

IP Agreements: Structuring Indemnification and Limitation of Liability Provisions to Allocate Infringement Risk

TUESDAY, OCTOBER 12, 2021

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

Lisa N. Collins, Partner, **BakerHostetler**, Atlanta

D. Brian Kacedon, Partner, **Finnegan Henderson Farabow Garrett & Dunner**, Washington, D.C.

The audio portion of the conference may be accessed via the telephone or by using your computer's speakers. Please refer to the instructions emailed to registrants for additional information. If you have any questions, please contact **Customer Service at 1-800-926-7926 ext. 1.**

Sound Quality

If you are listening via your computer speakers, please note that the quality of your sound will vary depending on the speed and quality of your internet connection.

If the sound quality is not satisfactory, you may listen via the phone: dial **1-877-447-0294** and enter your **Conference ID and PIN** when prompted. Otherwise, please **send us a chat** or e-mail sound@straffordpub.com immediately so we can address the problem.

If you dialed in and have any difficulties during the call, press *0 for assistance.

Viewing Quality

To maximize your screen, press the 'Full Screen' symbol located on the bottom right of the slides. To exit full screen, press the Esc button.

Continuing Education Credits

FOR LIVE EVENT ONLY

In order for us to process your continuing education credit, you must confirm your participation in this webinar by completing and submitting the Attendance Affirmation/Evaluation after the webinar.

A link to the Attendance Affirmation/Evaluation will be in the thank you email that you will receive immediately following the program.

For additional information about continuing education, call us at 1-800-926-7926 ext. 2.

If you have not printed the conference materials for this program, please complete the following steps:

- Click on the link to the PDF of the slides for today's program, which is located to the right of the slides, just above the Q&A box.
- The PDF will open a separate tab/window. Print the slides by clicking on the printer icon.

Recording our programs is not permitted. However, today's participants can order a recorded version of this event at a special attendee price. Please call Customer Service at 800-926-7926 ext.1 or visit Strafford's website at www.straffordpub.com.

**INSURANCE
VERSUS
INDEMNIFICATION**

Insurance versus Indemnification

- Indemnification represents the process of transferring loss responsibility within a contractual relationship and can exist independent of a policy.
 - The key thing to understand from a risk management perspective is that the clause lays out specific financial responsibilities in the event of specific occurrences.
 - As such, in cases where you are the indemnitor, it is vital to ensure the terms of the clause are not overly broad, to limit your risk exposure.
 - Conversely, in cases where you are the indemnitee, it is advantageous to ensure the indemnification clause covers every possible eventuality, to guarantee the indemnifying party is covering everything they should.
- Insurance, on the other hand, represents the actual contract backed by an insurance company. All insurance policies have indemnity provisions to codify the process of transferring loss and obligations.

INDEMNIFICATION
WHAT IS IT
AND
WHY DOES IT MATTER

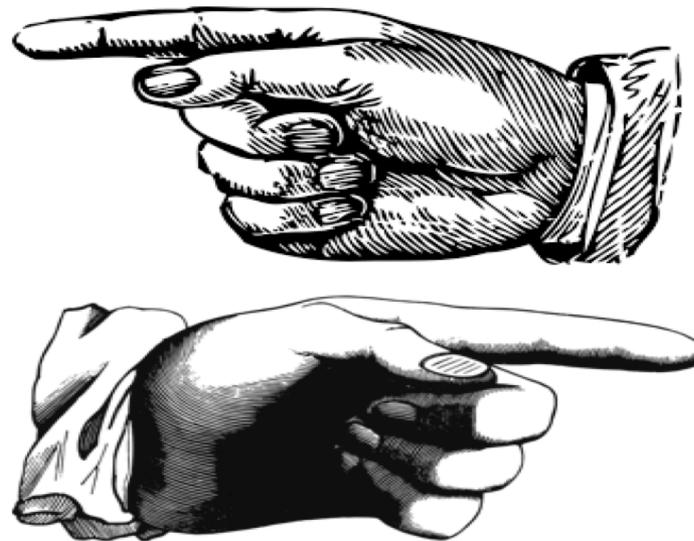
Indemnification– What Is It and Why Does It Matter

