renewal fees will need to be paid in the UK separately from the RCD or Int. (EU) design from 1 January 2021

Fee cannot be avoided by paying RCD/Int. (EU) fee early in 2020

Check that your renewal docket is:

- up-to-date and rules checked
- populated with new re-registered design numbers
- Be careful when using the 6-month grace period for late renewal



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### Practical tip 2 – pending applications

Look to expedite to obtain registration before end of 2020

Review your deferred publication cases – can these be published now before end of 2020?



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### Practical tip 3 – licences and security interests

Any licence or security interest that refers to an RCD or Int. (EU) will be treated as applying to the re-registered design

Notify licensees of the new re-registered designs

Register pre-existing licences or security interests by end of 2021

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### Practical tip 4 – future filing strategies

How to obtain protection in EU and UK from 2021?

1. UK and RCD
2. International designating UK and EU (and other?)



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### UK v. RCD

Systems generally closely aligned

Differences to be aware of:

	RCD	UK
Max. number of representations	7	12 (when filing online)
Max. deferment period	30m from priority date	12m from filing date
Official fees	€350 for one design €1,925 for 10 designs €2,725 for 20 designs	£50 for one design £70 for up to 10 designs £90 for up to 20 designs

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### Changes to unregistered design rights

UK will no longer be covered by CUDR

Changes to qualifying criteria for UK UDR

Effective as of end of 2020



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### Changes to CUDR

CUDR



UK continuing unregistered design

Will last for the remainder of the 3 year term

New supplementary unregistered design (SUD) from 1 January 2021

Terms of SUD will be similar to CUDR. However, the protection it provides will not extend to the EU.

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### Changes to UK UDR

Currently requires individual's residence/business presence or first marketing in the EU/EEA

From 1 January 2021 territorial scope restricted to UK



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### Practical tip 1 - first publications

Where to first publish in future?

- First disclosure in EU will create CUDR but not SUD
- First disclosure in UK will create SUD but not CUDR





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### Practical tip 2 – record keeping

Always an issue for unregistered design rights

Now also important to record where first published and not just when



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### Practical tip 3 – consider registration

Removes uncertainty

UK official fees very low



Questions?

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