

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 are actual Abatement Claims experienced by IPISC policy holders. In an effort to protect the identity of our clients, names have been omitted, except for those giving express permission to disclose. For additional questions about IPISC's Litigation Management Services and Claims, please contact IPISC or an insurance professional.

Software Industry

A non-practicing entity (NPE), aka- patent troll, was enforcing patents in the market place solely to collect licensing revenue. The NPE did not produce a product, but rather was using litigation to broadly assert the rights of a patent in the industry. Their tactic was to assert patent rights against a smaller company, the Insured. The NPE was unaware at the time of bringing patent infringement charges that the defendant had an IP insurance policy to fight a court battle. The Defense policy gave the Insured the ability to level the playing field and fight the case on the merits. In addition, the Insured received strong advice and assistance from IPISC's Claims Management Department regarding the decisions pertaining to the case.

Manufacturer/Distributor Industry

A small shoe manufacturer/distributor was accused of infringement by an NPE. The patent troll's patent had been successfully enforced against smaller manufacturers unable to pay Defense costs, thereby forcing the Insured into signing license agreements and paying royalties. The Insured discussed the situation with IPISC's Litigation Management Department, who was able to offer guidance regarding how to handle the discussion and respond to the accuser and their attorney. Unlike the other small manufacturers that were forced to give up their rights to manufacture, the Insured used the power of the Defense policy, thus preparing them to fight this weak allegation. Simply holding the Defense policy can ward off frivolous lawsuits.

Residential Electronics Industry

The Insured did not want to use the counsel suggested by IPISC's Claims Manager, and quickly ran through Policy limits. The Insured has since offered to tell any future Claimants that they should have listened to the Claims Manager and begun the case with the counsel suggested by IPISC. The Insured would have had longer staying power and preserved his Policy limits.

Electronic Security Industry

An industry leader was successfully defeated by an Insured in a plaintiff-friendly venue in the Eastern District of Texas after the Claim of Patent Infringement of their electronic surveillance tags was rejected by the jury. If the Insured would have lost, they could have easily been put out of business. Fortunately, the money was available to fund a successful Defense. The Insured was quoted as saying, "You never know when you will need insurance."

Artificial Sweetener Industry

A competitor sued numerous companies in the industry for Patent Infringement. The Insured had limited their insurance to cover only what they deemed the "most valuable" products. However, the plaintiff brought in several pieces of technology that were outside the scope of the Insured's coverage. By trying to guess what may happen in the future, the Insured set itself up for coverage on a pro-rata basis instead of having the foresight of insuring all of their products. Fortunately, the suit was dropped against them because they had the insurance to fight the accuser.

Claimant Testimonial- Fitness Industry

IPISC's insured, Octane Fitness, fell victim to a much larger competitor, Icon Health & Fitness, who pulled out an older patent of questionable value and asserted it against Octane. This is a typical scenario; the bigger company preying upon the successful, smaller competitor in order to extract royalties and protect market share. Icon may have wrongly assumed that Octane would be unable to afford the litigation costs to stay in the game for the long-haul and fight the case on the merits.

The total cost of this patent litigation was \$1.7M. Without insurance, Octane would tell you, it could not have afforded to defend this lawsuit. As Dennis Lee, President of Octane, openly admits, "Without patent insurance we would have been dead in the water. We did not have \$1.7M to pay to lawyers to defend us. We would have had to pay Icon, even though they had no real patent claim against our company." "Still further, IPISC helped us pick one of the best litigation teams in the country to help us win this. We had no idea where to even start to find a first-rate patent litigator," remarked Mr. Lee.

Contact Octane: Ed O'Connor, eoconnor@octanefitness.com.