

Defense Insurance Frequently Asked Questions

The following are representative questions posed to IPISC about the Intellectual Property (IP) Defense Insurance Policy. IPISC has taken every effort to answer the questions clearly and concisely. As always, please consult IPISC or an insurance professional should you have additional questions not listed below.

What makes IPISC's Defense Policy unique?

The Defense Policy is the solution to the coverage gap for IP risks due to the continual limitations by insurance carriers for any type of IP coverage under the commercial general liability.

How does the Self Insured Retention work?

The Self Insured Retention (SIR) does not reduce Policy limits. Unlike a typical deductible, the SIR is paid out-of-pocket by the Named Insured before the Policy begins reimbursement. Once the SIR is satisfied, the Policy begins reimbursement.

Is there a Waiting or Exclusionary period?

Yes; threats of or actual civil proceedings alleging Infringement 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 Defense Policy held by the Insured.

Can products be added during the Policy term?

Yes; products can be added during the Policy term for an additional premium; however, any products added to the Policy will be subject to the 90 day exclusionary period.

Can coverage be purchased if there is known infringement?

Yes; coverage may be obtained for other exposures; however, any pre-existing accusations and/or threats of Infringement may be excluded from coverage under the Defense Policy. Threats include, but are not limited to, warning letters and/or emails accusing Infringement and verbal threats of Infringement.

What is Multi-Peril IP (MPIP) Insurance?

MPIP Insurance provides first party reimbursement due to the loss of an insured IP lawsuit. The rider is automatically included with the standard Defense Insurance Policy, with limits of \$50K or 10% of Policy limits, whichever is less. Perils covered are Business Interruption; Cost of Redesign, Remediation and Reparation; and Loss of Commercial Advantage.

Are Invalidity Counterclaims 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 discovering the Infringement, and provide other relevant facts. The Named Insured must complete a Claim form and provide the Company with a Favorable Infringement Opinion from an independent, outside counsel chosen from a list of panel counsel, provided by the Company, regarding IP validity and Infringement. Upon compliance with the Policy terms, the Company will give its decision in writing regarding authorization of the suit, and the Policy will begin to reimburse the Named Insured for the Litigation Expenses, if authorized.

Who chooses litigation counsel?

The Named Insured chooses litigation counsel unless otherwise required by endorsement, requested by the Named Insured for a premium reduction or selected counsel does not meet minimum criteria and/or does not agree to the Company's billing guidelines.

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. However, the Company does have settlement approval authority.

What are some of the Policy Endorsements?

There are several endorsements* that may expand coverage (for an increase in premium). The endorsements include, but are not limited to, the following:

- Additional Insured(s)
- Settlement Provision
- Worldwide Coverage
- International Trade Commission (ITC)
- Uniform Commercial Code (UCC)

*The available endorsements are not all-inclusive. The specific endorsements offered will only be determined after an application is underwritten and coverage is formally quoted. Please refer to the Policy for explanations of how each endorsement changes Policy terms.