

## Patent Filing Timelines

When you first file a patent application, the filing date is crucial, as it is the date at which the patent examiner will assess novelty and inventive step of your application. Anything that has come before that filing date (e.g., any disclosures, publications etc.) will be relevant for this assessment. Anything after, will not. To allow applicants time to extend their protection to other countries, foreign applications which are filed within 12 months of a first application can 'claim priority' to that first application – this means that the foreign applications gain the benefit of the same filing date as the first application. In practice, then, any intervening disclosures are not relevant for assessing novelty and inventive step.

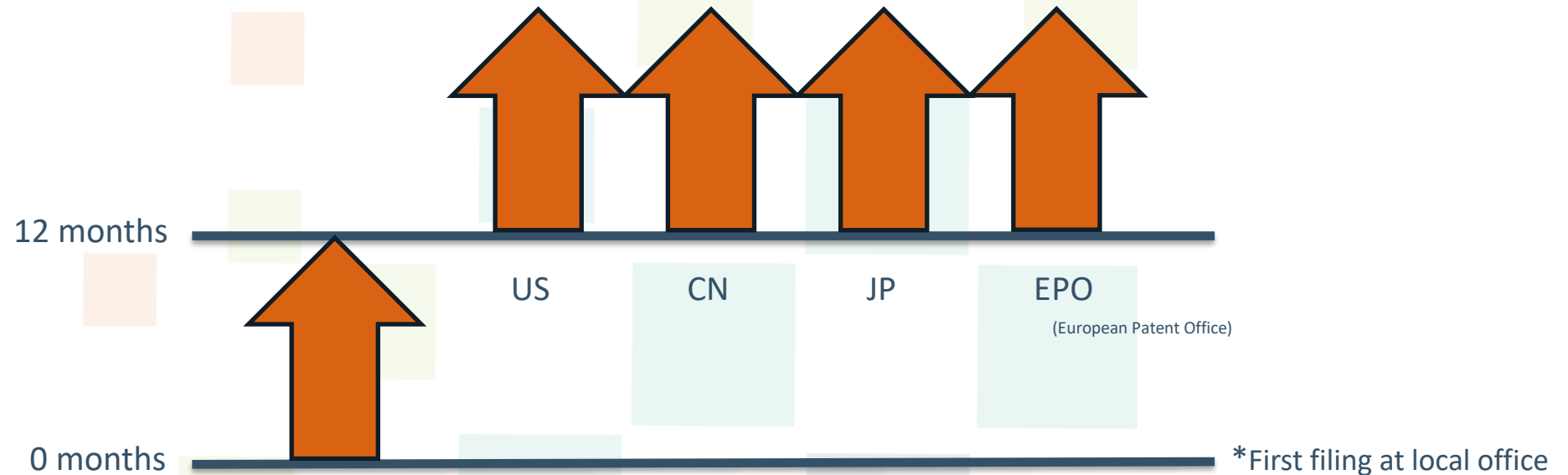
To benefit from this 'priority' period, there are two main mechanisms at 12 months:

1. File directly in any number of foreign countries of interest; or
2. File a PCT application.

If route 1 is chosen, action is taken to file individual foreign applications, claiming priority from the first filing. The individual applications are prosecuted separately before each individual patent office. After the 12-month deadline, no new foreign applications can be filed.

