

IP Insurance Guide (India)

Guide to IP insurance products available for Indian startups

HOW TO USE THIS TEMPLATE

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| 1. | This document: IP Insurance Guide (India). |
| 2. | Fill all bracketed fields before use. |
| 3. | Template only — not a substitute for qualified legal advice. |

1. IP INSURANCE OVERVIEW

What IP Insurance Covers. IP insurance covers legal costs of: (a) defending against IP infringement claims filed against the Company (defence cover); or (b) enforcing the Company's own IP rights against infringers (enforcement cover); or both (combined cover). Policies also cover expert witness costs, court filing fees, and damages up to the policy limit.

Why It Matters for Startups. A single patent infringement suit can cost Rs. 20 to 50 lakhs in legal fees with no certainty of outcome. Without insurance, the company must choose between: settling (even if in the right) to avoid costs; or fighting (even if correct) and risking cash reserves. IP insurance removes this false choice.

Indian Market. IP insurance in India is nascent compared to US and UK markets. Most Indian startups do not have IP insurance. However, institutional investors and international partners increasingly expect it, and IP-backed lenders require it.

2. TYPES OF COVER AND KEY TERMS

Defence Cover. Protects against IP claims filed against you. Covers: legal defence costs; expert witness fees; damages and settlements up to policy limit. Typical triggers: patent infringement suit filed; trademark opposition or cancellation filed; copyright infringement claim.

Enforcement Cover. Funds cost of enforcing your own IP rights. Covers: legal fees for filing and prosecuting an infringement suit; expert witness costs; collection costs for damages awarded. Typical trigger: clear infringement of your patent or trademark with FTO analysis and legal opinion supporting the case.

Key Policy Terms. Retroactive date (infringement must post-date this); claims-made vs occurrence basis (claims-made is most common — covered if claim is made during the policy period); sublimits (some costs may have separate caps); and known claims exclusions (existing disputes must be disclosed — non-disclosure voids coverage).

3. UNDERWRITING AND WHAT IMPROVES YOUR POSITION

What Underwriters Assess. Quality and enforceability of IP portfolio; FTO analysis and product clearance status; OSBOM and open-source compliance; history of IP disputes; and technical complexity and litigation risk in the sector.

What Improves Your Position. Registered patents, trademarks, and copyrights; a current FTO analysis showing clearance; a clean OSBOM; documented IP policies and employee training; no known pending disputes; and a

strong IP portfolio will obtain: lower premiums; higher policy limits; and more comprehensive cover.

When to Apply. IP insurance is most cost-effective when obtained: before any dispute arises; before IP-backed financing; before major investor rounds; and before entering highly litigious markets (USA is the highest IP litigation market globally).

4. PROVIDER SELECTION AND CLAIMS PROCESS

Selecting a Provider. In India: domestic insurers with technology lines (New India Assurance, ICICI Lombard, Tata AIG); international IP insurance specialists through Indian brokers (Lloyd's syndicates, Aon, Marsh, WTW). Compare: policy limits (minimum Rs. 5 crores for technology startups); geographic coverage; types of IP covered; deductible levels; and premium rates.

Claims Process. On receiving any infringement notice, opposition, or court filing: notify insurer immediately (delay in notification can void coverage); provide all relevant documents; co-operate fully with the insurer's appointed counsel; do not admit liability or make settlement offers without insurer consent; and document all legal costs and expenses.

Premium Benchmarks. Approximate annual premiums for Indian startups: Rs. 2 to 5 lakhs for Rs. 5 crores of defence cover for a seed-stage startup with limited registered IP; Rs. 5 to 15 lakhs for Rs. 10 crores of combined cover for a Series A startup with a registered patent and trademark portfolio. Premiums reduce relative to coverage as the portfolio matures and IP documentation improves.

IMPORTANT NOTE

Working template for IP Insurance Guide (India). Verify requirements with a qualified IP advocate.

