

Intellectual Property Lawyers Professional Liability Claim Services

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PROFESSIONAL SERVICES



Intellectual property (IP) law firms are specialized practices. At CNA, we recognize their unique nature by offering a specialized insurance product, as well as expressly dedicating a team of professionals to the IP law firm community. We understand that no matter how prepared a firm may be for the unexpected, claims against IP firms can be severe and devastating. In addition, the Office of Enrollment and Discipline (OED) has become more active in filing grievances against IP lawyers and patent agents. Recent claim trends emphasize the need for IP law firms to have comprehensive professional liability coverage. Consider whether your firm would have the resiliency to manage the following scenarios:

- IP law firm defended a client in a \$40 million patent infringement action. While client was found liable at the trial court level, the firm believed the client had valid arguments on appeal. However, due to the filing of multiple post-trial motions and a mix-up in titling a post-trial order, the law firm missed the deadline to file the appeal.
- Client approached a law firm to aid in publishing a book about recent military events. The firm assisted in securing copyrights and represented the client through the publication process. After the fact, the U.S. Department of Defense successfully filed a civil forfeiture action against the client to disgorge all \$7 million in royalties from sales. The client then filed a malpractice claim against the firm alleging failure to advise the client of the need to submit the materials to the government for pre-publication review, seeking to recover the lost \$7 million.
- Client approached a law firm to assist in performing IP due diligence in a corporate acquisition. In discussing the firm's findings, the firm commonly spoke to the client in the presence of a co-investor, whom the firm did not represent. It was asserted that the firm should have known that the co-investor would have reasonably relied on its due diligence report and that the firm failed to take steps to notify the co-investor that it was not a client of the firm. Unfortunately, the firm's due diligence report contained inaccuracies resulting in damages to the client and investor of \$6 million. The court permitted the co-investor to sue the firm for malpractice because the firm did not act to advise the co-investor of non-representation and to seek its own legal counsel.
- Claims of conflicts of interest continue to plague IP law firms. Recently, multiple claims against lawyers alleging conflicts of interest, including subject matter conflicts, have resulted in awards in the millions of dollars.



At CNA, we pursue a collaborative approach to IP-specific claim management, working with our insureds to achieve a fair outcome. For our insureds, we strive to promote informed decision-making, resulting in fewer surprises and an overall smooth claim process. We understand that protecting your practice is not only good for your business; it forms the foundation of ours.

CNA works closely with its IP law firm policyholders to vigorously defend claims of malpractice. As the largest provider of professional liability insurance to intellectual property firms, CNA has built a best-in-class reputation based upon its experienced team of claim and risk control staff and a solid track record of success in defending claims.

In addition to defending claims, the CNA claim and risk control teams work with our IP law firm insureds to take advantage of these additional coverages and benefits provided to our policyholders:

- Providing pre-claim assistance or subpoena assistance as applicable, which is not subject to the deductible;
- Engaging in pre-suit dialogue with disgruntled client/claimants to resolve matters in an effort to avoid costly litigation;
- Collaborating with a highly experienced panel of regional lawyers who understand the nuances of IP malpractice litigation in defending claims and representing policyholders before the OED and state ethics boards;
- Providing industry-leading forms and letters to use in the day-to-day practice of intellectual property law; and,
- Providing access to two hours of complimentary IP-focused CLE webinars sponsored by CNA.

To learn more about the difference that CNA could make when you have a claim, please visit www.cna.com/claim.

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