

# Litigation Risk Management Complimentary to Policyholders

## An Essential IP Risk Management Strategy:

Intellectual Property litigation can be costly and time consuming. IPISC's Litigation Management Services (LMS) Team has a depth of expertise and experience beyond compare in the emerging intellectual property (IP) insurance industry. **LMS is complementary to our Policyholders.**

IPISC's LMS team readily assists insureds manage their legal services and costs associated with IP litigation, and often saves the insured real dollars more than the amount paid in premium. The LMS Team monitors the legal activities of litigating counsel to ensure that pre-negotiated billing rates and guidelines are followed and **makes certain that litigation tactics are case-driven and not fee-driven to preserve policy limits.**

## Defense:

IPISC's insured, Octane Fitness, was sued by a larger competitor for patent infringement. The insured manufactured product triggered a claim under their IP Defense policy. Ed O'Connor, CFO of Octane, said,

*"IPISC's litigation management team has managed our claim highly effectively, and recommended an excellent legal team that is well versed in IP litigation. All legal invoices are closely reviewed, holding the legal firms accountable for their billings. IPISC is reasonable and fair to work with and has earned our trust."*

O'Connor also appreciates the value in IPISC's insurance product experts.

*"One question always comes to mind when working with insurance companies, will they be there for you when you need them, when a claim arises? With IPISC, the answer is yes. We are currently involved in an IP claim and IPISC has been there for us from the beginning and continues to stand by their commitment every step of the way. It is easy to do business with IPISC. The IPISC team has a combination of excellent customer service, industry expertise and integrity,"*

## Enforcement: (Early Intervention)

*"Just sitting back watching people steal out of your own pocket over and over and over again, and there is really nothing you can do about it."*

Recently, one of IPISC's IP Enforcement insureds learned that another party, a reseller, was selling a product that infringed on his exclusive rights. The insured contacted IPISC's LMS Team, who then promptly sent an EI letter to the infringing party on the company's behalf. The infringing party responded to IPISC and pledged not to sell any more of the infringing products. The Insured likened not having an IP insurance policy through IPISC.

The IP insurance policy, along with IPISC's LMS Team, ensures that companies have the resources and support necessary to protect IP assets. Insureds can do something about the infringers and keep their money in their pocket with IPISC's insurance policy and LMS expertise. The Team's mission is to promote efficient and effective claim resolution by building a strong working relationship with the Insured, and by doing all that is possible, within the terms of the policy, to help support the Insured in enforcing and/or defending their IP rights.

IPISC's Early Intervention (EI) services provided by the LMS team also help proactively, and many times effectively, thwart claims. These complimentary letters, offered under the IP Enforcement policy, are critical to IPISC's LMS. This discretionary service informs suspected infringers of the existence of the Insured's IP, and of the fact that there is an insurance policy in place to enforce the IP if necessary.

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## IPISC's LMS Team offers the following Services:

- Assist the insured with steps to take for authorization of the claim if he/she chooses to request
- Explain the importance of an independent opinion letter (which is covered within the SIR) to give the insured and the carrier an idea of the strength of his/her defense/offense
- Based upon the independent opinion letter, assist the insured to determine the best approach going forward
- Assist insured to set expectations in the varying approaches
- Assist the insured in selecting suitable litigating counsel
- Assist the insured with negotiating hourly rates for litigating counsel and local counsel, document discovery services
- Provide customized litigation management and billing guidelines for selected counsel
- Require counsel to agree to litigation management and billing guidelines prior to being retained
- Monitor counsel's invoices, adjusting when needed to comply with billing guidelines and recommending of payment after adjustments
- Monitor counsel's services, requesting regular verbal and written updates and any changes to counsel's litigation strategy.
- Assisting the insured, if requested, monitor the strategy decisions and assist in keeping litigating counsel focused on the case
- Discuss litigation benchmarks and associated costs
- Supervise all litigation and other proceedings involving the lawsuit and attend any judicial or administrative hearing involved

IPISC's LMS Team professionals serve the needs of the insured while at the same time ensuring that the integrity of the policy language is upheld. Both can be successfully accomplished by building and sustaining a working partnership with the Insured. It is important for the Insured and the LMS professionals to maintain a close and candid relationship. In our experience, applying this practice ensures that the policy holder receives exceptional support, which in turn optimizes value and promotes a prompt and fair claim resolution. This practice also helps build a positive relationship with our Insureds, one based upon fairness, courtesy, and mutual respect.