

# ExecutivePerils

11845 West Olympic Boulevard • Suite 795 • Los Angeles • CA • 90064  
T:310-444-9333 • F:310-444-9355 • Web: [www.eperils.com](http://www.eperils.com) • CA Lic# 0E36308  
dba: Executive Perils Insurance Services

## APPLICATION FOR INFRINGEMENT DEFENSE COST REIMBURSEMENT INSURANCE POLICY (DAMAGES OPTIONAL)

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. **NOTE: PLEASE ANSWER ALL QUESTIONS IN DETAIL AND ATTACH ADDITIONAL SHEETS AS NECESSARY.**

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):  
Street: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

2a. Company Type (Check one): Corporation \_\_\_ Individual \_\_\_ Partnership \_\_\_ Other \_\_\_

\*\*\*\*\*

2b. Date of incorporation (formation): \_\_\_\_\_  
 2c. Continuously operating since \_\_\_\_\_  
 2d. Please describe the nature of your business: \_\_\_\_\_  
 \_\_\_\_\_

3a. Please indicate your future Requested Effective Date should coverage be offered: \_\_\_\_\_

3b. Please list all additional insureds for which coverage is sought and their relationship to the MPMW.

3c. Has the Applicant been involved in (in the last five (5) years) or is he planning any merger or acquisition?  
 (Circle one) Yes No  
 If "yes", please provide details.

4a. 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.  
 \_\_\_\_\_

4b. Have you had IP Defense insurance before?  
 (Circle one) Yes No  
 If "yes", please provide name of carrier, limits, premium, and expiration date of Policy.

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. PATENTS, 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?  
 (Circle one) Yes No

8a. What ownership/contractual rights or relationship do you have to the MPMW?  
 Please check one:

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

\*\*\*\*\*

8b. Are you required by contract to carry IP Defense insurance? (Circle one) Yes No  
 If "yes", please provide details of type of contract, with whom, and limits required.

9. Is the MPMW to be insured manufactured by you, or for you, or by another under license from you?  
 (Circle one for each)  
 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)?  
 (Circle one) Yes No If "yes", please give details.

11a. How many end uses are there for the MPMW to be insured? \_\_\_\_\_

11b. Do the MPMW: (Circle one for each)

- A. Involve the use of relatively scarce raw materials? Yes No
- B. Require special manufacturing equipment? Yes No
- C. Involve the use of extraordinary or scarce labor skills? Yes No
- D. Have any special power, fuel, energy, water or Environmental requirement? Yes No
- E. Generate toxic wastes or involve hazardous conditions? Yes No

12. Are any confidential trade secrets or know-how used in any process/invention/device or MPMW to be insured?  
 (Circle one) 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?  
 (Circle one) Yes No

14a. Are there presently in the market similar or competing alternatives to the MPMW to be insured?  
 (Circle one) Yes No

14b. If "yes" to 14a, are there patent, trademark or copyright numbers, symbols, or pending notices on such devices?  
 (Circle one) Yes No

14c. If "yes" to 14b, 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 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 \_\_\_\_\_

16c. Your Sales:

|                  | <u>U.S. Sales</u> | <u>Foreign Sales</u> | <u>Total Sales</u> |
|------------------|-------------------|----------------------|--------------------|
| a. Previous Year | \$ _____          | \$ _____             | \$ _____           |
| b. Current Year  | \$ _____          | \$ _____             | \$ _____           |
| c. Next Year     | \$ _____          | \$ _____             | \$ _____           |

16d. Please attach a current financial statement, audited if available, and/or Form 10K, if publicly traded.

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            \_\_\_\_\_

19a. 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 D: 0 - 4 Years**  
**Category B: 6 - 20 Years**                                      **Category E: 1<sup>st</sup> time ever offered**  
**Category C: 4 - 6 Years**

\*\*\*\*\*  
 Competitor 1:    Category \_\_\_\_\_                      Competitor 4:    Category \_\_\_\_\_  
 Competitor 2:    Category \_\_\_\_\_                      Competitor 5:    Category \_\_\_\_\_  
 Competitor 3:    Category \_\_\_\_\_                      Applicant's Co.: Category \_\_\_\_\_

19b. Who are the principal customers served by Your business: \_\_\_\_\_  
 \_\_\_\_\_

19c. Does your business involve "aftermarket supply" or re-seller market (e.g., automotive replacement parts, printer ink replacement, long distance telephone re-seller).  
 (Circle one) Yes    No    If "yes", please give details.

