

# Post-Grant Patent Defense Insurance Frequently Asked Questions

The following are representative questions posed to IPISC about the Post-Grant Patent Defense 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.

## What makes IPISC's Post-Grant Review Defense Policy unique?

The Post-Grant Patent Defense Insurance Policy is the solution to a burden on a patent owner because of the America Invents Act (AIA). This burden is the unintended consequence of Congresses attempt to deter Patent Trolls i.e. Non-Practicing Entities.

#### **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 up to its full limits.

#### Is there a Waiting or Exclusionary period?

Yes; threats of or actual Post-Grant Proceedings brought during the initial 90 days of the Policy are excluded from coverage under the Policy. However, to compensate for up-front loss of the 90 days; they are added to the end of the last Post-Grant Patent Defense Policy held by the Insured.

#### Can Patents be added during the policy term?

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

#### Are declaratory judgments covered?

No; the Policy does not cover declaratory judgments brought against the Named Insured. Only Post-Grant Review Proceedings are covered.

#### What is Multi-Peril IP (MPIP) Insurance?

MPIP Insurance provides first party reimbursement due to the loss of an insured IP lawsuit or Post-Grant Review Proceeding. The rider can be included with the Post-Grant Patent Defense Insurance Policy for an additional premium. Perils covered are Business Interruption; Cost of Redesign, Remediation and Reparation; and Loss of Commercial Advantage.

### Are Ex parte Re-examinations, Reissues and Post-Grant Reviews covered?

Yes; they are automatically covered under the Policy.

#### How are claims handled?

The Named Insured will notify the Company upon a Post-Grant Proceeding being brought, and provide the Company with a favorable infringement opinion from an independent, outside counsel chosen from a list of counsel, provided by the Company, regarding patent validity. Upon compliance with the Policy terms, the Company will give its decision in writing regarding authorization of the Post-Grant Proceeding and the Policy will begin to reimburse the Named Insured for the Post-Grant Proceeding Review expenses, if authorized.

#### 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.