

IPISC's mission is to promote efficient and effective claim resolution by building a strong working relationship with the Insured, and by doing all that is possible, within the terms of the policy, to help support the Insured in enforcing and/or defending their Intellectual Property (IP) rights. The following are actual claims experienced by IPISC policy holders.

The following Claim Study is an actual Claim managed by IPISC's Litigation Management Department, and was reimbursed according to the terms of the Defense Policy and specific Claim terms. In an effort to protect the identity of our clients, names have been omitted, except those agreeing to provide testimonials. For additional questions about IPISC's Litigation Management Services and claims, please contact IPISC or an IP insurance professional.

The Situation

The Insured specializes in the design and distribution of lighting components contained in LED lights and compact fluorescent lamps (CFL).

Policy Terms

The Insured purchased a one year Intellectual Property Defense Cost Reimbursement Policy for patent coverage, with limits of \$1,000,000 per claim, \$1,000,000 aggregate and a \$20,000 SIR. The policy also included a 10% Co-Pay.

The Claim History

February 2012: The Plaintiff, the patent owner, filed a Complaint against the Insured, the Defendant, and other parties, with the International Trade Commission (ITC). The ITC Complaint, which was not covered under the Defense Policy, alleged infringement of one patent claim.

August 2012: The Plaintiff then filed a Complaint for patent Infringement against the Insured in U.S. District Court alleging infringement of the same patent claim, which was covered under the Policy. During the discovery phase, plaintiff's counsel alleged \$1.9 million in damages.

September 2012: The Insured's ITC counsel filed for re-examination of the patent with the U.S. Patent and Trademark Office (USPTO).

November 2012: The USPTO accepted the re-examination. The judge in the U.S. District Court Complaint issued a stay pending the outcome of the ITC proceeding and the re-examination.

February 2013: The USPTO issued a First Office Action rejecting the patent claim at issue, as anticipated, because of prior art. The Plaintiff appealed the First Office Action.

February 2013 (late): The ITC issued an Initial Determination finding the patent claim valid and infringed. However, the ITC also found that no domestic industry existed as required by subsection (a)(2) of section 337.

April 2013: The Plaintiff filed a More Definite Statement to add allegations of infringement of two additional patent claims. The judge allowed the two additional claims, and allowed the case to move forward on the two new claims. Shortly thereafter, the parties settled the U.S. District Court Complaint, and agreed to dismiss the ITC proceeding and Appeal at the USPTO.

The Outcome

Length of litigation: 11 months

Total Defense costs: over \$315,000

Insured Paid: \$72,000 (plus the \$20,000 Self Insured Retention)

Insurance Company Paid: \$243,000 (costs plus settlement)