

**APPLICATION FOR
INFRINGEMENT DEFENSE COST REIMBURSEMENT
INSURANCE POLICY**

The Infringement Defense Cost Reimbursement Insurance Policy reimburses you for your litigation expenses should you be sued by another for infringement of their patent, trademark 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 on the Schedule of Manufactured Products, Marks and/or Works issued with the Declarations Page of your Policy.

Manufactured Product(s), Marks and/or Works (hereinafter referred to throughout this application form as “MPMW”) 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 statutory or regulatory action.

The Company agrees to use all information provided hereon and herewith solely for evaluating the feasibility of issuing an insurance policy on the **MPMW**.

What specific coverage are you applying for? (check at least one)

- Coverage for:
- Charges of Patent Infringement? _____
- Charges of Trademark Infringement? _____
- Charges of Copyright Infringement? _____

1. Applicant Name: _____ Telephone No.: _____
 Address: _____ Fax No.: _____
 Street: _____ Website Address: _____
 City, State, Zip _____

Please state below the name of the person we may contact to discuss this application.

Contact Name: _____ Contact Phone No.: _____
 Contact Fax No.: _____

Contact Address (if difference from above): _____ E-Mail: _____
 Street: _____
 City, State, Zip _____

2. Company Type (Check one): Corporation___ Individual___ Partnership___ Other___

3. Please indicate your future Requested Effective Date should coverage be offered: _____

4. Requested Policy Limit (Per Claim/Aggregate). Per Claim limits available are \$250,000; \$500,000; \$750,000; \$1,000,000; \$2,000,000 and \$5,000,000. Aggregate Limits available are the same as per Claim Limits or higher. Please indicate your interest.

5. Indicate if you or your Company have been involved in any of the following:

- | | | | |
|----|--|-----------------------|----|
| | | (Circle one for each) | |
| a. | International Trade commission actions? | Yes | No |
| b. | Declaratory judgment actions? | Yes | No |
| c. | Patent, trademark, or copyright related CIVIL PROCEEDINGS or settlement? | Yes | No |
| d. | Other post grant procedures (oppositions, reissue, re-exams, etc.)? | Yes | No |

If your answer to any of the above is "yes," briefly give details and outcome on separate sheet.

6. What SIC codes apply to the **MPMW**? _____

7. Are you currently in business selling the **MPMW**?

Yes ____ No ____

8. What ownership/contractual rights or relationship do you have to the **MPMW**?

Please check one:

Owner	_____
Licensee	_____
Assignee	_____
Distributor	_____
Retailer	_____
User	_____
Other	_____ Please explain.

9. Is the **MPMW** to be insured manufactured by you, or for you, or by another under license from you?

By You: Yes ___ No ___ For You: Yes ___ No ___ Under license from you: Yes ___ No ___

10. Have you previously had or are you now engaged in any disputes with any of your licensors or product suppliers (manufacturers)?

Yes ___ No ___

If yes, please give details.

11. How many end uses are there for the **MPMW** to be insured? _____

12. Are any confidential trade secrets or know-how used in any process/invention/device or **MPMW** to be insured?

Yes ___ No ___

13. Would you consider taking a license on the **MPMW** to be insured if you were likely to be found to infringe on another's intellectual property rights?

Yes ___ No ___

14. Are there presently in the market similar or competing alternatives to the **MPMW** to be insured?
 Yes ___ No ___
 If yes, are there patent, trademark or copyright numbers, symbols, or pending notices on such devices?
 Yes ___ No ___
 If yes, please give the numbers _____

15. Estimate the number of companies that directly compete with your **MPMW** in the marketplace.
 None ___ Less than 5 ___ 5 – 10 ___ 10 – 20 ___ More than 20 ___

16a. Indicate the names of your top five (5) closest competitors and their geographic market.

Company Name:	U.S. Only:	Foreign Only:	Both U.S. & Foreign	Are they likely to hold Patents, Trademarks or Copyrights on their Products?	
1. _____	_____	_____	_____	Yes ___	No ___
2. _____	_____	_____	_____	Yes ___	No ___
3. _____	_____	_____	_____	Yes ___	No ___
4. _____	_____	_____	_____	Yes ___	No ___
5. _____	_____	_____	_____	Yes ___	No ___

16b. Please categorize your company and the above five (5) top competitors with regard to Total Sales in the following categories

Category A. Total Sales of more than \$500MM **Category D. Total Sales between \$7MM & \$65MM**
Category B. Total Sales between \$250MM & \$500MM **Category E. Total Sales between \$3MM & \$7MM**
Category C. Total Sales between \$65MM & \$250MM **Category F. Total Sales between \$0 & \$3MM**