- Shifting the risk of loss to another party
- Entails commercial parties assessing the risks posed by a transaction, and allocating those risks among themselves
- Normally where one party becomes liable solely because of the contemplated transaction



Indemnification– What Is It and Why Does It Matter

- Indemnitor– the party providing indemnity
- Indemnitee– the party seeking indemnity



Indemnification— What Is It and Why Does It Matter

- Common law indemnity applies where the indemnitee's liability is constructive, vicarious, technical, imputed, e.g. *Napolitano v. Haven Homes Inc.*, 2012 U.S. Dist. LEXIS 9383 (D.N.J. Jan. 26, 2012)
 - Landowner liability; strict products liability; agency relationships
 - But indemnitee must be completely free of any fault



Indemnification— What Is It and Why Does It Matter

- Contractual indemnity simply expands availability of indemnity, and allows for some fault of the indemnitee
- Most commonly—
 - Products liability
 - M&A, IP transfers, and other transactions
 - Suits against officers and directors
 - Multi-party construction projects
 - Intellectual property litigations
 - Torts and simple negligence
- Still rooted in the sense of fairness established by common law indemnity

AGREEMENTS WITH IP INDEMNIFICATION

Agreements With IP Indemnification

- License Agreements
 - Licensor indemnification of Licensee
 - Represent that use of technology does not infringe third party IP
 - Induce Licensee to invest in use of technology
 - Licensee indemnification of Licensor
 - Licensee's use may create liability
 - Common ask from University licensors
- Supply Agreements
 - Customers often demand indemnification from product or component suppliers
 - UCC §2-312

Agreements With IP Indemnification

- Asset Purchase Agreement
 - Purchaser may want assurance that assets don't infringe third party IP
- Collaboration and Joint Venture Agreements
 - Parties provide indemnification for technology they bring to joint development

MAGIC WORDS

Review of Indemnification Contract Language

- How close of a connection between the contract and the loss?
- “Magic words” matter
- Words that describe the closeness of the connection necessary
 - e.g. “Arising out of” versus “based on”
- Words that describe the conduct at issue
 - e.g. “Work/transaction” or “breach/wrongdoing”

Review of Indemnification Contract Language

- Broad form
- “Arising out of” normally denotes merely a “but for” connection between loss and the contract, e.g. *Cevasco v. Nat’l Railroad Passenger Corp.*, 606 F. Supp.2d 401,411 (S.D.N.Y. 2009)
- Type of conduct necessary to trigger—
 - “Arise out of”
 - “Your work”
 - “This agreement”
 - “Use, sale, advertising, marketing, importation of your product”

Review of Indemnification Contract Language

- Limited form
- “Based on” more limited—
 - “In the federal common law of contracts, ‘arising from’ is a broad contractual phrase that encompasses almost any causal connection or relationship. To the contrary, the phrase ‘based upon’ is a narrower phrase that implies ‘a degree of closeness . . . that is considerably greater than common law causation requirements.’” *United States v. Bradford*, 433 F. Supp. 2d 1001, 1003-1005 (N.D. Iowa 2006)
- Type of conduct necessary to trigger (requires showing of wrongdoing)—
 - “Based on”
 - “Your negligence in performing the work”
 - “Breach of this agreement”
 - “Infringement by your product”

COMMON STRUCTURE FOR INDEMNIFICATION PROVISIONS

Example IP Indemnification Clause

ABC Corp. will defend, indemnify and hold harmless XYZ Inc. and its directors, officers, employees, agents and contractors from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees, arising out of any claim by any Third Party for infringement or misappropriation of any patent, trademark, copyright, or trade secret based on the manufacture, use, sale, offer for sale, import, export, or other exploitation of Licensed Product.