IP INSURANCE CLAIMS MANAGEMENT — PRACTICAL GUIDANCE

The claims process is where IP insurance delivers its value — or fails to. Most problems with IP insurance claims arise from: late notification (insurers have strict notification windows); failure to obtain prior approval for legal spend (most policies require insurer approval before significant expenditure); admission of liability without insurer consent; and failure to cooperate with the insurer

's appointed counsel. Notification obligations: most IP insurance policies require notification of a potential claim within 30 days of the policyholder becoming aware of the claim (or potential claim). 'Becoming aware' is broadly interpreted — receiving a cease and desist letter, being served with a court notice, or learning of a competitor's adverse patent filing all constitute notice. Notify you

r insurer immediately on any of these events, even if you are unsure whether the policy applies. Late notification can void coverage entirely. Pre-approval for legal spend: most IP insurance policies require the insurer's prior written approval before engaging legal counsel or incurring significant legal costs. The insurer typically appoints approved panel counsel or approves the policyholder's ch

osen counsel on application. Before spending any legal budget on an IP matter that may be covered, contact your insurer and obtain written confirmation that: (a) the matter is within coverage; (b) your chosen counsel is approved; and (c) the proposed legal budget is approved. Cooperation obligations: IP insurers have full cooperation rights — they can inspect all relevant documents; attend strateg

y meetings; and direct settlement strategy. Refusing to cooperate or attempting to manage the litigation without the insurer's involvement can void coverage. Build the insurer into your litigation management team from the first day. Using IP insurance claims history as a management tool: maintain a claims history log for the IP insurance portfolio. Claims patterns — the types of IP disputes arisin

g, the outcomes, the costs — provide valuable intelligence for: adjusting IP strategy to reduce future claim frequency; negotiating premium renewals (a claims-free record supports lower premiums); and reporting to the Board on IP risk management effectiveness.

ADDITIONAL COMPLIANCE GUIDANCE AND BEST PRACTICES

ADDITIONAL GUIDANCE ON COMPLIANCE AND BEST PRACTICES. Indian IP law continues to evolve rapidly, with the Patent Office, Trade Marks Registry, and Copyright Office all implementing digital transformation initiatives that affect how IP is filed, prosecuted, and enforced. The Patents Amendment Rules 2024 introduced new provisions for startup fee concessions and updated the examination procedure timelines. The Trade Marks Act 1999 has been interpreted by courts in a growing body of decisions that clarify how confusion is assessed, how well-known

marks are recognised, and how bad faith is established. The DPDP Act 2023 has implications for IP-linked customer data and product development processes. For each IP action described in this document, the Company should consult a qualified IP advocate licensed to practice before the Indian Patent Office and Trade Marks Registry. IP advocates combine technical expertise with legal training specific to Indian IP law. When selecting an IP advocate, assess: their specific experience in your technology sector or product category;

their track record at the relevant Patent Office branch or Trade Marks Registry; and their ability to coordinate international filings through their network of foreign associates. The IP Manager should maintain a master calendar tracking all IP filing deadlines, prosecution response deadlines, renewal dates, and opposition window close dates. IP deadlines are typically non-extendable and missing them can result in permanent loss of rights. Use a dedicated IP management tool or a carefully maintained calendar system with triple-reminder alerts. Document

all IP decisions and the reasoning behind them. When the Company decides not to file a patent application for a particular technology, document the decision and reasoning. When a trademark opposition is decided not to pursue, document the decision. This decision trail is important for investor due diligence, management continuity, and defence of subsequent IP disputes. Build a quarterly IP Committee meeting cadence: the IP Manager, CTO or Head of Product, CFO, and CEO should review IP programme status, upcoming

decisions, and strategic IP priorities every quarter. This keeps IP on the leadership agenda and ensures that commercial and technical strategy is aligned with IP investment decisions. The IP Committee meeting should produce a brief written record of decisions taken and actions assigned. International IP coordination requires proactive management of priority deadlines. The Paris Convention priority period of 12 months for patents and 6 months for trademarks and designs starts from the Indian filing date. If international protection is planned,

calendar these priority deadlines immediately on the Indian filing date. The cost of filing internationally increases significantly if priority is not claimed because prior art in the intervening period may destroy novelty. Budget for professional indemnity insurance for the IP function. As IP becomes a larger component of the Company's value and IP decisions involve significant financial stakes, the IP Manager and the Company's IP counsel should be appropriately insured against errors and omissions. Review the IP programme's documentation quality

annually. The best IP strategy is undermined by poor documentation. Every IP right should have a complete file: the registration or application document, all prosecution history, all renewal receipts, and all related agreements. Files should be backed up in at least two locations and access-controlled to prevent inadvertent deletion. Template only. Not legal advice. Consult a qualified IP advocate for all decisions affecting the Company's intellectual property rights.