Company 1: Category _____ Company 4: Category _____
 Company 2: Category _____ Company 5: Category _____
 Company 3: Category _____ Applicant's Company: Category _____

17. What is the average market life of the **MPMW**?
 Less than one year _____
 1 – 3 Years _____
 3 – 5 Years _____
 5 – 10 Years _____

18. Estimate the total size of the U.S. market for the **MPMW** to be insured.
 Less than \$1,000,000 _____
 \$1MM - \$10MM _____
 \$10MM - \$100MM _____
 \$100MM - \$500MM _____
 More than \$500MM _____

19. Report the number of years the product or process to be insured has been used or sold by you and your competitors in the following categories:

Category A: Greater than 20 Years

Category B: 6 - 20 Years

Category C: 4 - 6 Years

Category D: 0 - 4 Years

Category E: 1st time ever offered

Competitor 1: Category _____

Competitor 2: Category _____

Competitor 3: Category _____

Competitor 4: Category _____

Competitor 5: Category _____

20. Estimate the average % Net Profit (before interest and taxes) experienced by your company.

For Insured

MPMW only:

(Choose one)

Less than 5%

5% - 10%

10% - 20%

20% - 40%

More than 40%

For Company

as a whole:

(Choose one)

Less than 5%

5% - 10%

10% - 20%

20% - 40%

More than 40%

21. Have you ever been a Defendant in a patent, trademark or copyright infringement lawsuit? If yes, please provide details: _____

22. What are your average defense costs for the last three years?

Year: _____ Costs: \$ _____

Year: _____ Costs: \$ _____

Year: _____ Costs: \$ _____

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

QUESTIONS FOR COVERAGE AGAINST CHARGES OF “PATENT” INFRINGEMENT

NOTE: As part of this application, we must have a copy of the infringement search and opinion(s) 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.

P1. Product/Processes for which insurance is being requested.

Product/Process Name (Describe below)

Date of First Commercial Sales:

Please attach any literature you may have describing your product/process.

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

Yes _____ No _____

If Yes, please provide copies and a brief explanation of the inventive features covered.

P3. Give the numbers of your ten (10) most important patents.

1. _____ 5. _____ 9. _____
2. _____ 6. _____ 10. _____
3. _____ 7. _____
4. _____ 8. _____

P4. Are the patents listed in P3 licensed to anyone?

Yes _____ No _____

If yes, please identify Licensee _____

Please also provide any additional details of the license: _____

P5. Are you obligated to defend any third party for patent infringement vis-à-vis the product being insured?

Yes _____ No _____

P6. Are any products/processes (MPMW) to be insured licensed by you to others (i.e. you are the licensor)?

Yes _____ No _____

P7. Are any products/processes (MPMW) to be insured licensed by you from others (i.e. you are the licensee)?

Yes _____ No _____

P8. In designing your product, did you copy or design around any third party patents?

Copied: Yes _____ Designed Around: Yes _____
No _____ No _____

P9. Specify in detail your knowledge of:

A. Existing infringements of the product/process to be insured either in the U.S. or in foreign countries of patents of others. For example, are you currently using any patented features of another without their authorization?

B. Suspected or anticipated infringements of other's patent rights. For example, do you anticipate or are you about to use the patented features of another without their authorization?

C. 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?

P10. Have you received any warning letters or notices of infringement from anyone concerning the product to be insured?

Yes _____ No _____

If Yes, please attach copies.

P11. Indicate if you have been offered and you have refused a license covering any of the products to be insured.

Yes _____ No _____

If yes, please provide details: _____

STOP!!!! WE MUST HAVE YOUR ANSWERS TO THE ABOVE QUESTIONS P9, P10 AND P11 TO PROCESS YOUR APPLICATION.

QUESTIONS FOR COVERAGE AGAINST CHARGES OF “TRADEMARK” INFRINGEMENT

T1. Identify below the marks, symbols, designations or trade dress you own, control or license (MPMW) for which you would like coverage.

T/M registration number (if applicable) or identifying features of symbol, mark, designation or trade dress (MPMW):

Registration Date (if applicable): _____

(Please also attach any literature describing your MPMW to be insured)

Date sales began: _____

Country: _____

T2. Indicate the number of trademarks held/controlled/licensed by you: _____

T3. Do you have an obligation to defend a third party vis-à-vis the marks, symbols, designations or trade dress (MPMW) to be insured?

Yes ____ No ____

T4. Are any marks, symbols, designations or trade dress (MPMW) to be insured licensed by you to others (i.e. you are the licensor)?

Yes ____ No ____

T5. Are any marks, symbols, designations or trade dress (MPMW) to be insured licensed by you from others (i.e. you are the licensee)?

Yes ____ No ____

T6. Has anyone else registered the same or a similar mark, symbol, designation or trade dress (MPMW) in a different class?