Example IP Indemnification Clause

ABC Corp. will **defend, indemnify and hold harmless** XYZ Inc. and its directors, officers, employees, agents and contractors from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees, arising out of any claim by any Third Party for infringement or misappropriation of any patent, trademark, copyright, or trade secret based on the manufacture, use, sale, offer for sale, import, export, or other exploitation of Licensed Product.

Defend, Indemnify, Hold Harmless?

- What is the indemnifying party agreeing to do?
 - Defend, Indemnify, Hold Harmless? All of the above?
- Defend is distinct from indemnify and/or hold harmless
 - Agreement to indemnify and/or hold harmless may not necessarily imply a duty to defend
 - Agreement to defend alone does not necessarily imply a duty to indemnify and/or hold harmless
 - If agreeing to defend, make clear that indemnitee will control the defense including choice of counsel

IP Indemnity Clauses

- Any difference between indemnify and hold harmless?
 - Majority of courts view them as synonymous
 - Black’s law dictionary and Garner say they are synonymous
 - But some states still hold that there is a distinction
 - *O’Connell v. Walt Disney World Co.*, 413 So.2d 444, 446 (Fla. Dist. Ct. App. 1982) (“[A] [hold harmless] clause purports to deny an injured party the right to recover damages from the person negligently causing his injury. An indemnification clause attempts to shift the responsibility for the payment of damages to someone other than the negligent party.”)
 - *Queen Villas Homeowners Ass’n v. TCB Prop. Mgmt.*, 56 Cal. Rptr. 3d 528, 534 (Ct. App. 2007) (“Are the words ‘indemnify’ and ‘hold harmless’ synonymous? No. One is offensive and the other is defensive—even though both contemplate third-party liability situations. ‘Indemnify’ is an offensive right—a sword—allowing an indemnitee to seek indemnification. ‘Hold harmless’ is defensive: The right not to be bothered by the other party itself seeking indemnification.”)

Example IP Indemnification Clause

ABC Corp. will defend, indemnify and hold harmless **XYZ Inc. and its directors, officers, employees, agents and contractors** from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees, arising out of any claim by any Third Party for infringement or misappropriation of any patent, trademark, copyright, or trade secret based on the manufacture, use, sale, offer for sale, import, export, or other exploitation of Licensed Product.

- Who is being indemnified?
 - Licensee
 - Affiliates
 - Directors, officers, employees, agents and contractors
 - Distributors and Customers
 - Manufacturers

Example IP Indemnification Clause

ABC Corp. will defend, indemnify and hold harmless XYZ Inc. and its directors, officers, employees, agents and contractors **from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees**, arising out of any claim by any Third Party for patent infringement based on the manufacture, use, sale, offer for sale import, export, or other exploitation of Licensed Product.

IP Indemnity Clauses

- What IP claims are you indemnifying for?
 - All IP infringement or misappropriation claims?
 - Patent, Trademark, Copyright, Trade Secret?
 - Consider limiting indemnity to claims requiring some form of intent
 - Trade secret and copyright claims generally imply some intentional copying or misappropriation
 - Patent claims can be strict liability

Example IP Indemnification Clause

ABC Corp. will defend, indemnify and hold harmless XYZ Inc. and its directors, officers, employees, agents and contractors from and against any and all losses, claims, suits, proceedings, expenses, recoveries and damages, including reasonable legal expenses and costs including attorneys' fees, **arising out of any claim by any Third Party for infringement or misappropriation of any patent, trademark, copyright, or trade secret based on the manufacture, use, sale, offer of sale, import, export, or other exploitation of Licensed Product.**

Review of Indemnification Contract Language

- Be aware of “anti-indemnity” statutes
 - e.g. NY CLS Gen Oblig § 5-322.1 (Prohibiting indemnity for indemnitee’s own negligence in construction context)
- Even if no statute, must specify “own negligence” and “sole negligence” in contract to be enforceable
- Savings clauses important
- Many states strictly construe indemnity clauses against the indemnitee



DUTY TO DEFEND

Duty to Defend

- Duty to defend
 - Separate from the duty to indemnify
 - Often broader
- Magic words again—
 - Best to use word “defend”
 - Best to specify “attorney's fees”
- Problems with duty to defend
 - Who controls the defense?
 - Who selects counsel?
 - What happens when more than one vendor is implicated?
 - Right to pay contemporaneous?



