



## Intellectual Property Manufacturer

Manufacturers have an array of touchpoints with the Intellectual Property (IP) world. Whether it be the design of a product they create, the customer marks and logos they apply to their production line, or the specific process they use to increase factory efficiency, IP is crucial in the sector.

Organisations should be especially cognisant of IP obligations in their supply contracts and consider the implications of operating worldwide.



## Case example

Agriikwip is a US manufacturer of agricultural and gardening equipment. It has a total revenue of USD15m, with approximately 50% generated from the US, 20% from Canada and the remainder from Asia and Africa. Agriikwip has invested in patent protection for all their main product lines, which are more energy efficient than others on the market.

Agriikwip has started a new marketing campaign and begins to gain more traction. This attracts the attention of a competitor, who studies the Agriikwip line of best-selling mower products and subsequently writes a letter to Agriikwip alleging infringement of their US patent for a specific engine component.

Both parties appoint lawyers to analyse the claims and partake in regular correspondence. Initially negotiations are amicable, but after 18 months of discussions no mutually agreeable settlement is reached. As such, the competitor turns to litigation and raises a patent infringement complaint in the US that demands injunctive relief and damages to compensate for Agriikwip's infringement. This forces Agriikwip to appoint representation and proceed to court.

Ultimately, Agriikwip agrees to pay a six-figure settlement to the competitor and an international licence agreement is arranged. In total, Agriikwip's legal fees amount to more than USD1.5m for the litigation and settlement proceedings, in addition to the hundreds of thousands of fees incurred during the 18 months preceding litigation.

## Impact of IP policy

Agriikwip purchased an IP policy from Tokio Marine Kiln (TMK), which can provide cover for allegations that your organisation is infringing Intellectual Property rights held by a third party. As soon as the warning letter from the competitor was received, Agriikwip notified TMK. Once litigation in the US was initiated, TMK was able to approve Agriikwip's choice of representative, using US legal system experience to ensure that the fees charged were reasonable.

Throughout the claim, TMK was able to regularly reimburse Agriikwip for the millions in legal costs that they incurred, and indemnification for the six-figure settlement (above the excess, net of co-insurance and subject to all policy terms and conditions).

## Key takeaways

- Although holding your own IP is a benefit, it does not mean your company is immune from IP litigation.
- IP litigation can be crippling expensive, especially for small-medium businesses that have operations in several different territories.
- IP disputes do not only deplete financial resources, but they can also span years and often strike just as a business is becoming successful. This can force executive attention away from strategy and success and into litigation management.
- An IP insurance policy can provide financial peace of mind and support when it comes to managing complex disputes.