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## Taiwan and Japan

### Exception to Loss of Novelty: Grace Period in Japan and Taiwan

#### Japan: Extended to 12 Months for Patents, Utility Model and Design

In 2018, the Japan Patent Office amended the Patent Act Article 30 and Design Act Article 4: the grace period provision for patent (invention patent), utility model and design will change from 6 months to 12 months. The new act was implemented on June 9th, 2018.

If the patentee files a patent application after June 9<sup>th</sup>, 2018, the grace period will be extended to 12 months. In other words, if the patentee files a patent to the Japan Patent Office on June 10<sup>th</sup>, 2018 and the technology in said patent has been disclosed on June 11<sup>th</sup>, 2017 at any overseas exhibition, the technology disclosed will not hinder the patent filed on June 10<sup>th</sup>, 2018 of claiming its novelty and non-obviousness.

#### Taiwan: Extended to 12 Months for Invention and Utility Model Patents

The Economics Committee of the Legislative Yuan (Taiwan) has passed the Third Reading on partial articles of the Taiwan Patent Act on December 30th, 2016. This amendment is concerning the relaxation of rules on grace period, and the details are as follows:

1. For invention patent and utility model patent applications, the grace period for non-prejudicial disclosures will change from 6 months to 12 months (the grace period for design patent remains as 6 months.)
2. Under the current Patent Act, a grace period is only available when “the invention was publicly disclosed as a result of conducting a test; in a printed publication; displayed at an exhibition held or recognized by the Government; or publicly disclosed without the consent of the applicant”. The proposed amendment of the Patent Act will provide an applicant

with a grace period when he/she publicly discloses the invention intentionally or unintentionally.

3. Remove the current regulation that the declaration of grace period for non-prejudicial disclosures must be made on the filing date of patent application. In other words, the declaration is not required when filing the patent application.

### Wisdom's Commentary

Comparing to the relevant regulations in Japan, the Taiwan Patent Act provides a grace period of 12 months in invention and utility patent and 6 months in design patent. Moreover, the Taiwan Intellectual Property Office does not require the patentee to provide any evidentiary document or declaration of grace period at the time of filing. Only when the IPO cannot determine from the substantive examination whether the requirements for grace period have been met, the patentee needs to provide related evidentiary documents. However, please note that in Japan, a declaration must be made by the applicant when filing the patent application, and evidentiary documents must be provided within 30 days after filing.

### A Quick Summary of Rules Regarding Grace Period in Japan and Taiwan:

		Japan	Taiwan
Exception to Loss of Novelty	Grace period	Invention, Utility and Design Patents: 12 months	Invention and Utility Patents : 12 months Design Patent: 6 months
	Procedure	Must submit the declaration at the time of filing the application and required documents within 30 days after filing	Declaration and evidentiary documents not required upon filing

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