

Abatement Insurance Frequently Asked Questions

The following are representative questions posed to IPISC about the Intellectual Property (IP) Abatement Insurance Policy. IPISC has taken every effort to answer the questions clearly and concisely. As always, please consult IPISC or an IP insurance professional should you have additional questions not addressed below.

Abatement v. InventPro® Abatement

The Abatement product offers coverage for an unlimited, scheduled number of IP and extends coverage to include copyrights, as well as Software and/or Website patents. The InventPro® Abatement product specifically accommodates inventors and small companies who have 1-3 patents, patent applications, trademarks and/or trademark applications. The Abatement Policy offers limits in excess of \$500K; whereas, the InventPro® Abatement product caps the Policy limits at \$500K.

How does the Self-Insured Retention work?

The Self-Insured Retention (SIR) does not reduce Policy limits. Unlike a typical deductible, the Named Insured pays the SIR out-of-pocket before the Policy begins reimbursement. Once the SIR is satisfied, the Policy begins reimbursement.

Can IP be added during the policy term?

Yes; IP can be added for an additional premium upon underwriting approval.

Is known infringement covered?

Yes; however, the Policy excludes the infringing activity from coverage. If the Commercial Activity that led to the Infringement began before the first Policy period, then pre-existing circumstances are excluded from coverage.

Are declaratory judgments covered?

No; the Policy does not cover declaratory judgments brought by the Named Insured. However, if a party brings a declaratory judgment for invalidity or noninfringement against the Named Insured, the Policy will respond, if possible, for the Named Insured to assert Infringement against the party seeking to invalidate the IP.

What is Multi-Peril IP (MPIP) Insurance?

MPIP Insurance provides first party reimbursement due to the loss of an insured IP lawsuit. The rider is automatically included with the standard Abatement Insurance Policy, with limits of \$50K or 10% of Policy limits, whichever is less. Perils covered are Business Interruption; Cost of Redesign, Remediation and Repair; and Loss of Commercial Advantage.

How are claims handled?

The Named Insured will notify the Company upon discovering the Infringement, and provide other relevant facts. The Named Insured must complete a Claim form and provide the Company with a favorable infringement opinion from an independent, outside counsel chosen from a list of panel counsel, provided by the Company, regarding IP validity and Infringement. Upon compliance with the Policy terms, the Company will give its decision in writing regarding authorization of the suit and the Policy will begin to reimburse the Named Insured for the Litigation Expenses, if authorized.

Who chooses litigation counsel?

The Named Insured chooses litigation counsel unless otherwise required by endorsement, requested by the Named Insured for a premium reduction or selected counsel does not meet minimum criteria and/or does not agree to the Company's billing guidelines.

Who controls the lawsuit?

The Company reserves the right to make recommendations as to how the case should or should not move forward, but ultimately the Named Insured is in control of the lawsuit. However, the Company does have settlement approval authority.

What are some of the Policy Endorsements?

There are several endorsements* that may expand (for an increase in premium) or limit coverage offered under the Abatement Policy. The endorsements include, but are not limited to, the following:

- Licensee Coverage Endorsement
- Economic Benefit Relief
- Exclusionary Endorsement
- Post-Review Grant/ Reissue Endorsement
- Special SIR Endorsement

*The available endorsements are not all-inclusive. The specific endorsements offered will only be determined after an application is underwritten and coverage is formally quoted. Please refer to the Policy for explanations of how each endorsement changes Policy terms.