WEBINAR

IP INSURANCE AND THE SUPPLY CHAIN

September 2018
OVERVIEW

- IP Insurance – a reminder
- How is IP relevant in a Supply Chain?
- Contractual indemnities
WHAT IS INTELLECTUAL PROPERTY (IP) INSURANCE?

Cover for claims alleging infringement of IP rights, including patents, trademarks, copyright and trade secrets.

It also covers contractual indemnities.
THE SUPPLY CHAIN

Products & Services
Business
THE SUPPLY CHAIN
THE SUPPLY CHAIN

- Interior Designer
- Power train solution
- Tier 2 supplier
- Tier 1 supplier
- Manufacturer
- Marketing Agency

Products & Services
- Business
THE IP EXPOSURES

• Shape of a seat – has this been protected by design right / design patent?
• Texture used on the interior – a copyright exposure?
THE IP EXPOSURES

Power train solution

- A new way of transmitting power using a combination of energy sources
- But, could this technology have already been invented, and patented by somebody else?
They are keen to use cartoon characters to market this family car
Will they be proprietary? If so, do they look like any existing characters?
Will they use existing characters? If so, have they obtained permission for use?
Contractual indemnities are a way of allocating risk within a contract to define:

- What happens in the event of a loss?

  • Who is responsible?
  • Will the liability be allocated to one party or shared?
  • Will one party indemnify, or promise not to sue, the other?
  • To what extent will the liability be insured?

Every day, companies all over the world are negotiating these provisions!
CONTRACTUAL INDEMNITIES: EXAMPLE

“What happens if you, or I, or both of us get sued for our car advertisement?”

Marketing Agency

“…The characters are licensed from a global company, it’s not our fault if they infringe…”

“…We are a small company, an unlimited liability could kill us…”

Manufacturer

“…We didn’t direct the advertisement, the agency is responsible…”

“…We require all suppliers to indemnify us…”
IP INSURANCE

IP insurance is very useful for insuring IP infringement indemnities

Providing IP infringement indemnities
IP insurance can protect your clients for IP infringement indemnities

It can be a ‘business enabler’

Receiving IP infringement indemnities
Protects insureds as a ‘back stop’ in the event an agreed IP infringement indemnity isn’t paid to the insured
The insured indemnifies a customer:

1. A customer receives a letter from a third party alleging infringement of a patent
2. Customer forwards letter to Insured
3. Insured contacts our claims team
4. Lawyers are selected
5. Legal costs, settlement costs or damages covered
‘Blanket’ contractual obligations cover
• All contracts on which the insured provides indemnity are insured, including any entered into during the period of the policy
• Underwritten at renewal

‘Specified’ contract coverage
• Covers the insured for all their business activities, plus any contractual parties specified by endorsement
• Underwritten each time there is a contract change, or new contract

‘Specified’ contract coverage – Contract only
• Covers the insured only for their work performed under the contracts specified by endorsement, plus any contractual parties specified by endorsement
• Underwritten each time there is a contract change, or new contract
INSURING CONTRACTUAL OBLIGATIONS: COVER OPTIONS

‘Blanket’ contractual obligations cover

- Insured
- Indemnifies Customers
- Products

Third party contacts
- Insured: “These products infringe our patent”
- Customers:
  - “These products infringe our patent”
INSURING CONTRACTUAL OBLIGATIONS: COVER OPTIONS

‘Specified’ contract coverage

Third party contacts
Insured:
“Product X infringes our patent”

Third party contacts a specified customer:
“Product X infringes our patent”

Third party contacts
Insured:
“Other Products infringe our patent”
‘Specified’ contract coverage
- Single Contract Only

INSURING CONTRACTUAL OBLIGATIONS: COVER OPTIONS

- Third party contacts Insured:
  “Product X infringes our patent”

- Third party contacts a specified customer:
  “Product X infringes our patent”

- Third party contacts Insured:
  “Other Products infringe our patent”
Contact us if you have any questions:

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We will also be inviting you to future IP webinars - we have several planned for the next few months.

Please let us know if there is a topic or terminology that you would like us to include in these webinars.