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# THE BETTERLEY REPORT

## INTELLECTUAL PROPERTY AND MEDIA LIABILITY INSURANCE MARKET SURVEY—2025

*An Important Provider of IP Coverage Leaves the Market,  
but the Media Liability Market Remains Stable*

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### Highlights of this Issue

- 6 Insurers Offering Intellectual Property (IP) Patent Infringement and Related Products
- Chuck Baxter of Intellectual Property Insurance Services Corp. Discusses the IP Insurance Business
- 16 Insurers Offering Media Liability Products
- EmerginRisk Rebranded as Celerity Risk
- RPX and Liberty Specialty Removed from IP Portion of this Report

### Next Issue

*June*  
*Cyber/Privacy Insurance Market Survey*

# The Betterley Report

**Editor's Note:** *This issue of The Betterley Report continues our approach to our review of the insurance products available to protect against intellectual property (IP) loss, an interesting and highly specialized type of coverage. While we find the product fascinating (and apparently so do many of our readers, who identify it as one of their most useful reports), we have wondered about how effectively we can cover it, as there are just a handful of IP coverage sources worldwide.*

*And we've been saying that since we first researched IP coverage in 1996!*

*Since many IP (but not IP patent) coverages can be found in a media liability policy, our report covers both IP insurance and media liability insurance. While media liability insures IP risks, it is not IP insurance as the term is commonly used.*

*We know of only six sources of patent infringement coverage, and all are included in this report. RPX discontinued its insurance product, and Liberty Specialty only writes excess and chose not to participate.*

*IP insurance has a tremendous potential for growth, as market penetration remains low. We wonder if that growth opportunity will ever be realized as the product designs need to improve, especially as to limits (higher) and control of defense and settlement. It will likely always be a niche market—but important.*

*Our 2025 media liability section includes 16 insurers. We are pleased to welcome ANV Global to this report.*

*To keep things organized in this report, we will use the following terms.*

- **IP insurance** describes those coverages that protect an organization against a threat to its own IP (generally known as abatement or enforcement coverage) or an allegation that it has infringed upon the rights of another.
- **Media liability insurance** describes liability coverage against allegations arising out of communication activities of the organization.

*This article is based on our review of leading insurers and their products. As with our other market surveys, we asked each of the participants to provide detailed information about their products and market interest. When we felt that their responses were incomplete or confusing, we followed up to clarify their response. While we have asked the insurers to review our tables, the conclusions are our own, and the insurers are not responsible for the information contained herein.*

*In the use of this material, the reader should understand that the information applies to the standard products of the insurers and that special arrangements of coverage, cost, and other variables may be available on a negotiated basis. Professional counsel should be sought before any action or decision is made in the use of this information.*

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## Introduction

IP is a prime asset of many organizations, not only corporations. IP is not just important for large companies; many smaller companies possess as their primary assets the knowledge and skills needed to make their product or provide their services. These companies can be particularly vulnerable to attacks on their IP, as larger, more established (read: deeper pockets) competitors seek to eliminate them. Protecting their company's IP may be their most important responsibility and the difference between success and failure.

Protecting one's own IP isn't our only concern, though, as protecting against accusations that an organization violated the IP of another party is at least as important. US courts are busy hearing cases about alleged copyright or trademark infringement, misappropriation, and defamation or emotional distress.

Media liability concerns should not be limited to traditional media companies. With the spread of the web, social networking, and the need to stand out in a crowded and noisy economy, we are all media companies (or, more accurately, engage in activities once thought to be the exclusive preserve of traditional media).

After all, what organization isn't active in social media or doesn't have a website, encourages employees to be active on blogs (whether approved or not), or publishes a newsletter? Who hasn't read that IP is one of the most valuable assets? Who hasn't been cautioned that borrowing the ideas or images of another is no longer permissible and possibly the trigger for an expensive and embarrassing lawsuit?

We continue to see a number of insureds and their insurance brokers looking at coverage for media

liabilities arising out of social media activities. As organizations increasingly seek to reach their existing audiences, build new audiences, and learn about their marketplaces, social media activities are becoming more and more a source of risk.

We see this increasing risk arising from a media presence as creating more need for media liability coverages to be made available to the traditional insured that is not customarily thought of as needing media liability insurance. Apparently, insurers agree as they have extended their coverage offerings more widely into the marketplace.

It is a rare specialty lines product that doesn't offer at least the option of including media liability coverages to the core product—cyber and tech errors and omissions (E&O) policies in particular. Will there be an ultimate convergence of IP, media liability, and cyber-insurance coverages into one big new era of an exposures product? Certainly, that is the trend, as insurers extend their specialty lines capabilities to other industry verticals.

### Companies in this Survey

#### Patent Coverage

AIG	Ambridge
CFC	IPISC
OPUS	Tokio Marine Kiln

#### Media Coverage

AIG	Allianz
ANV Global	Axis
Beazley	CapSpecialty
Celerity Risk	CFC
Chubb	CNA
Hiscox	Hudson
Intact	MIC Ltd./Mutual
MiC Specialty	QBE

### *The IP Insurance Market*

The challenges in underwriting IP insurance have made this coverage more difficult to acquire than in the early 2000s. Still, the need to protect against losses arising out of IP remains.

