# QUESTION 75

## Prior disclosure and prior use of the invention by the inventor

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Yearbook 1981, pages 145 - 146 Q75
31st Congress of Buenos Aires, November 16 - 21, 1980

### Question Q75

### Prior disclosure and prior use of the Invention by the Inventor

### Resolution

The IAPIP

1. a) *is concerned* that an inventor may publicly disclose his invention before filing a patent application, thereby depriving himself of the ability to obtain valid patent protection;

b) *recognizes* that Article 11 of the Paris Convention provides very limited protection for a disclosure made by an inventor at certain international exhibitions;

c) *considers* that it is in the public interest that the inventor should be given greater protection from the consequence of a prior disclosure by himself, and

d) therefore *considers* it desirable that where a public disclosure of an invention originates from an inventor, such public disclosure shall not be taken into consideration in assessing the patentability of the invention, if the first patent application is filed by the inventor or his successor within a certain period beginning from the disclosure,

and *declares in favour* of the principle of introducing such a period of grace under terms and conditions to be determined.

2. *refers the question back* to the Executive Committee for further consideration.

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# QUESTION 75

## Prior disclosure and prior use of the invention by the inventor

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Yearbook 1982/III, pages 109 - 110 Q75
Executive Committee and Council of Presidents of Moscow, April 19 - 24, 1982

### Question Q75

### Prior Disclosure and Prior Use of the Invention by the Inventor

### Resolution

I. IAPIP,

concerned that an inventor who publicly discloses his invention before filing a patent application, may thereby deprive himself of the ability to obtain valid patent protection; confirms the resolution adopted at Buenos Aires which:

- recognises that Art. 11 of the Paris Convention provides very limited protection for a disclosure made by an inventor at certain international exhibitions;

- considers that it is in the public interest that the inventor should be given greater protection from the consequence of a prior disclosure by himself, and

- therefore considers it desirable that where a public disclosure of an invention originates from an inventor, such public disclosure shall not be taken into consideration in assessing the patentability of the invention, if the first patent application is filed by the inventor or his successor within a certain period, beginning from the disclosure.

The IAPIP

declares in favour of the principle of introducing such a period of grace under the following terms and conditions:

1. A disclosure originating or derived from the inventor shall not by itself establish a right of priority but rather shall not be considered as part of the state of the art as against the inventor or his successor in title if it occurs within the grace period.

2. Such disclosure shall include all acts of disclosure to the public by means of a written or oral description, by use, or in any other way, not withstanding where such disclosure takes place.

3. The grace period shall be six months preceding the filing date of the patent application, or, if a Union priority is claimed, the date of the first filing according to Art. 4 of the Paris Convention.

4. The burden of proof shall be on the applicant or patentee to prove that such disclosure originated with the inventor or was derived from the inventor.

5. The inventor or his successor in title shall benefit from the grace period without being required to deposit a declaration of such disclosure.

6. The grace period shall apply to patents of invention, inventor's certificates and utility models.

II. The IAPIP

recommends that the grace period shall be implemented by a provision of the Paris Convention or by an international treaty within the framework of the Paris Convention expresses and the wish that preparatory work be undertaken as soon as possible.

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