

The World of Intellectual Property Insurance

Presented to:



Presented by:

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About Alex

- Senior VP- Twin City Group
- Patent holder- RFID technology
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Topics to be Covered

- History of IP Insurance
- Today's Market Players
- Infringement Defense Insurance Highlights
- Cost of Insurance
- Defense Coverage Issues
- Additional Insured Coverage
- Who should be the Insured? Vendor or Advertiser
- Available Soon- PAE Specifically Designed Coverage
- Other Insurance Coverage- Abatement & Multi-peril

History of IP Insurance

- Available under insured's comprehensive general liability coverage until '70's
- Large global insurer wrote until '90's
- Limited specialty insurers today
- Insurance industry scared off- lack of knowledge

(Minimal coverage still available under CGL for trademark infringement)

Today's Marketplace

- Samian Underwriters- Lloyds
- RPX Insurance- Lloyds
- Intellectual Property Insurance Services Corporation (IPISC)- Lloyds

All managing general agents (Coverholders)

All different Lloyds syndicates

Infringement Defense Insurance Highlights

- Covers demands made by PAE's and competitors
- Claims-made
- Limits to \$10 million
- "Circumstance" triggers coverage
- Includes litigation cost and damages (settlements)
- Includes post grant processes- IPR, etc
- Can purchase litigation only
- Self insured retention- minimum 2% of limit
- Co-payment- minimum 20% of claim
- World-wide coverage available
- Covers any individual product or service as described

Cost of Defense Insurance

Generally 2% of the limit purchased

2% of 500,000 limit equals \$10,000 per year

2% of \$2,000,000 limit equals \$40,000 per year

Premium cost based upon a number of factors:

- Number of products covered
- Industry
- SIR/co-payment

Defense Coverage Issues

- Surplus lines- no state guarantee fund
- Reimbursement of expenses
- 90 day wait- given back at end of last policy
- Insured chooses lawyer- insurer right of approval
- Opinion of non-infringement may be required
- Hammer (settlement) clause applies
- Insurability search requirement
- Known pre-existing circumstances excluded
- NDA important- discovery
- Additional insured

Additional Insured Coverage

- Required to extend coverage from vendor (if the insured) to advertiser
- Cost between 5-15% of premium
- Indemnity clause in contract very important

Who Should Be The Insured?

Vendor or Advertiser?

- Vendor (agency) named insured- add advertiser as additional insured
- Advertiser named insured- may or may not add vendor
- Control of insurance policy
- Control of litigation
- Premium cost
- Subrogation by insurer against vendor

Available Soon

Specifically Designed PAE Coverage

- Similar coverage to current defense policy
- Litigation expense only- no damages
- Specifically designed for “non-core products”
- Pricing between 1-2% of limit
- Limits up to \$2,000,000

Other Coverage

- Abatement for IP owner- coverage to enforce IP rights
- Multi-peril for redesign costs and loss of earnings if product found to infringe by a judge or jury