

paragraph (d)(1) of this section does not authorize the release of information to university researchers where the research results are subject to pre-publication review. (See Supplement No. 1 to this part, Questions D(8), D(9), and D(10).)

(3) Prepublication review by the company solely to ensure that prepublication would compromise no patent rights will not be considered a proprietary restriction for this purpose, so long as the review causes no more than a temporary delay in publication of the research results.

(4) However, the initial transfer of information from a business entity to researchers is not authorized under the “fundamental research” provision where the parties have agreed that the business entity may withhold from publication some or all of the information so provided.

(e) *Research based elsewhere.* Research conducted by scientists or engineers who are not working for any of the institutions described in paragraphs (b) through (d) of this section will be treated as corporate research, as described in paragraph (d) of this section. (See Supplement No. 1 to this part, Question D(8).)

[61 FR 12746, Mar. 25, 1996, as amended at 61 FR 68579, Dec. 30, 1996; 62 FR 25456, May 9, 1997; 65 FR 2496, Jan. 14, 2000; 67 FR 38861, June 6, 2002]

§ 734.9 Educational information.

“Educational information” referred to in § 734.3(b)(3)(iii) of this part is not subject to the EAR if it is released by instruction in catalog courses and associated teaching laboratories of academic institutions. Dissertation research is discussed in § 734.8(b) of this part. (Refer to Supplement No. 1 to this part, Question C(1) through C(6)). Note that the provisions of this section do not apply to encryption software controlled under ECCN 5D002 for “ET” reasons on the Commerce Control List or to mass market encryption software with symmetric key length exceeding 64-bits controlled under ECCN 5D992. See § 740.13(e) of the EAR for certain exports and reexports under license exception.

[67 FR 38861, June 6, 2002]

§ 734.10 Patent applications.

The information referred to in § 734.3(b)(3)(iv) of this part is:

(a) Information contained in a patent application prepared wholly from foreign-origin technical data where the application is being sent to the foreign inventor to be executed and returned to the United States for subsequent filing in the U.S. Patent and Trademark Office;

(b) Information contained in a patent application, or an amendment, modification, supplement or division of an application, and authorized for filing in a foreign country in accordance with the regulations of the Patent and Trademark Office, 37 CFR part 5;¹ or

(c) Information contained in a patent application when sent to a foreign country before or within six months after the filing of a United States patent application for the purpose of obtaining the signature of an inventor who was in the United States when the invention was made or who is a co-inventor with a person residing in the United States.

§ 734.11 Government-sponsored research covered by contract controls.

(a) If research is funded by the U.S. Government, and specific national security controls are agreed on to protect information resulting from the research, § 734.3(b)(3) of this part will not apply to any export or reexport of such information in violation of such controls. However, any export or reexport of information resulting from the research that is consistent with the specific controls may nonetheless be made under this provision.

(b) Examples of “specific national security controls” include requirements for prepublication review by the Government, with right to withhold permission for publication; restrictions on prepublication dissemination of information to non-U.S. citizens or other categories of persons; or restrictions on

¹Regulations issued by the Patent and Trademark Office in 37 CFR part 5 provide for the export to a foreign country of unclassified technical data in the form of a patent application or an amendment, modification, or supplement thereto or division thereof.