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Intellectual Property: Changing Risks for Professional Service Firms

In the past, professional service firms faced limited intellectual property risk. This exposure primarily centered around the creation and dissemination of publications as well as branding and advertising activity.

Today, professional service firms are becoming increasingly dependent on intellectual property assets – not only to run their businesses, but also to deliver services and solutions to their clients.

In the context of service delivery to clients, some professional service firms are shifting from pure advice delivery to tool-based offerings/solutions. These offerings and solutions often involve proprietary technology developed in-house or in collaboration with third party specialists. Involvement with them creates the potential for intellectual property ownership and licensing disputes with competitors, business partners and even clients.

At the same time, industry convergence and disruptive technology is bringing new and non-traditional competitors into the professional service space. This further increases the risk intellectual property disputes and litigation as non-traditional competitors seek to assert their ownership rights relating to valuable software-based tools and business methodologies.

As professional service firms seek to build their market positions, create new revenue streams (from licensing) and protect investments, they are building armories of intellectual property rights (such as software and business methods patents). These rights need to be protected and enforced, increasing the risk of more frequent and serious disputes (and litigation).

Experts are reporting an increasing frequency of [intellectual property ownership disputes](#) – with competitors (both traditional and non-traditional), business partners and clients. Many of these disputes center on alleged trade secret misappropriation, however, disputes involving allegations of patent and copyright infringement are also emerging.

Intellectual property litigation is both complex and expensive, and can create a material financial impact on a business; whether through the defense and resolution of litigation brought against the firm, or the satisfaction of indemnification obligations provided to clients who license tools or products from the firm and get drawn into ownership disputes.

Beyond the direct financial impact, intellectual property risk can also result in reputational and brand damage to a firm as disputes become visible in the market.

Without doubt, intellectual property risks will continue to grow in importance for professional service firms and will require demand an increasing level of [risk management attention and treatment](#).

Key Takeaways

- Identify and evaluate your intellectual property risk exposures.
- Review the full range of risk financing options – from wholly new commercial insurance offerings to captive financing solutions.
- Evaluate whether existing insurances can be expanded to include intellectual property risks on an affirmative basis – and whether this approach makes sense for your firm.
- Explore available stand-alone insurance solutions dedicated to intellectual property risks.

If you'd like to discuss any of the issues raised in this article, please contact **Tom Ricketts**.