



IP Infringement Defense Insurance Application (Core Defense Form- Part 2)

We appreciate your interest in our Intellectual Property (IP) Infringement Defense Insurance, and we sincerely appreciate your time and effort. IPISC is available to assist you through the underwriting process. We are committed to helping you understand your IP risk and making the process as uncomplicated as possible.

This “Core Defense Form” serves as Part 2 of 2 of your application for IP Infringement Defense Cost Reimbursement Insurance. The “Base Form” serves as **Part 1 of 2**.

Instructions

Where requested, please provide us with a detailed description of the products, processes and/or services to be considered for coverage. Once the application is complete, please email to info@ipisc.com, or, instruct your insurance agent/broker or professional advisor to submit to IPISC.

If the space provided is insufficient to answer the question(s), please use the “Blank Page” at the end of this Form. If a question does not apply to you or your Company, please answer “N/A” (not applicable).

The use of the terms “you” and/or “your” shall refer to the Applicant listed in this application.

A few things you need to know:

Conditions: Please understand that the Defense policy has a ninety (90)-day waiting period. That is, any threats of infringement brought during the initial 90 days of the policy are not covered under the policy. The 90 days are not lost; they are added onto the end of the last Defense policy held by the Insured.

Due Diligence Fee: Underwriting requires Applicant to remit a Due Diligence Fee to IPISC for an IP Risk Analysis of the product to be insured. This report is invaluable to understanding your company’s IP litigation risk, by providing the scope of coverage under the policy; competitors and a competitive overview; IP assessment; litigation activity in your technology space and a summary of the overall risk. Instead of the fee, you can submit a recent freedom to operate opinion from outside counsel indicating that you are free to conduct the activities of making, using, selling or offering for sale the subject matter being considered for coverage.

If you need any assistance with the application or would like a copy of the specimen policy, please contact an IPISC representative, your insurance agent/broker or professional advisor. IPISC encourages you to review the policy specimen with your professional advisor.

Best regards,

Your IPISC Underwriting Group

Intellectual Property Insurance Services Corporation

IP Infringement Defense Cost Reimbursement Insurance Application

(Damages Optional)

(Core Defense Form- Part 2)

The Intellectual Property (IP) Infringement Defense Cost Reimbursement Insurance Policy reimburses you for your litigation expenses should you be sued by another for infringement of their patent, trademark/trade dress or copyright (depending upon the coverage taken). The policy responds to charges of infringement on your Manufactured Products, Marks and/or Works (as described below), which are listed and/or described in the Schedule of Insured Manufactured Products issued with the Declarations Page of your Policy.

Manufactured Product(s), Marks and/or Works (from now on referred to throughout this application form as "**PRODUCT(S)**") shall mean any Work of Authorship, word, slogan, design, process, machine, article of manufacture or composition owned, licensed or controlled by applicant. A Work of Authorship shall include (1) literary works; (2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; (8) architectural works; and (9) computer programs.

In completing this application, Applicant understands that the information provided in the answers to the questions is not privileged. This document and/or its contents may be required to be disclosed during litigation or as a result of the statutory or regulatory action.

The Company agrees to use all information provided herein and herewith solely for evaluating the feasibility of issuing an insurance policy on the **PRODUCT(S)**.

The use of the terms "you" and/or "your" shall refer to Applicant listed in this application.

NOTE: Please answer all questions. If further detail is requested, please use the "Blank Page" at the end of this application form and attach additional information as necessary.

Coverage Request

1. Applicant Name:
Please note: Applicant name(s) is the Policyholder(s).
2. Specific coverage for which you are applying? (Check at least one)

2-1. Coverage for charges of (check all that apply):	Patent Infringement:	Trademark Infringement:	Copyright Infringement:
2-2. Include coverage for (check all that apply):	U.S. Only:	Worldwide Coverage:	Additional Insureds: (See Q. 2-6.)
2-3. Requested Effective Date should coverage be offered:			Additional Insureds – UCC:
2-4. Requested Policy Limit: (Aggregate Limits available are the same as per Claim Limits or higher):	Per Claim: Requested		Aggregate:
2-5. Policy Term:	1 Year:	2 Year:	3 Year:
2.6.	Please list all additional insureds for which coverage is sought and their relationship to the PRODUCT(S).		

Product(s) (General)

Questions that refer to "**PRODUCT(S)**" are those **PRODUCT(S)** that you wish to insure and have identified in the Product Specific - IP (Patent, Trademark and/or Copyright Coverage sections (pages 4 - 6)).

