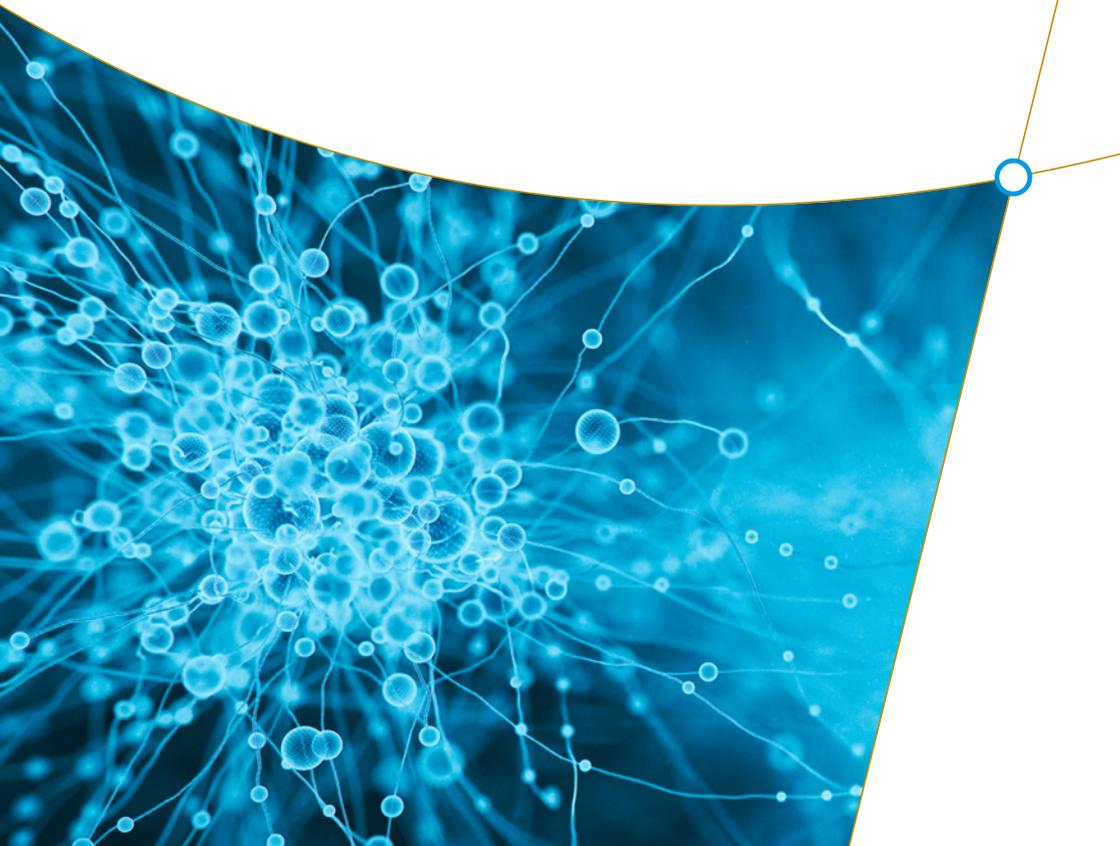




## Intellectual Property

# Life Science – Patent Challenge

Intellectual Property (IP) rights are central to life science organisations' operations; the number of IP right filings in this sector are amongst the highest in the world and some of the most valuable patents of all time have been for pharmaceutical innovations. This high volume and value of IP rights drives disputes, a trend which is also amplified by the complex Research & Development (R&D) and licensing agreements that the sector demands.



## Case example

### IP dispute

Redicts is a biotechnology company based in San Diego. It has developed a new biosensor device and system for monitoring glucose levels. Redicts has a mature IP management strategy and has filed several patent families that underpin their novel technology.

Redicts has relied heavily on investment to support its R&D, raising more than USD100m in the past few years. Many of the investors were convinced by Redicts's strong patent portfolio and resulting ability to claim a monopoly over the developing technology. Redicts is beginning to enter partnerships with large pharmaceutical companies, which should lead to revenue generation and commercialisation of the product.

A competitor decides to challenge the validity of one of Redicts's foundational US patents in the Patent Trial and Appeal Board (PTAB). If the competitor succeeds, this will jeopardise the value of Redicts's innovation, and therefore, its ability to find licensing partners and ultimately successfully commercialise the product.

PTAB proceedings require legal expertise and tight deadlines to be met; they can last multiple years depending on the complexity of the claims. Redicts put forward its arguments to counter the competitor's challenge, but the PTAB decision was not in their favour. Redicts decides to appeal the decision, and two years after the initial challenge, it resolves the matter and successfully overturns the original decision, allowing the company to retain its patent. No damages are payable, but legal costs have amounted to USD1.75m over the course of the proceedings.

### Impact of IP policy

Redicts purchased an IP policy from Tokio Marine Kiln (TMK), which provides insurance cover for challenges to validity or ownership of insured IP rights. As soon as the challenge was lodged, Redicts notified TMK, and legal counsel was quickly appointed to meet the PTAB's timelines. When the first challenge was lost, TMK agreed to indemnify Redicts for the appeal with reimbursements for all representative fees and expenses made regularly throughout the case (above the excess, net of co-insurance and subject to all policy terms and conditions).

### Key takeaways

- IP risk can exist before an organisation is generating revenue.
- Organisations should make sure they understand and quantify the value of their IP rights to the business, and what the impact would be if it was taken away. This can inform risk management and transfer decisions.
- Challenges to IP rights can be complex and costly, often requiring detailed expert opinions within strict deadlines.

An IP insurance policy from TMK can provide **financial peace of mind and support** when it comes to managing complex disputes

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