

## New countries to implement a grace period

The general rule for patent applications is that your idea must be kept secret prior to filing the application. This means your idea should not have been published in any form, used publically or communicated outside of a confidential environment. Some countries however have an exception to this, and this is called a grace period.

A grace period allows you to validly file a patent application within a certain period after a relevant public disclosure. Grace periods can also apply to registered designs and utility models.

Historically the list of countries which allowed grace periods was relatively small, however the recently concluded Trans Pacific Partnership (TPP) Agreement is likely to extend the list of countries considerably. Notably **New Zealand**, Japan, Singapore and Vietnam will amend their patent law to include a 12 month grace period once they ratify the agreement into local law. This is expected to happen by 2018.

Grace periods can range between of 6 or 12 months for patent application depending on the country as shown in the list below. Each country may have different grace period provisions, but in most cases the grace period only covers disclosures by the applicant, as opposed to a third party disclosure.

A broader range of countries have a “limited” grace period of typically 6 or 12 months for certain non-prejudicial disclosures. Non-prejudicial disclosures may include experimental testing by the applicant, displays at recognised exhibitions, presentations before recognised academic societies by applicant, and publications by applicant in recognised journals. For example, if a disclosure of an invention occurs at an international exhibition, through obtaining a certificate of disclosure, the disclosure is not considered prior art against a patent application filed from the same inventor.

If a breach of confidence results in the disclosure of an invention, many countries will have systems in place to ensure that the leaked disclosure will not be considered as prior art.

If you have an invention that has already been disclosed (or you are planning disclosure) please contact us immediately to obtain specific advice about your individual circumstances.

Countries that have a “full” grace period include:

Country	Grace Period
United States of America	12 months
Australia	12 months
Canada	12 months
Brazil	12 months
Malaysia	12 months
Mexico	12 months
South Korea	12 months

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<b>Country</b>	<b>Grace Period</b>
China	6 months
Japan	6 months
Russian Federation	6 months
Certain Europe (EPC) members	6 months

This list is not exhaustive; other smaller jurisdictions may also have grace periods. The list is current as of January 2016, but the law in the area changes on a regular basis.

This document is provided for general information only. Although every effort has been made to ensure accuracy, this document should not be treated as a basis for formulating business decisions without specific professional advice.

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