3. Are you currently in business selling the **PRODUCT(S)**? (Check one) Yes No
4. Are the **PRODUCT(S)** to be insured manufactured by you, or for you, or by another under license from you? (Check one for each)

By You:	Yes	No	
For You:	Yes	No	
Under license from you:	Yes	No	
5. Are there presently in the market similar or competing alternatives to the **PRODUCT(S)** to be insured?

(Check one) Yes	No	If " yes, " are there patent, trademark or copyright numbers, symbols, or pending notices on such competing devices?	
(Check one) Yes	No	Unknown	If " yes, " please give the numbers (if known):

6. Estimate the number of companies that directly compete with your **PRODUCT(S)** in the marketplace.
 (Check one) **0 (None):** **Less than 5:** **5 – 10:** **10 – 20:** **More than 20:**
7. Average market life of the **PRODUCT(S)**. (Check one) **Less than one year:** **1 – 3 years:** **3 – 5 years:** **5 – 10 years:**
8. Estimate the total size of the U.S. market for the **PRODUCT(S)** to be insured.
Less than \$1M: **\$1M – \$10M:** **\$10M – \$100M:** **\$100M - \$500M:** **Other:** **If "other," please state**
9. Estimate the average % Net Profit (before interest and taxes) experienced by you.
- | | |
|---|---|
| <u>For Insured PRODUCT(S) only: (choose one)</u> | <u>For Company as a whole: (choose one)</u> |
| Less than 5% | Less than 5% |
| 5% - 10% | 5% - 10% |
| 10% - 20% | 10% - 20% |
| 20% - 40% | 20% - 40% |
| More than 40% | More than 40% |

Legal/Financial Information

Questions that refer to "**PRODUCT(S)**" are those **PRODUCT(S)** that you wish to insure and that have been identified in the Product Specific - IP (Patent, Trademark and/or Copyright) Coverage sections (pages 4-6).

10. **Please attach/submit a current financial statement, if available, and/or Form 10K, if publicly traded.**
11. Have you ever been a Defendant in a patent, trademark or copyright infringement lawsuit? (Check one) Yes No **If "yes," please provide details.**
12. What are your average IP-related defense costs, including settlements or damages paid, for the last **3 years**? (Do not include costs of IP acquisition or prosecution or insurance premiums)
- | | |
|-------|-----------|
| Year: | Costs: \$ |
| Year: | Costs: \$ |
| Year: | Costs: \$ |
13. Are you aware of any facts or circumstances not otherwise disclosed in this application that could reasonably increase the likelihood that another party might accuse you of infringing upon its IP? (Check one) Yes No **If "yes," please provide details.**
14. Identify the ownership/contractual rights or relationship you have with the **PRODUCT(S)** (to be insured).
 Please check: **Owner:** **Retailer:** **Licensor:** **User:** **Assignee** **Distributor:** **Other:** (please explain)
15. Have you previously had, or are you now engaged in, any disputes with any of your licensors or **PRODUCT(S)** suppliers (manufacturers)?
 (Check one) Yes No **If "yes," please give details.**
16. Would you consider taking a license on the **PRODUCT(S)** to be insured if you were likely to be found to infringe on another's IP rights?
 (Check one) Yes No
17. Have you obtained any written freedom to manufacture, freedom to operate, non-infringement or invalidity opinion(s) from outside counsel regarding the **PRODUCT(S)** that you seek to insure? (Check one) Yes No **If "yes," please attach such opinion(s).**



The following questions pertain to the specific IP Defense coverages you wish to purchase. Please answer only those pages that apply (e.g. if you are only insuring against patent infringement charges, then answer ALL of the questions which relate to "Patents" and skip the ones which relate to Trademarks and/or Copyrights.

Patent Coverage – Product(s) (Specific)

NOTE: As part of this application, we request a copy of any infringement search and opinion(s) (freedom to operate opinion) from outside counsel. Include references cited, if any. If you need a sample format for this search & opinion, please notify us for a copy of the format. We may also be able to assist you in obtaining this opinion or an alternative risk summary analysis, which satisfies our underwriting requirements.

P1. **Product/Processes** for which insurance is being requested (**PRODUCT(S)**). It is important that we have a clear understanding of the **PRODUCT(S)** you wish to insure. **Product/Process Name** (Describe below and on “Blank Page” as needed) **Please attach any literature you may have describing your product/process.**

Date of First Commercial Sales:

If renewing, are the **PRODUCT(S)** the same as expiring?

(Check one) Yes No

P2. Do you hold **PATENTS**, **PATENT** applications, or anticipate filing a **PATENT** application(s) on the product/process (**PRODUCT** to be insured)?

(Check one) Yes No **If “yes,” please provide copies with a brief explanation of the inventive features covered.**

P3. Give the numbers of your 10 most important **PATENTS**, if applicable.

