

Intangible Asset & Contingent Risk Practice

Innovative solutions bridging financing & risk transfer

2023

Overview

THE INTANGIBLE ASSET & CONTINGENT RISK PRACTICE OR IACR of Lockton Transaction Liability has been uniquely built to harness the expertise of its leaders and their experience creating bespoke risk transfer solutions at the intersection of financing, legal risk, and insurance. The IACR team helps clients both manage and mitigate complex risks, and also monetize and optimize the use of intangible and contingent assets. Please see below for some examples of the types of solutions that the IACR team offers.

TYPES OF IACR POLICIES



Judgement Preservation Insurance (JPI)

JPI is a policy where the legal team can insure the value of a judgement from being diminished or reduced on appeal. Companies who obtain these insurance policies to “lock in” a plaintiff verdict can unlock the value of the award using an insurance-backed lending solution.



Adverse Judgement Insurance

An adverse judgement insurance policy helps ring fence active pieces of litigation to cap a company’s exposure. Adverse judgement insurance is intended to be used for low-risk, high-severity events. The ring fencing is often for known liabilities that come up in a M&A transaction stemming from legal or regulatory risk and can be used to stand-in for a litigation escrow. This type of insurance can also be used to protect a company from remote, but potentially catastrophic litigation exposure outside of the context of an M&A deal.



Specific Contingent Risk Insurance

Specific contingent risk policies offer risk transfer solutions for circumstances in which a particular risk is active and specifically defined. These policies utilize insurance to value known legal assets or liabilities and can be structured in ways that are customized to the organization involved and the current state of litigation. While these solutions mostly relate to insuring outcomes for active pieces of litigation, the insurance market is willing to consider various types of known risks — such as whether a certain situation might give rise to legal liability.



Intellectual Property Collateral Protection Insurance (IP CPI)

An IP CPI policy is a novel risk transfer solution that facilitates debt financing for growth-stage companies. By backstopping a portion of the company’s principal and interest payments to a lender, an IP CPI insurance policy can unlock investment/funding opportunities that might not otherwise be available as between debt capital providers and growth-stage borrowers.



Technology Performance Insurance (TPI)

TPI is a policy that protects against production shortfalls caused by technology failures, enabling manufacturers to issue long-term warranties and clean energy projects to secure funding, successfully start up, get built, and operate profitably. This allows lower-cost capital providers to manage aggregation risk in commercialized technologies and participate in innovative projects without applying a risk premium.

IACR Leadership



Michael Perich
Head of Litigation Insurance
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Prior to joining Lockton, Michael spent much of his career working at the world's largest litigation finance company, and the nation's leading litigation finance broker.

During his career in the litigation finance industry, Michael helped clients monetize pending litigation. He has significant experience in understanding and mitigating the financial risks associated with complex commercial actions.



Craig Taylor
Co-Head of IP Insurance
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Craig has spent over a decade in the insurance industry and before joining Lockton he co-led the IP group for another global insurance brokerage. Craig has become a thought leader in the area of IPCPI and other transactional liability solutions.



Jason Sandler
Co-Head of IP Insurance
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Before joining Lockton, Jason created the intellectual property insurance group at another insurance brokerage, where he worked for five years.

Prior to that, Jason was a transactional and advisory intellectual property lawyer at Cravath, Swaine & Moore in New York City. Jason earned his JD-MBA from Northwestern University and is admitted to practice law in New York State.

Why Lockton?

Lockton's Transaction Liability Practice is the industry-leading group of insurance brokers that place representations & warranties insurance, tax insurance, and intangible asset and contingent risk insurance. Since the earliest days of transaction liability insurance through its eventual widespread adoption, Transaction Liability's group of advisors has been the go-to call for dealmakers, other attorneys and corporate professionals, and anyone looking for innovative and strategic applications of insurance capital and risk transfer capacity transacting throughout the Americas.

No one has advised on more transactions, which allows the team to provide clients true counsel regarding the risks they face, the ways in which they can be mitigated and the ways to address them should they come to fruition.