



श्री माता वैष्णो देवी विश्वावरानलय

# Shri Mata Vaishno Devi University

Sub Post office-182320, Jammu & Kashmir  
(Recognized under Section 12 (B) & 2 (f) of UGC Act, 1956)

SMVDU/R&D/24/1614-1616

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## CIRCULAR

### **Subject: Procedure for Foreign Filing of Patents by Indian residents and consequences of contravention thereof.**

In reference to the Patents Act 1970 and Patents (Amended) Act 2005, published in the Gazette of India Extraordinary dated April 5, 2005 and as approved by the Competent Authority, the guidelines / provisions for Foreign Filing of Patents by Indian residents are enumerated below for information and compliance by all concerned:

1. No person resident in India shall, except under the authority of a written permit sought in the manner prescribed and granted by or on behalf of the Controller, make or cause to be made any application outside India for the grant of a Patent for an invention unless :
  - a. An application for a Patent for the same invention has been made in India, not less than six weeks before the application outside India; and
  - b. Either no direction has been given under sub-section (1) of section 35 (invention relevant for defence purposes) in relation to the application in India, or all such directions have been revoked.
2. The Controller shall dispose of every such application within such period as may be prescribed, provided that if the invention is relevant for defence purpose or atomic energy, the Controller shall not grant permit without the prior consent of the Central Government.
3. This section shall not apply in relation to an invention for which an application for protection has first been filed in a country outside India by a person resident outside India.
4. It is necessary for an Applicant to obtain a Foreign Filing License (FFL) for any invention before applying for a Patent for a technology in a foreign country, in case the applicant does not want to apply for a corresponding Patent in India in accordance with para 1 (a) above. The requirement to apply for a FFL depends on the origin and inception of the invention and is independent on the Individuals citizenship. If the invention is created or conceived in India then the Applicant must have to obtain foreign filing license before filing it abroad.
5. The consequences of contravention of Section 39 of Indian Patents act, as given in Section 40 of the Indian Patents Act provide for the liability for contravention of section 35 or section 39, where if any person makes or causes to be made an application for grant of a Patent outside India in contravention of section 39, the application for Patent under this act shall be deemed to have been abandoned and the Patent granted, If any, shall be liable to be revoked under section 64.
6. Moreover as mentioned in section 118 of the Indian Patents Act, contravention of secrecy provisions relating to certain inventions, where if any person fails to comply with any direction given under section 35 or causes to be made an application for grant of a Patent in contravention of section 39 shall be punishable with imprisonment for a term which may extend to two years or fine or both.

This issues with the approval of the Competent Authority.

  
Registrar

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