P4. Are the **PATENTS** listed in **P3** (above) licensed to anyone? (Check one) Yes No **If “yes,” please:**

- a. **Identify Licensee:**
- b. **Additional details of the license:**

P5. Are you obligated to defend any third party for patent infringement concerning the **PRODUCT(S)** being insured?

(Check one) Yes No **If “yes,” please identify.**

P6. Are any **PRODUCT(S)** to be insured licensed by you to others (i.e. you are the licensor)?

(Check one) Yes No **If “yes,” please identify.**

P7. Are any **PRODUCT(S)** to be insured licensed by you from others (i.e. you are the licensee)?

(Check one) Yes No **If “yes,” please identify.**

P8. In designing your **PRODUCT(S)**, did you copy or design around any third-party patents?

Copied (Check one): Yes No **Designed Around** (Check one): Yes No **If “yes,” please give patent number(s):**

P9. **Specify in detail your knowledge of:**

A. Anticipated or existing infringements of the **PRODUCT(S)** to be insured either in the U.S. or foreign countries of patents of others. For example, are you currently using or intend to use any patented features of another without their authorization? (Check one) Yes No

If “yes,” please provide details, including name of other party and date you began or intend to begin this use on the “Blank Page.”

B. Activities outside the U.S., which if conducted in the U.S. would be an infringement. For example, are you using any patented features of another overseas without their authorization? (Check one) Yes No

If “yes,” please provide details, including name of other party and date you began this use on the “Blank Page.”

P10. Have you received any warning letters or notices of infringement from anyone concerning the **PRODUCT(S)** to be insured? (Check one) Yes No

If “yes,” please attach copies.

P11. Indicate if you have been offered and you have refused a license covering any of the **PRODUCT(S)** to be insured.

(Check one) Yes No **If “yes,” provide details, including name(s) on the on the “Blank Page.”**

P12. Are there any circumstances of which Applicant is aware (including existing, threatened lawsuits or ownership issues) that could reasonably be expected to give rise to IP litigation against Applicant? (Check one) Yes No

If “yes,” please provide details.

P13. Indicate the number of patents held/controlled/licensed by you:

Trademark Coverage – Product(s) (Specific)

- T1. Identify below, or attach a list of the marks, symbols, designations or TRADE DRESS (**PRODUCT(S)**) you own, control or license for which you would like coverage. Please also attach any literature describing your **PRODUCT(S)** to be insured. **It is important that we have a clear understanding of the **PRODUCT(S)** you wish to insure.** Trademark registration number (if applicable) or identifying features of symbol, mark, designation or trade dress **PRODUCT(S)**:
- If renewing, are the **PRODUCT(S)** the same as expiring?
(Check one) Yes No
- Registration Date (if applicable): _____ Date sales began: _____
- Country: _____
- T2. Indicate the number of TRADEMARKS held, controlled and/or licensed by you: _____
- T3. Do you have an obligation to defend a third party concerning **PRODUCT(S)** to be insured?
(Check one) Yes No **If “yes,” please identify party(ies).**
- T4. Are any **PRODUCT(S)** to be insured licensed by you to others (i.e. you are the licensor)?
(Check one) Yes No **If “yes,” please identify party(ies).**
- T5. Are any **PRODUCT(S)** to be insured licensed by you from others (i.e. you are the licensee)?
(Check one) Yes No **If “yes,” please identify party(ies).**
- T6. Has anyone else registered the same or a similar **PRODUCT(S)** in a different class?
(Check one) Yes No **If “yes,” list the following:**
Classes:
Owners:
- T7. Is any part of the **PRODUCT(S)** to which the marks, symbols, designations or TRADE DRESS to be insured are applied covered by COPYRIGHT(S) or PATENT(S)? **COPYRIGHT(S)** (Check one) Yes No **PATENT(S)** (Check one) Yes No
- T8. Does anyone else have a right in the **PRODUCT(S)** to be insured?
(Check one) Yes No **If “yes,” please identify party(ies).**
- T9. Have you notified anyone that the **PRODUCT(S)** for which insurance is sought are infringed by them?
(Check one) Yes No **If “yes,” to whom?**
- T10. **Specify in detail your knowledge of:**
- A.** Anticipated or existing infringements of the **PRODUCT(S)** to be insured either in the U.S. or in foreign countries of trademarks of others. For example, are you currently using or intend to use any trademark of another without their authorization? (Check one) Yes No **If “yes,” please provide details, including name of other party and date you began or intend to begin this use on the “Blank Page.”**
- B.** Activities outside the U.S. which if conducted in the U.S. would be a trademark infringement. For example, are you using any trademark of another overseas without their authorization? (Check one) Yes No **If “yes,” please provide details, including name of other party and date you first began this use on the “Blank Page.”**
- T11. Have you received any warning letters or notices of infringement from anyone that you might be infringing their trademark?
(Check one) Yes No **If “yes,” please attach/submit copies.**
- T12. Indicate if you have received offers for license under any trademark of another which you have refused or denied. (Check one) Yes No
If “yes,” please provide details:
- T13. Are any of your TRADEMARKS famous? (Check one) Yes No **If “yes,” please list the trademarks and describe their fame.**
- T14. Are you aware of any famous trademarks that are similar to any of your TRADEMARKS, even if they are in a different area of commerce?
(Check one) Yes No **If “yes,” please list and describe those trademarks and their relationship to your area of commerce.**