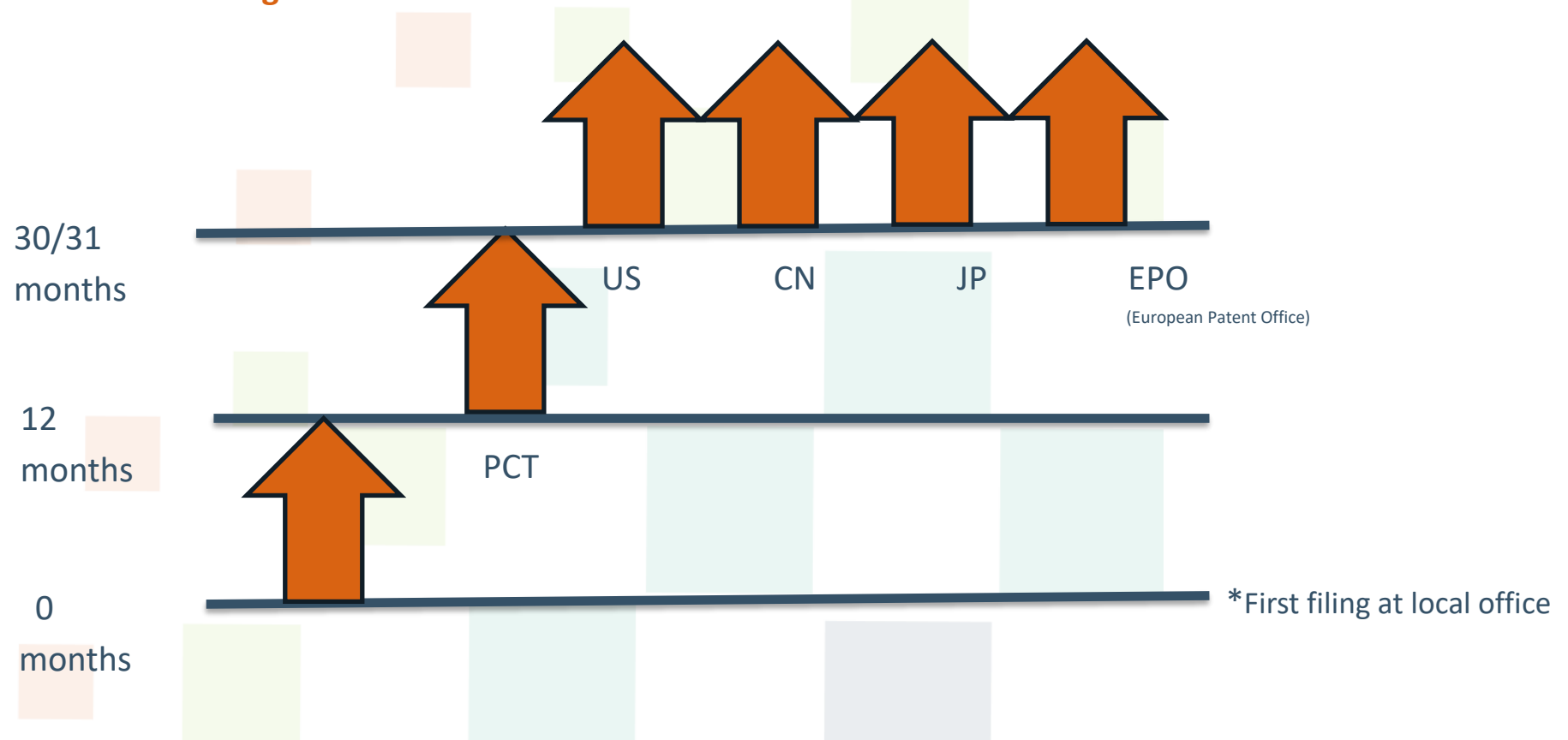
If route 2 is chosen, a PCT (Patent Cooperation Treaty) application is filed. A PCT application is a centralised route for obtaining protection in over 150 countries ([https://www.wipo.int/pct/en/pct\\_contracting\\_states.html](https://www.wipo.int/pct/en/pct_contracting_states.html)). *{Notable exceptions include Argentina and some countries in the middle east – if these are likely to be of significant importance, direct filings can be made at 12 months, alongside either other individual filings or alongside a PCT filing}*. Using route 2, a single PCT application, claiming priority from the first filing, is filed (usually at the UKIPO or EPO, who can act to receive PCT applications from UK-based companies). The PCT application remains pending until 30 or 31 months from the date of the first filing, at which point individual applications in each country are filed, and then prosecuted separately before each individual patent office. While effectively, therefore, both routes end up in the same place, the most significant advantage of the PCT route is that it allows a longer time period in which to make decisions about where to extend your patent. This extended period can be crucial for developing your technology and establishing your markets.

## Route 1: Direct National/Regional Filings



\* The first filing of a patent application usually takes place with the Intellectual Property Office (IPO) of the home country of the applicant. The rationale for this is usually based on cost, the advantages of corresponding in your own language and ease of communication with the IPO if required. Some countries have restrictions on where their nationals can first file, however, and therefore a different filing strategy may be required if inventors are foreign nationals. For UK-based applicants, the UKIPO or the European Patent Office are usually the office of first filing.

## Route 2: PCT Filing



\*The first filing of a patent application usually takes place with the Intellectual Property Office (IPO) of the home country of the applicant. The rationale for this is usually based on cost, the advantages of corresponding in your own language and ease of communication with the IPO if required. Some countries have restrictions on where their nationals can first file, however, and therefore a different filing strategy may be required if inventors are foreign nationals. For UK-based applicants, the UKIPO or the European Patent Office are usually the office of first filing.

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