

Abatement Insurance Program Summary

ISSUE:

Companies must be able to protect their innovations from the predatory business practices of some companies, or they may risk losing their intellectual property (IP) rights, being forced into unfavorable settlement terms or going out of business.

SOLUTION:

Intellectual Property Abatement Insurance is a unique, plaintiff's Policy, which reimburses the Litigation Expenses to help enforce the policy holder's IP rights made up of patents, trademarks, copyrights and trade secrets. This Policy helps level the playing field, enabling a resolution based upon the merits of the case by providing access to funds to help enforce the policy holder's IP against infringers.

COVERAGE

- Scheduled coverage for patent applications, issued patents, trademark applications, registered trademarks, copyrights and trade secrets.
- Authorized Litigation claims of IP infringement lawsuits brought by the Named Insured during the Policy period.
- Re-Examination or Post-Grant Proceeding & Reissue.
- Defense of Patent invalidity counterclaims.

ECONOMIC BENEFIT

- In the event of an Economic Benefit, the Named Insured repays to the Company, pro rata, only the amount paid into the lawsuit by the Company. The Named Insured keeps any recoveries beyond the amount paid back to the Company. Repayment reinstates the Policy limits.
- An Economic Benefit is realized when the Named Insured receives a monetary settlement, an award of damages, a gain of market share, a retention of market share, a licensing agreement, an Injunction or a settlement agreement to stop the infringing activity.
- Policy provides the Named Insured with relief from repayment of up to \$100K of non-monetary, realized Economic Benefit.
- In the event the Named Insured loses the lawsuit, no repayment of the amount paid by the Company into the lawsuit is required.

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- Limits available up to \$5 million (USD)
 - Policy terms available up to 3 years
 - Worldwide territory coverage available

PARTIAL LIST OF CONDITIONS

- Acts of the alleged Infringement must begin, and Claims against the alleged infringer(s) must be filed, during the Policy period.
- Authorization is based upon 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 then 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.

PARTIAL LIST OF EXCLUSIONS

- Pre-existing acts of alleged infringer(s).
- Liability for judgments and damages (may be available under the IP Defense Insurance Policy).
- Expenses incurred prior to the initiation of a Civil Proceeding underlying the Authorized Litigation.
- Breach of contract by licensees (unless included by endorsement).
- Willful acts of the Named Insured giving rise to Infringement.
- Criminal acts.

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- MPIP coverage of \$50K or 10% of Policy limits, whichever is less, included with the Policy
 - SIR- 2% of Policy limits
 - Co-pay- 20%

Please consult a copy of the specimen Policy for all terms and conditions. This material in no way changes the terms or effect of the Policy language nor is it meant to replace the Policy language.