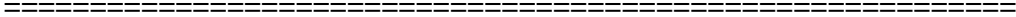


BOEHMERT & BOEHMERT

Novelty Grace Periods Worldwide
(Abstract)



by

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In a comparative analysis, the grace period provisions under EPC, Germany, and Japan will be compared with those of the America Invents Act (AIA). Novelty grace periods, in the aforementioned jurisdictions outside U.S.A., reach from a mere protection against unauthorised disclosures by third parties to the detriment of the inventor via protection against early disclosures by the applicant herself/himself anticipating the filing date to protection against early disclosures based on the invention preceding the Paris Convention priority date, with varying durations of 6 – 12 months. AIA, however, creates even a “first-inventor-to-disclose” system, different from a first-to-file system as existing in the aforementioned jurisdictions outside of U.S.A.. The consequence might be that some kind of “mini-interference-procedures” will have to take place, e.g. at USPTO, under AIA to determine which inventor actually disclosed first, irrespective of a possibly later filing date, compared with another inventor, and therefore is entitled in the patent. Does this help the aim of international harmonization towards first-to-file?