Copyright Coverage Product(s) (Specific)

- C1. Identify below the Works of Authorship (**PRODUCT(S)**) you own, control or license for which you would like coverage. Please also attach any literature describing your **PRODUCT(S)** to be insured. It is important that we have a clear understanding of the **PRODUCT(S)** you wish to insure. COPYRIGHT Registration Number (if applicable) or attach a list or identifying features of Works of Authorship: If renewing, are the **PRODUCT(S)** the same as expiring?
(Check one) Yes No
- Registration Date (if applicable): _____ Date sales began: _____ Country: _____
- C2. Indicate the number of COPYRIGHTS held/controlled/licensed by you: _____
- C3. Do you have an obligation to defend a third party concerning the **PRODUCT(S)** to be insured? (Check one) Yes No
- C4. Are any **PRODUCT(S)** to be insured licensed by you to others (i.e. you are the licensor)? (Check one) Yes No
If "yes," please identify party(ies). _____
- C5. Are any **PRODUCT(S)** to be insured licensed by you from others (i.e. you are the licensee)? (Check one) Yes No
If "yes," please provide copies of license(s) or written permission(s). _____
- C6. Has anyone else registered or asserted copyright rights in the same or similar **PRODUCT(S)** in a different class? (Check one)
Yes No If "yes," list:
Classes:
Owners:
- C7. Is any part of the **PRODUCT(S)** to be insured covered by TRADEMARK(s) or PATENTS(s)?
TRADEMARKS(s) (Check one) Yes No PATENT(s) (Check one) Yes No
- C8. Does anyone else have a right in the **PRODUCT(S)** to be insured? (Check one) Yes No If "yes," please identify party(ies) _____
- C9. Have you notified anyone that the **PRODUCT(S)** for which insurance is sought are infringed by them?
(Check one) Yes No If "yes," to whom? _____
- C10. With respect to **PRODUCT(S)** to be insured, specify in detail your knowledge of:
- A. Anticipated or existing infringements of the **PRODUCT(S)** to be insured either in the U.S. or in foreign countries of copyrights of others. For example, are you currently using or about to use any Works of Authorship of another without their authorization? (Check one) Yes No
If "yes," please provide details, including name of other party and date you intend to begin or first began this use on the "Blank Page." _____
- B. Activities outside the U.S. which if conducted in the U.S. would be a copyright infringement. For example, are you using any Works of Authorship of another overseas without their authorization? (Check one) Yes No
If "yes," please provide details, including name of other party and date you first began this use on the "Blank Page." _____
- C11. Have you received any warning letters or notices of infringement from anyone that you might be infringing their copyright?
(Check one) Yes No If "yes," please attach/submit copies. _____
- C12. Indicate if you have received offers for license under any copyright of another which you have refused or denied.
(Check one) Yes No If "yes," please provide details: _____



Applicant must sign below if applying for **COPYRIGHT** Defense insurance coverage.

CERTIFICATION TO INSURANCE APPLICATION FOR **COPYRIGHT** COVERAGE

I hereby certify under penalty of law, including 18 U.S.C. Section 1001, that: The work(s) of authorship which by this Application I apply to insure are my original, independent creation, or are controlled or licensed by me from the original author. The work(s) of authorship to be insured have not been copied in whole or in part from another existing work or copyrighted material of another without written permission. If I am not the original author, I have used and will continue to use the work(s) of authorship only in a manner specifically granted in the license(s) or written permission(s), and copies of such license(s) or written permission(s) authorizing my use are attached hereto.

Applicant's Signature: _____

Date: _____

Applicant's Name: _____

Applicant's Title: _____

SIGNATURE PAGE – Please sign & date below

I am aware that willful, false statements are punishable by various state and federal laws including but not limited to 18 U.S.C. Section 1001.

Applicant's Signature:

Date:

Applicant's Name:

Applicant's Title:

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Please use this additional space for answers to the Application questions, if needed. Also, please list the Question Number to which you are responding. Please be as thorough as possible: