

Why Intellectual Property Insurance is Unique

Traditionally, companies purchase insurance to protect against unexpected perils caused by adverse happenings. With respect to certain manufactured products, adverse happenings are frequent enough that intellectual property (IP) insurance is imperative, even after proper due diligence has been performed and the risk substantially reduced. In addition, companies operating on the assumption that a good offense is the best defense can secure protection for their innovations, brands and messages in the form of patents, trademarks or copyrights. But these rights are often insufficient for purposes of ensuring adequate reward for the time and investment made to develop these assets.

Likewise, there are times when a company's products and rights are so inextricably intertwined with the rights of others that the moral hazard simply excludes insurance as an appropriate risk transfer vehicle. In these cases a bond is the proper vehicle for the risk transfer. In fact, for the high, moral hazard risk, many times carriers choose to only offer bonds.

Clearly insurance is not right for a high, moral hazard loss, such as known patent problems; and a bond is not right for a completely unexpected loss. As a result, IPISC has coupled the bond and insurance vehicles to offer a much needed blend of coverage as an alternative to only partial coverage, which many times is the only viable option to cover a costly IP infringement lawsuit. IPISC's insurance policies, especially IP Abatement insurance, are unique policies covering both the insurable and bondable characteristics of the risk.

Perhaps the biggest financial threat to a company is becoming involved in a costly IP infringement lawsuit. When the amount in controversy is between \$1 million and \$25 million, the average cost to litigate a patent lawsuit, as a plaintiff or a defendant, is \$2.5 million (excluding judgments/settlements). If the amount in controversy rises to greater than \$25 million, the cost to litigate can easily reach \$6 million. Unfortunately, not all of these litigation expenses arise from purely insurable risk. The unique components of IP Insurance policies help alleviate the financial burden associated with complex and expensive IP lawsuits. These policies include the following basic features:

- Limits available up to \$10M per claim/aggregate (higher limits may be available)*
- Co-pay: 10% minimum
- Self-Insured Retention: 2% of the per claim limits minimum
- Worldwide coverage
- The insured chooses litigation counsel
- The insured controls the lawsuit

* Multi-Peril limits are available up to \$3M per claim/aggregate

The following IP insurance products are available from IPISC:

Abatement: unique plaintiff's policy; reimburses litigation expenses to enforce IP rights, enhancing and strengthening the value of insured patents.

Defense: reimburses litigation expenses and damages (if chosen) to defend charges of IP infringement.

Multi-Peril: first-party coverage due to the loss of insured IP litigation. Business interruption, loss of commercial value and the cost of redesign, reparation and remediation can all be covered.

Unauthorized Disclosure: this policy offers coverage for trade secrets and the unintentional exposure of personal identifier information

Since 1988, Louisville, KY-based IPISC has been the pioneer and worldwide leader in the area of IP Insurance, protecting client's IP and products through specialized insurance products. It is important to work with the proven experts at IPISC to assist in IP risk assessment and specialized insurance solutions.