\*\*\*\*\*

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

|   |  |
|---|--|
| For Insured<br>MPMW only:<br>(Choose one) | For Company<br>as a whole:<br>(Choose one) |
| Less than 5%                              | Less than 5%                               |
| 5% - 10%                                  | 5% - 10%                                   |
| 10% - 20%                                 | 10% - 20%                                  |
| 20% - 40%                                 | 20% - 40%                                  |
| More than 40%                             | More than 40%                              |

21a. Have you ever been a Defendant in a patent, trademark or copyright infringement lawsuit?  
(Circle one) Yes No If "yes", please provide details.

21b. Do you have an intellectual property attorney on staff with full time responsibilities for filing PATENTS, TRADEMARKS, or COPYRIGHTS, giving advice about potential infringements and other intellectual property legal advice?  
(Circle one) Yes No If "yes", please provide the name of the attorney(s).

21c. Do you have an outside, independent law firm that regularly provides you intellectual property legal advice?  
(Circle one) Yes No If "yes", please provide the name of the law firm its address and the attorney who is your contact.

22. Do you use confidentiality/non-compete agreements in all your IP negotiations?  
(Circle one) Yes No

23. What are your average IP related 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 ALL of 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 request a copy of any infringement search and opinion(s) (freedom to manufacture opinion) 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. We may also be able to assist you in obtaining this search & opinion.

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. It is important that we have a clear understanding of the MPMW you wish to insure.

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

(Circle one) 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?

(Circle one) 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?

(Circle one) Yes No

If "yes", please identify.

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

(Circle one) Yes No

If "yes", please identify.

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

(Circle one) Yes No

If "yes", please identify.

\*\*\*\*\*

P8. In designing your product, did you copy or design around any third party patents?  
(Circle one) (Circle one)  
Copied: Yes No Designed Around: Yes No  
If yes to either, please identify patent number(s): \_\_\_\_\_

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?  
(Circle one) Yes No  
If "yes", please provide details, including name of other party and date you intend to begin this use:  
\_\_\_\_\_

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?  
(Circle one) Yes No  
If "yes", please provide details, including name of other party and date you intend to begin this use:  
\_\_\_\_\_

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?  
(Circle one) Yes No  
If "yes", please provide details, including name of other party and date you first began this use:  
\_\_\_\_\_

P10. Have you received any warning letters or notices of infringement from anyone concerning the product to be insured?  
(Circle one) 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.  
(Circle one) Yes No  
If "yes", please provide details, including name(s): \_\_\_\_\_

P12a. Are there any circumstances of which the Applicant is aware (including existing or threatened lawsuits) that could reasonably be expected to give rise to IP litigation against the Applicant?  
(Circle one) Yes No  
If "yes", please provide details.

P12b. Is this policy being sought to cover any "IP to be insured" loss costs or expenses vis-à-vis filing an abbreviated or new drug application (ANDA or NDA) with the FDA under the Hatch Waxman Act.  
(Circle one) Yes No  
If "yes", please provide details.

P12c. Has the MPMW ever been involved in any Hatch Waxman proceedings?  
(Circle one) Yes No  
If "yes", please provide details.

\*\*\*\*\*

**QUESTIONS FOR COVERAGE AGAINST CHARGES OF "trademark" INFRINGEMENT**

**NOTE:** As part of this application, we request a copy of any infringement search and opinion(s) (freedom to use opinion) 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. We may also be able to assist you in obtaining this search & opinion.

T1. Identify below or attach a list of 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): \_\_\_\_\_

Date sales began: \_\_\_\_\_

Country: \_\_\_\_\_

(Please also attach any literature describing your MPMW to be insured. It is important that we have a clear understanding of the MPMW you wish to insure.)

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?

(Circle one) Yes No

If "yes", please identify party(ies).

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

(Circle one) Yes No

If "yes", please identify party(ies).

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

(Circle one) Yes No

If "yes", please identify party(ies).

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

(Circle one) 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)?

