

Series of brief newsletters released by **Bharucha & Co.** on latest developments in IP predominantly in Pakistan.

GUIDELINES TO DEAL WITH FOREIGN FILING PERMISSION (FFP) REQUIREMENT IN PAKISTAN

Under the provisions of Section 26 of the Pakistan Patents Ordinance, 2000, residents of Pakistan are not permitted to file or cause to be filed an application for a patent outside Pakistan without written authority granted by the Controller of Patents unless an application for a patent for the same invention has been filed in the Patent Office at least six weeks prior to the application outside Pakistan.

In this regard, the Intellectual Property Organization of Pakistan has recently issued guidelines on its website relating to FFP requirements in scenarios involving either a direct patent filing in a foreign country or when a patent application has already been filed in Pakistan.

PROCEDURE

FFP can be obtained within 3 weeks from the date of applying for it but it cannot be obtained retrospectively. In practice, FFP may be issued within 14 days or earlier by informing the Patent Office about any urgency.

DOCUMENTS REQUIRED

Documents required for obtaining the FFP where no application has been filed with the Patent Office include:

- a) A brief description of the invention that sufficiently describes the inventive concept known to the applicant at the time of making a request for foreign filing permission.
- b) Title of the invention, along with drawings (if any).
- c) Declaration in respect of Section 25, i.e. compliance with requirements regarding information prejudicial to the defense of Pakistan or the safety of the public under the provision of Section 25 of the Pakistan Patents Ordinance, 2000.

The IPO Pakistan will assess whether the invention relates to atomic energy or defense technology so that secrecy directions under Section 25 of the Patents Ordinance, 2000, can be issued, if required, to prevent the leakage of sensitive inventions to foreign countries for the sake of national interest.

- d) Power of Attorney (POA) on Form P-28 from the inventor(s) or applicant(s) who are residents of Pakistan, where a patent agent/patent attorney is appointed to represent them.
- e) Name of the country or countries in which the patent application is expected to be filed after obtaining the FFP from the Patent Office.
- f) Name(s), address(es) and nationality of the inventor(s) who are residents of Pakistan.



- g) Name and address of the assignee, if any.
- h) Assignment document if the permission is to be obtained in the name of the assignee rather than the inventor(s).
- i) If an application has already been filed in Pakistan, then the application number, filing date and title of the invention.

Alternatively, patent applicants can first file a patent application at the Patent Office and wait for the expiry of 6 weeks from the filing date of the Pakistani application before filing corresponding applications in foreign countries. During this 6-week period, the Patent Office checks whether the filed patent application relates to atomic energy or defense technology and issues secrecy directions under Section 25 of the Patents Ordinance, 2000, if necessary.

NON-COMPLIANCE AND CONSEQUENCES

When the Patent Office or a third party discovers a violation of the FFP requirement, there can be serious consequences for inventors as well as applicants. Firstly, there can be imprisonment for a term which may extend to two years, a fine not exceeding PKR 20,000, or both. Secondly, the Federal Government, under Section 48(b) of the Patents Ordinance, 2000, may revoke the Pakistani patent application if a patent has been obtained through concealment and misrepresentation in the application.