Yes ____ No ____ If yes, list classes: _____

If yes, list owners: _____

T7. Is any part of the MPMW to which the marks, symbols, designations or trade dress to be insured are applied covered by copyright(s) or patent(s)?

Copyright(s)? Yes ____ No ____ Patent(s) Yes ____ No ____

T8. Does anyone else have a right in the marks, symbols, designations or trade dress (MPMW) to be insured?

Yes ____ No ____

T9. Have you notified anyone that the marks, symbols, designations or trade dress (MPMW) for which insurance is sought are infringed by them?

Yes ____ No ____

If yes, to whom? _____

- T10. Specify in detail your knowledge of:
- A. Existing infringements of the **MPMW** to be insured either in the U.S. or in foreign countries of trademarks of others. For example, are you currently using any trademark of another without their authorization?
-
- B. Suspected or anticipated infringements of other's trademark rights. For example, do you anticipate or are you about to use a trademark of another without their authorization?
-
- C. 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?
-
- T11. Have you received any warning letters or notices of infringement from anyone that you might be infringing their trademark?
- Yes _____ No _____
- If Yes, please attach copies.
- T12. Indicate if you have received offers for license under any trademark of another which you have refused or denied. Yes _____ No _____
- If yes, please provide details: _____

STOP!!!! WE MUST HAVE YOUR ANSWERS TO THE ABOVE QUESTIONS T10, T11 AND T12 TO PROCESS YOUR APPLICATION.

QUESTIONS FOR COVERAGE AGAINST CHARGES OF “COPYRIGHT” INFRINGEMENT

C1. Identify below the Works of Authorship you own, control or license (MPMW) for which you would like coverage.

Copyright Registration Number (if applicable) or identifying features of Works of Authorship (MPMW):

Registration Date (if applicable): _____

Date sales began: _____

(Please also attach any literature describing your MPMW to be insured)

Country: _____

C2. Indicate the number of copyrights held/controlled/licensed by you: _____

C3. Do you have an obligation to defend a third party vis -à-vis the Works of Authorship (MPMW) to be insured?
Yes ____ No ____

C4. Are any Works of Authorship (MPMW) to be insured licensed by you to others (i.e. you are the licensor)?
Yes ____ No ____

C5. Are any Works of Authorship (MPMW) to be insured licensed by you from others (i.e. you are the licensee)?
Yes ____ No ____

C6. Has anyone else registered or asserted copyright rights in the same or similar Works of Authorship (MPMW) in a different class?
Yes ____ No ____ If yes, list classes: _____
If yes, list owners: _____

C7. Is any part of the MPMW to which the Works of Authorship to be insured covered by trademark(s) or patent(s)?
Trademark(s)? Yes ____ No ____ Patent(s) Yes ____ No ____

C8. Does anyone else have a right in the Works of Authorship (MPMW) to be insured?
Yes ____ No ____

C9. Have you notified anyone that the Works of Authorship (MPMW) for which insurance is sought are infringed by them?
Yes ____ No ____
If yes, to whom? _____

C10. With respect to the Works of Authorship (MPMW) to be insured, specify in detail your knowledge of:

A. Existing infringements of the MPMW to be insured either in the U.S. or in foreign countries of copyrights of others. For example, are you currently using any Works of Authorship of another without their authorization?

Yes _____ No _____

If yes, please provide details, including name of other party and date you first began this use:

B. Possible infringement. For example, are you about to use Works of Authorship similar to those of another without their authorization.

Yes _____ No _____

If yes, please provide details, including name of other party and date you will first begin this use:

C. 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?

Yes _____ No _____

If yes, please provide details, including name of other party and date you first began this use:

C11. Have you received any warning letters or notices of infringement from anyone that you might be infringing their copyright?

Yes _____ No _____

If Yes, please attach copies.

C12. Indicate if you have received offers for license under any copyright of another which you have refused or denied. Yes _____ No _____

If yes, please provide details: _____

STOP!!!! WE MUST HAVE YOUR ANSWERS TO THE ABOVE QUESTIONS C10, C11 AND C12 TO PROCESS YOUR APPLICATION.

CERTIFICATION TO INSURANCE APPLICATION FOR COPYRIGHT COVERAGE

I hereby certify under penalty of law under 18 U.S.C. Section 1001 that the work(s) of authorship which are to be insured, and to be listed on the Declarations Page of the insurance policy for which I am applying, are my original, independent creation, and have not been copied in whole or in part from another existing work or copyrighted material of another.

