

ASSESSING INTELLECTUAL PROPERTY RISK & EXPOSURE

Perhaps the biggest financial threat to a company is becoming involved in a costly intellectual property (IP) infringement lawsuit, as a plaintiff or a defendant, where the average cost to litigate a patent lawsuit is \$2.8 million (excluding judgments/settlements).

Virtually every company has IP risk. Intellectual property insurance is for any business that makes, uses, sells, offers for sale, distributes, supplies or imports a product or service and wants to protect the features that give them a competitive edge.

Many companies have issued patents, or have established rights in trademarks or copyrights for the products they sell, making dedicated IP insurance a critical component of their risk management plan.

As part of assessing that plan, it is important to understand companies' IP exposure. Start with this checklist to begin assessing IP risk concerns and exposures:

- Are there pending or issued patents, trademarks, trade secrets or copyrights?
- Is the company responsible for safeguarding a third party's confidential information?
- Does the company have sought-after technology on its products and/or processes?
- How competitive is the market in which they operate?
- What is the current market share?
- Is the company concerned about being involved in an IP infringement lawsuit?
- Does the company have the ability to self-insure an IP lawsuit?
- Do they have current IP risk management strategies in place?
- Do they have any contractual obligations to indemnify and insure against IP infringement?
- Are they prepared to license products, processes and/or IP?
- Does the company have a recovery plan in place in the event of the loss of an IP lawsuit?
- Does the company operate in an industry plagued by NPE-induced litigation?

Insurance professionals routinely recommend insurance protection. Assessing IP risk and ensuring the right protection is in place for this costly, and potentially devastating exposure, is essential to protect companies' overall financial strength. IP insurance expertise is not necessary, but it is important to work with the proven IP insurance experts at IPISC to assist in IP risk assessment and specialized insurance solutions.