Duty to Defend

- Notice
 - It may be a condition precedent to provide notice within a specified number of days (usually 30-60 days)
 - If not condition precedent, then normally prejudice needs to be established, *e.g. Red Ball Interior Demolition Corp. v. Palmadessa*, 947 F. Supp. 116 (S.D.N.Y. 1996)
 - Courts are split on whether notice required when not specified in the contract
 - Best practice is to provide notice promptly
- Must you “tender” your defense?
 - “Tender” means to provide notice and cede control of defense at the same time
 - Courts are fairly consistent that there is no need to “tender” unless specified in contract

Duty to Defend

- Meritless claims
 - Plaintiff controls the framing of the case
 - Indemnitor should have to prove claim has no merit
 - True even in cases of mistake or unreasonable plaintiff behavior
- Right to independent counsel
 - Indemnitee may have right to independent counsel when indemnitor reserves rights or when more than one indemnitor owes indemnity
 - Insurance case law may provide some guidance

FEES ON FEES

Fees on Fees

- Refers to the ability of indemnitee to recover attorney's fees spent enforcing indemnity right
- Some states require a “fees on fees” right to be express and unequivocal, e.g. NY, GA
- Some states find words of general import, such as “all fees and expenses” or “hold harmless” sufficient to justify such recovery, e.g. DE
- Some states have statutes that enable such recovery, e.g. Tex. Civ. Prac. & Rem. Code, § 38.001(8).



IP Indemnity Clauses

- What amounts are you indemnifying for?
 - All damages arising from the action
 - Include damages for willfulness? Should Indemnitor be responsible for indemnitee's willfulness?
 - Include award of other side's attorney's fees?
 - Attorney fees of indemnitee
 - If indemnitor is defending case, then attorney's fees of indemnitee could be excluded.

OTHER CONTRACT PROVISIONS TO CONSIDER

Other Contract Provisions to Consider

- Limitation of Liability – Damage cap
 - NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES. Except for Seller's indemnification obligations set forth in Section XX above or any liability arising from Seller's intentional acts or willful misconduct, Seller's liability shall not exceed the total Order price of \$X Million.
 - Except with respect to a party's indemnification obligations or as otherwise stated in this agreement, neither party will be liable for any special or consequential damages even if advised or aware of the possibility of such damages.
- Survival clause
 - Ensure that indemnity survives termination of agreement
- Choice of law
 - Governing law rarely driven by indemnity, but consider impact (i.e., anti-indemnity statutes, common law treatment, etc.)
- Savings clause
 - If indemnity provision violates statute or other public policy, limit impact to ensure entire clause is not voided

Indemnitor: Consider a Cap

- Any cap or other limitation on indemnity should be meticulously drafted and it should be prominent in the agreement.
- Cap would allow indemnifier to restrict liability
- May lead indemnified party to obtain insurance as well

Indemnitee: Avoid Any Cap If You Can

- Ensure that damages for any intellectual property indemnification claim are uncapped.
- Frequently, parties cap at the value of the agreement, or some fraction or multiple of that.
- There should be no cap on damages in the IP indemnity language itself.
- If there is a Limitation of Liability clause, that clause should be written to exclude applicability to the IP indemnity clause.

EXCLUSIONS FROM INDEMNITY

Exclusions from Indemnity

XYZ shall have no obligation under this Indemnification Clause with respect to any claim if (a) the claim results from compliance with ABC's designs or instructions; (b) ABC modifies the Licensed Product and the claim results from such modification; (c) ABC uses the Licensed Product in any manner not authorized under this Agreement; or (d) ABC combines the Product with any product or service of anyone other than XYZ and such claim would not have occurred in the absence of such combination.

