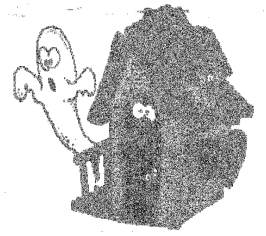




Mesmer & Deleault, PLLC
41 Brook Street, Manchester, NH 03104
Satellite Office: One New Hampshire Ave., Suite 125
Portsmouth, NH 03801



“Tip of the Month”

Patent Infringement Insurance

Protecting your inventions with patents is a very important part of a business strategy. Patents cost thousands of dollars to obtain, but can you afford to enforce your patent if someone infringes it? Patent litigation is very expensive, and can cost tens or hundreds of thousands of dollars. This cost may be beyond the ability of most individuals and many smaller sized businesses to pay. Sadly, your intellectual property is not worth much if you cannot afford to enforce it. If you discover a third party infringing your patent rights, and you do not have the money to bring suit, your options are limited. One of the best and least-known options is obtaining patent infringement insurance.

Most business owners obtain a general business liability insurance policy to protect against unexpected losses. Patents are different, and insurance companies know that the best defense may be a good offense. You can actually get an insurance company to pay most of your litigation expenses if you find someone infringing your patent.

The technical term for patent enforcement insurance is “infringement abatement insurance.” The figures stated below come from one of the leaders in the industry, with whom we are not connected in any way. Policy limits are between \$100,000 and \$5,000,000 for each claim or in the aggregate. The deductibles vary between \$0 and \$50,000. Premiums start at \$1,300 annually for the minimum coverage, and may go up to \$12,000 for the higher policy limits.

The policy covers up to 80% of the litigation expenses you incur brought against an alleged wrongdoer in authorized litigation. To be authorized, you have to submit an opinion of an independent patent attorney that your patent is valid and infringed. You can also select your own litigation attorneys. You have to pay the 20% co-insurance, however. The policy will also cover your defense of patent invalidity counterclaims, re-examination expenses, and reissue expenses if they are related to authorized litigation.

What happens if you win a huge money award because of your litigation? In that event, the insurance company has to be paid back in proportion to the costs it paid, up to a limit of 1.25 times its outlay. You get the rest.

What is the catch? Like health insurance, infringement abatement insurance does not cover pre-existing conditions. Also, you must have had your insurance in place continuously, with no gaps. Therefore, the best time to buy the insurance is at the time you file your patent application.

If you are interested in applying for patent infringement insurance, please give us a call at 668-1971 or contact us through the Internet at mailbox@biz-patlaw.com. We can put you in contact with an insurance agent who can get you covered.

Frank B. Mesmer, Jr., Esq.
Robert R. Deleault, Esq.
Phillip E. Decker, Esq.

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(603) 668-1971

Fax (603) 622-1445

E-mail: Meslaw@aol.com

Website: www.biz-patlaw.com