

Foreign filing licences

Some countries impose security restrictions that prevent patent applications being filed abroad. For example, applications for inventions made in the USA must be filed first in the USA. Failure to follow such regulations can lead to patents being declared invalid, or even to time in prison for you and your client.

Typically the restrictions on foreign filling can be satisfied by filing an application in the required country and waiting a prescribed period of time. If no secrecy order is put in place in that time you are free to file for the invention in other countries.

Clients may not want to wait that prescribed time before filing in other countries. They may even want to first file in a different country than allowed by the restrictions. In such cases a foreign filing licence can be requested.

A foreign filling licence grants permission to file applications for a given invention in foreign countries. Generally this involves sending a description of the invention (e.g. the application specification, if it is ready) to the relevant authority. The relevant authority will assess whether the invention is important for national security, and if not will grant a licence.

Each state imposes different rules on who the security restrictions apply to, and what types of invention they cover. The restrictions may apply to all inventions made within a country, all inventions made by residents of that country, or all inventions made by nationals of that country (wherever they reside, and wherever the invention was made). The restrictions may apply to all types of invention, or just those related to matters of defence and national security.

The table below shows the filing restrictions in selected countries, and how to obtain permission to file abroad. You can find out more information at the EPO website: <https://www.epo.org/law-practice/legal-texts/national-law.html>.

If you need to obtain a foreign filing licence, or are unsure if you need one, please contact your normal Barker Brettell attorney.

Country	Restrictions apply to:				Restrictions only apply to limited technologies
	Inventions made in the country	Applications filed by nationals	Applications filed by residents	Inventions when one or more inventor is a national, regardless of where invention made	
Albania	X				
Armenia	X				
Azerbaijan	X				
Belarus		X			
Belgium		X	X		[1]
Brazil	X				[1] [2]
Brunei			X		
Bulgaria		X			
Burundi		X	X		
China	X				
Cuba		X			
Finland	X				[1]
France	X	X	X		
Greece		X		X	
Hungary		X	X		
India	X		X		
Israel		X	X		[1] [3]
Italy			X		[1]
Kazakhstan		X*			
Korea (North)				X	
Kyrgyzstan	X				
Latvia	X				[1]
Luxembourg	X				[1]
Macedonia	X				[1]
Malaysia			X		
Moldova	X	X			
Montenegro		X			
New Zealand	X				[1]
Norway	X				[1]
Oman		X	X		
Pakistan			X		
Poland		X*			
Romania	X				
Russian Federation	X				
Serbia		X			[1]
Singapore			X		
Slovenia	X				[1]
South Korea		X	X		
Spain	X				
St. Lucia			X		
Sweden		X	X		[1]
Tanzania	X				[1]
Transnistria		X			
Turkmenistan	X				
Ukraine		X			
United Kingdom	X				[1]
United States	X				
Uzbekistan		X	X		[1]
Vietnam		X		X	
Zanzibar	X				[1]

* Applicant must also have residence

1. Application relates to national security or defence
2. Application relates to oil or gas
3. Nuclear energy