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**Question Q233**

**National Group:** [please insert name of Group]

**Title: Grace period for patents**

**Contributors:** [please insert names of contributors – **last name** in **CAPITAL** **letters** please. Firm’s name is not required]

**Reporter within**

**Working Committee:** [please insert name]

**Date:** [please insert date]]

**Questions**

**Questions**

The Groups are invited to answer the following questions under their national laws.

If both national and regional laws apply to a question, please answer the question separately for each set of laws.

***Please number your answers with the same numbers used for the corresponding questions***.

1. Analysis of current law and case law
2. Does your country or region provide a grace period of any kind for patent applicants? As used in these questions, “grace period” includes any situation where a disclosure prior to a patent filing date that would normally qualify as prior art to the patent application is disqualified as or removed from the prior art.
3. If the answer to Question (1) is yes, please answer the following sub-questions:
4. What is the duration of the grace period?
5. From what date is the grace period calculated? Please indicate the effect, if any, of an international filing date and/or a Paris Convention priority date.
6. What types of intentional acts, disclosures, or exhibitions by the applicant (including the inventor or co-inventor) qualify for the grace period?
7. What types of unintentional acts, disclosures, or exhibitions by the applicant (including the inventor or co-inventor) qualify for the grace period?
8. What types of acts, disclosures, or exhibitions by a third party who is not the applicant, inventor, or co-inventor qualify for the grace period?
9. To the extent not already answered in Question 2) e) above, is there any situation where a disclosure by a third party who did not learn of or derive the invention from the inventor(s) can be covered by the grace period?
10. Is any type of statement or declaration by the applicant required to invoke the grace period? If yes:

What are the requirements for the statement/declaration?

When must the statement/declaration be filed?

1. Is the grace period defined by a statute or regulation? If so, please provide a copy of the relevant portion of the statute or regulation.
2. Is there any special situation where only certain types of applicants/inventors are allowed to benefit from graced disclosures? (such applicants/inventors may include SMEs, universities, individuals, etc.)

Policy

1. If your country or region provides a grace period for patents, please answer the following sub-questions:
2. What are the policy reasons behind this grace period?
3. Is the grace period, as it currently exists in your country or region, considered useful?
4. Is the grace period considered more useful for a certain class of stakeholders (for example, individuals, universities, small businesses, or large businesses)?
5. How often is the grace period used? If you are unable to provide a quantitative answer to this question, please indicate one of: often; occasionally; or almost never.
6. If your country or region does not provide a grace period for patents, please answer the following sub-questions:
7. What are the policy reasons behind not providing a grace period?
8. Would a grace period be useful for stakeholders in your country or region?
9. Would a grace period be considered more useful for a certain class of stakeholders (for example, individuals, universities, small businesses, or large businesses)?
10. What are the positive aspects of the grace period law of your country or region?
11. What are the negative aspects of the grace period law of your country or region?
12. As a practical matter, are the procedures and strategies of patent applicants in your jurisdiction affected by the grace period laws of other countries or regions? If so, in what way?
13. Proposals for harmonisation

The Groups are invited to put forward proposals for the adoption of harmonized laws in relation to grace periods for patents. More specifically, the Groups are invited to answer the following questions *without* regard to their national laws.

1. In your view, and assuming a proper balance is struck between the rights of the applicant and the rights of the public at large, is a grace period for patents desirable?
2. Is harmonization of laws relating to grace periods for patents desirable?
3. Please provide a standard that you consider to be best in each of the following areas relating to grace periods:
4. The duration of the grace period
5. The date from which the grace period is calculated
6. The types of intentional acts or disclosures by the applicant (including the inventor or co-inventor) that should be covered by the grace period
7. The types of unintentional acts or disclosures by the applicant (including the inventor or co-inventor) that should be covered by the grace period
8. The types of acts or disclosures by a third party who learned of or derived the invention from the applicant that should be covered by the grace period
9. The types of acts or disclosures by a third party who did not learn of or derive the invention from the applicant that should be covered by the grace period
10. The requirement for and content of any statement/declaration by the applicant to invoke the grace period
11. The Groups are invited to comment on any additional issue concerning grace periods for patents that they deem relevant.

**NOTE**

It will be helpful and appreciated if the following points could be taken into consideration when editing the Group Report:

- kindly follow the order of the questions and use the questions and

numbers for each answer

- if possible type your answers in a different colour

- please send in a word document

- in case images need to be included high resolution is required for

good quality printing.