



# Defense Policy Claim Study Software Industry

*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 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 is an enterprise solution provider of secure data information exchange software and services.

## Policy Terms

The Insured purchased a one year Intellectual Property Defense Cost Reimbursement Policy for patent coverage, with limits of \$2,000,000 per claim, \$2,000,000 aggregate and a \$40,000 Self- Insured Retention (SIR). The policy also included a 10% Co-Pay.

## The Claim History

**December 2012:** A Non-Practicing Entity (NPE) filed a complaint against the Insured, and other parties, alleging infringement of a patent directed towards a method of prevention of software piracy. Upon being served with the lawsuit, the Insured initially retained their own counsel to defend the lawsuit.

**April 2013:** The Insured submitted a Claim form to IPISC.

**April 2013:** Once the Claim was perfected per the terms of the policy, IPISC authorized new counsel, who took over the defense from the Insured's initial counsel.

**April 2013:** During the defense counsel's initial case assessment, assigned defense counsel discovered that the Insured's product was commercially available over one year prior to the application filing date of NPE's patent.

**August 2013:** Defense counsel and the Insured documented the software development and production timeframes, and presented this evidence to NPE's counsel.

**August 2013:** NPE agreed to dismiss the lawsuit with prejudice rather than have its patent invalidated. The case was dismissed

## The Outcome

**Length of litigation:** 3 months (after IPISC assigned counsel)

**Total Defense costs:** \$79,000

**Insured Paid:** the \$40,000 SIR

**Insurance Company Paid:** \$39,000