We have investigated the reasons why patent infringement insurance has such a low penetration rate. One explanation that strikes us is that buying patent infringement seems complex, time-consuming, and, in the end, frustrating to potential insureds and their agents or brokers. Patent coverage, and IP insurance in general, won't be widely bought until this hurdle is overcome. Despite the laudable marketing efforts of companies such as IPISC and RPX, which have withdrawn from the market, IP insurance is still a challenge for agents and brokers.

The relatively low limits of IP insurance available are a continuing challenge for the market, as many potential insureds see these as not enough to really protect them against IP risk. Most IP insurers are focused on smaller insureds; although the IP market has limited capacity, there are meaningful limits worth considering.

Improperly using the IP of another company can get expensive fast. A company that infringes, or is even alleged to have infringed, on the IP of a competitor is likely to be threatened with lawsuits that are, at best, expensive to defend. Data about the costs of defending an allegation of patent infringement are hard to find, but attorneys' fees and related costs can easily reach seven figures.

Even if the defendant is "right," it can be put out of business just by the cost of litigation and the fear of investors or customers that it may not win. This is especially true for companies entering the initial

public offering stage. The need to defend an alleged infringement can distract management's attention and dissuade investors. Even a successful defense can result in business failure. Many well-entrenched companies will attempt to defeat new competitors by challenging their patents; rather than compete in the marketplace, they are competing in court.

An alleged infringer has a few of the following options.

- Abandon its IP rights.
- Negotiate a license from a position of weakness.
- Defend the suit.

Patent holders are not the only potential targets of patent infringement lawsuits. Retailers, distributors, and others that contribute to the alleged infringement can be—and often are—sued as participants in the stream of commerce.

IP can be a tough sell for insurance brokers as the perceived need for IP protection is often challenged by IP lawyers who may view the involvement of insurance companies in a previously uninsured realm to be restrictive and possibly intrusive. This is unfortunate since insurers generally are very supportive of their insured's choice of counsel. IP is an extremely specialized area of the law, and insurers recognize that legal counsel will be expensive.

### *Need for Specialized IP Coverage*

Typical commercial insurance programs (even sophisticated ones) do not cover IP claims. Although some would argue that advertising liability provides some coverage, insurance companies believe that they do not cover IP. Thus, an insured,

at best, has a difficult time settling a claim, which is especially damaging for smaller insureds.

Most court cases involving IP coverage in a commercial general liability (CGL) policy have ended in victory for the insurer. Most advertising liability coverages are written to focus coverage on actual advertising activity; even piracy coverage only applies when it is committed in the course of advertising products or services.

Since alleged infringement can occur in many situations not involving advertising, it is apparent that a CGL policy, even with advertising liability coverage, is an ineffective source of coverage.

Another problem with commercial liability coverage is that an infringement can be construed as an intentional act, quickly denied by the CGL insurer. Look for intentional acts coverage in an IP policy, with coverage provided at least until the intent is established in fact.

### ***The Media Liability Insurance Market***

In contrast to the IP insurance market, media liability coverage can be bought from numerous insurers, some of which offer products attuned to nonmedia organizations.

Media liability coverage is typically written on specialized forms for various industry segments (such as producers, advertising agencies, publishers, and the like), but coverage for “the rest of us” is also offered. Most products are written on an occurrence basis.

Media liability policies can be extended by adding coverages such as defined professional services and technology professional services, technology

products, computer and information security liability, and privacy liability on a claims-made basis.

Celerity Risk’s Converg[in] Risk Media Solutions Policy is a modular form, covering media, miscellaneous professional E&O, and network security and privacy (first- and third-party). There are three distinct media liability modules for specific insureds, including multimedia, music, and film and production. Coverage can be customized for traditional media risks such as advertising and marketing agencies, publishers, broadcasters, and nontraditional media risks looking for specific media stand-alone coverage to address their content-related exposures.

Their new form now automatically covers the content of the insured’s own advertising, social media, and websites, as well as public appearances by insured persons and merchandising activities in most cases. All forms are written on a nonadmitted basis, allowing for easy customization. Target classes include podcasts, musicians, record labels, news publishers, and public appearances for celebrities, including influencers.

Not many brokers have had an opportunity to develop expertise in media liability coverages, as the type of insureds may be few and far between in their community. However, as the media business (both traditional and new media) grows beyond the traditional media hubs, we expect to see more local and regional brokers needing to develop expertise in this line.

Social media risk has really caught the attention of employers, particularly as it pertains to employment liability (which we write about in our December issue on employment practices liability insurance). They are concerned that employees may

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post harmful remarks about their employer's customers, fellow employees, and the company itself. Or, they could use the IP of another without authorization. The list goes on.

Insurance agents and brokers sometimes get confused, assuming that internet activity is the subject of cyber-insurance products. While that assumption is faulty, cyber (and other) products can be broadened to include social media exposures. Other examples include tech E&O.

This expansion of media liability coverages into other products creates a real opportunity for insurers to penetrate nontraditional media markets with coverages that are added to policies already being sold to their insureds. Those insureds may be less likely to incur a media liability claim than traditional media.

Insurers active in the media liability market are supporting the growth of this segment's expertise, augmenting the efforts of those brokers to service their existing insureds that have new media risks.

**Like what you see in this executive summary?**

**By purchasing the full report, you can learn more about how 6 insurers address the changing intellectual property markets and 15 insurers address the changing media liability insurance markets.**

**Learn more about [\*The Betterley Report—Intellectual Property and Media Liability\*](#).**