Signed: _____
Applicant's Signature

Date: _____

Printed
Name/Company/Title: _____ / _____ / _____

In connection with this application for Infringement Defense Cost Reimbursement Insurance, applicant and/or his authorized representative hereby represents and warrants as follows:

1. The Manufactured Products, Marks and Works (hereinafter referred to as "MPMW") identified in Questions P1 or T1 or C1 (whichever is applicable) for which this application for insurance is made have either been: manufactured or procured and commercially on sale or in use at least as early as the date specified in Question P1; or, if included in Question T1, has been legally procured and Applicant has no knowledge of any facts or circumstances adversely affecting its validity; or, if included in Question C1, has been authored or produced by or for Applicant and have not been copied from, in whole or in part, or derived from, in whole or in part, any other work.
2. Applicant understands that the statements and answers furnished to the Company are representations of Applicant and are also made on behalf of all persons and entities in or related to Applicant's company.
3. Applicant has been provided with **a specimen copy (or, if not, will request a copy)** of the Infringement Defense Costs Reimbursement Insurance Policy and understands that the policy only reimburses LITIGATION EXPENSES and DAMAGES (if indicated on the Declarations page of the Policy purchased) for COVERED LITIGATION brought during the POLICY PERIOD, has read and understands the terms, conditions and exclusions of said Policy, and has had the opportunity to discuss the coverage with a professional intellectual property advisor.
4. The answers to the questions in this Application are true, accurate, and complete to the best of the Applicant's knowledge and belief. Applicant acknowledges and understands that any Policy issued in reliance on the information and statements contained herein, and that any material misrepresentation or willful omission or inaccurate statement may result in voiding of coverage or rescission of the Policy. After the exercise of due diligence, the Applicant is not aware of any current patents, trademarks or copyrights (whichever is applicable) which are infringed, nor has he any awareness of any suspected or anticipated infringements of any patent(s), trademark(s) or copyright(s) (whichever is applicable), except as noted above.
5. Applicant understands that while the insurer, its agents, servants and employees will endeavor to keep this information confidential, this Application is not a privileged document and its contents may be required to be disclosed during litigation, or as a result of statutory or regulatory action.
6. The Applicant understands that the Intellectual Property Infringement Defense Cost Reimbursement Insurance Policy only applies to those CLAIMS that are first reported to the Company during the POLICY PERIOD relating to COVERED LITIGATION brought during the POLICY PERIOD and with respect to which the Named Insured's first knowledge that he may be committing an INFRINGING act arises during the POLICY PERIOD. **Applicant further understands that there is a ninety (90) day waiting period from the Effective Date of the Policy within which, if a CIVIL PROCEEDING(S) (as defined in the Policy) is initiated against Named Insured, it will not be covered, and that should there be no renewal of this Policy, Applicant will have ninety (90) days after the expiration date of the POLICY PERIOD in which if a CIVIL PROCEEDING(S) is initiated against Named Insured a CLAIM(S) thereon will be considered.**

WARNING

THE APPLICANT REPRESENTS THAT THE ABOVE STATEMENTS AND FACTS ARE TRUE AND THAT NO MATERIAL FACTS HAVE BEEN SUPPRESSED OR MISSTATED.

NOTICE TO ARKANSAS APPLICANTS: Any person who knowingly presets a false or fraudulent claim for payment for a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

NOTICE TO COLORADO APPLICANTS: It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete or misleading facts or information to a policy holder or claimant for the purpose of defrauding to attempting to defraud the policy holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

NOTICE TO D.C. APPLICANTS: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

NOTICE TO FLORIDA APPLICANTS: Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

NOTICE TO KENTUCKY APPLICANTS: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

NOTICE TO LOUISIANA APPLICANTS: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

NOTICE TO MICHIGAN APPLICANTS: A person who submits an application or files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

NOTICE TO MINNESOTA APPLICANTS: A person who submits an application or files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

NOTICE TO NEW JERSEY APPLICANTS: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

NOTICE TO NEW MEXICO APPLICANTS: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

NOTICE TO NEW YORK APPLICANTS: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime, and shall be also subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

NOTICE TO OHIO APPLICANTS: Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

NOTICE TO OKLAHOMA APPLICANTS: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

NOTICE TO PENNSYLVANIA APPLICANTS: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

NOTICE TO ALL OTHER STATE APPLICANTS: Any person who knowingly includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

Applicant's Signature _____ Date: _____

Applicant's Name & Title _____

APPLICATION (DEFENSE) CHECKLIST:

- 1) Are all Questions answered?

- 2) Are there details given for all of the “yes” answers in Questions? Are all copies of any received warning letters attached?

- 3) Do you have a detailed description of the Product to be insured? If product is a patent or patent application, then, we need copies of same. Remember patent applications must include all amendments filed with the US Patent Office.

- 4) Do you have a copy of the Search & Opinion (including copies of cited patents) attached?