(Circle one)  
COPYRIGHT(s)? Yes No

(Circle one)  
PATENT(s) Yes No

\*\*\*\*\*



- T8. Does anyone else have a right in the marks, symbols, designations or TRADE DRESS (MPMW) to be insured?  
 (Circle one) Yes No  
 If "yes", please identify party(ies).
- T9. Have you notified anyone that the marks, symbols, designations or TRADE DRESS (MPMW) for which insurance is sought are infringed by them?  
 (Circle one) 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?  
 (Circle one) Yes No  
 If "yes", please provide details, including name of other party and date you first began this use:  
 \_\_\_\_\_
- 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?  
 (Circle one) Yes No  
 If "yes", please provide details, including name of other party and date you intend to begin this use:  
 \_\_\_\_\_
- 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?  
 (Circle one) Yes No  
 If "yes", please provide details, including name of other party and date you first began this use:  
 \_\_\_\_\_
- T11. Have you received any warning letters or notices of infringement from anyone that you might be infringing their trademark?  
 (Circle one) 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.  
 (Circle one) Yes No  
 If "yes", please provide details: \_\_\_\_\_
- T13. Are any of your TRADEMARKS famous?  
 (Circle one) Yes No  
 If "yes", please list the trademarks and describe their fame.
- T14. Are you aware of any famous trademarks that are similar to any of your TRADEMARKS, even if they are in a different area of commerce?  
 (Circle one) Yes No  
 If "yes", please list and describe those trademarks and their relationship to your area of commerce.

\*\*\*\*\*

**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 attach a list or identifying features of Works of Authorship (MPMW):  
\_\_\_\_\_

Registration Date (if applicable): \_\_\_\_\_

Date sales began: \_\_\_\_\_

Country: \_\_\_\_\_

(Please also attach any literature describing your MPMW to be insured, It is important that we have a clear understanding of the MPMW you wish to insure.)

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?  
(Circle one) Yes No

C4. Are any Works of Authorship (MPMW) to be insured licensed by you to others (i.e. you are the licensor)?  
(Circle one) Yes No  
If "yes", please identify party(ies).

C5. Are any Works of Authorship (MPMW) to be insured licensed by you from others (i.e. you are the licensee)?  
(Circle one) Yes No  
If "yes", please provide copies of licensee(s) or written permission(s).

C6. Has anyone else registered or asserted copyright rights in the same or similar Works of Authorship (MPMW) in a different class?  
(Circle one) 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 PATENTS(s)?  
TRADEMARK(s)? Yes No PATENT(s) Yes No  
(Circle one) (Circle one)

C8. Does anyone else have a right in the Works of Authorship (MPMW) to be insured?  
(Circle one) Yes No  
If "yes", please identify party(ies).

C9. Have you notified anyone that the Works of Authorship (MPMW) for which insurance is sought are infringed by them?  
(Circle one) 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?

(Circle one) 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.

(Circle one) Yes No

If "yes", please provide details, including name of other party and date you intend to 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?

(Circle one) 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?

(Circle one) 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.

(Circle one) Yes No

If "yes", please provide details: \_\_\_\_\_

\*\*\*\*\*

**CERTIFICATION TO INSURANCE APPLICATION FOR COPYRIGHT COVERAGE**

I hereby certify under penalty of law, including 18 U.S.C. Section 1001, that: The work(s) of authorship which by this Application I apply to insure are my original, independent creation, or are controlled or licensed by me from the original author. The work(s) of authorship to be insured have not been copied in whole or in part from another existing work or copyrighted material of another without written permission. If I am not the original author, I have used and will continue to use the work(s) of authorship only in a manner specifically granted in the licenses(s) or written permission(s), and copies of such license(s) or written permission(s) authorizing my use are attached hereto.

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 and the person signing this application represents that he has the authority to make these representations and sign this application.
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 Intellectual Property issued is 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? We must have all questions completed. If the question doesn't apply, then please answer "N/A"; however, "N/A" cannot apply to any of the MPMW questions on pages 6 thru 11.
- 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 and TRADEMARK applications must include all amendments and office actions filed with the US Patent and Trademark Office.
- 4) Do you have a copy of the Search & Opinion (including copies of cited patents) attached? If not, contact your agent or account representative at Intellectual Property Insurance Services. They will be able to assist you in getting the required search & opinion.
- 5) Do we have a copy of your current financial statements (audited, if available)?

## ExecutivePerils