IP Indemnity Clauses

- Possible exclusions from indemnification
 - Product made to indemnitee’s specifications
 - Modification of product by indemnitee
 - Use by Indemnitee outside the scope of the agreement
 - Use by Indemnitee in combination with other products
 - Combination “not reasonably anticipated”
 - Combination “not required for product to function as intended”
 - Example: product is software; third party patent claims software running on a computer; is that covered?

Exclusion from Indemnity – Case Example 1

- *American Family Life Assur. Co. v. Intervoice, Inc.*, 560 Fed. Appx. 931 (11th Cir. 2014)
 - Intervoice supplied interactive voice response (“IVR”) system to Aflac. Agreement stated:
 - “InterVoice[] will indemnify, hold harmless and defend Customer at its own expense against any claim that any System or Software as provided by InterVoice [] ... infringes any United States copyright, patent or trade secret.”
 - “InterVoice[] shall have no obligation with respect to any such claim of infringement based upon Customer's modification of any System or Software or their combination, operation or use with apparatus, data or computer programs not furnished by InterVoice[].”

Exclusion from Indemnity – Case Example 1

- *American Family Life Assur. Co. v. Intervoice, Inc.*, 560 Fed. Appx. 931 (11th Cir. 2014)
 - Aflac sued for infringement based on patent claiming combination of IVR system with other components of Aflac’s call center not supplied by Intervoice.
 - Aflac seeks indemnification from Intervoice and Intervoice refuses.
 - Does Intervoice have duty to indemnify?
 - Aflac’s Position: “[T]he combination of Intervoice's IVR system with other components in Aflac's call center was necessary for the system to function, enabled by Intervoice's products and services, and contemplated by the parties as part of their agreement. In other words, Aflac argues that RAKTL's patent infringement claims implicate the primary purposes and functions of the IVR system.”
 - Intervoice’s Position: Unambiguous language of agreement excludes any “claim of infringement based upon Customer's modification of any System or Software or their combination, operation or use with apparatus, data or computer programs not furnished by InterVoice.”

Exclusion from Indemnity – Case Example 1

- *American Family Life Assur. Co. v. Intervoice, Inc.*, 560 Fed. Appx. 931 (11th Cir. 2014)
 - Court found no duty to indemnify due to combination.
 - Language was clear that it excluded combinations of IVR products with other products
 - Interpretation did not render indemnification meaningless as Intervoice still had to indemnify for claims that its IVR alone infringes or that IVR provided with other products of Intervoice infringes.

Exclusion from Indemnity – Case Example #2

- *Carter-Wallace, Inc. v. Tambrands Inc.*, 295 A.D.2d 176(1st Dep’t 2002)
 - Plaintiff purchased Hygeia Sciences, producer of pregnancy tests that used a technology known as “gold sol.”
 - Purchase Agreement included indemnity clause providing indemnification for patent infringement claims relating to any “products which were being distributed by [Hygeia] at the time of the Closing....”
 - Indemnity clause excluded “any claim of infringement to the extent that such infringement is caused by any change made in such products after the Closing Date.”

Exclusion from Indemnity – Case Example #2

- *Carter-Wallace, Inc. v. Tambrands Inc.*, 295 A.D.2d 176(1st Dep't 2002)
 - Prior to purchase, Hygeia used “gold sol” technology in a five-minute pregnancy test kit and a ten-minute ovulation test kit.
 - After purchase, plaintiff distributed a faster one-minute pregnancy test kit and a three-minute ovulation test kit using the same “gold sol” technology but in higher concentrations to achieve faster results.
 - New Horizon sued plaintiff for patent infringement based on use of “gold sol” technology.
 - No dispute that the infringement suit was not based on higher concentrations of solution

Exclusion from Indemnity – Case Example #2

- *Carter-Wallace, Inc. v. Tambrands Inc.*, 295 A.D.2d 176(1st Dep't 2002)
 - Plaintiff sought indemnification from Defendant.
 - Defendant argued that indemnification was limited to specific products sold before closing.
 - Court agreed with plaintiff.
 - Indemnification provision was intended to cover products using “gold sol” technology not merely the versions sold before closing.
 - Exclusion for claims of infringement caused by any change in the product showed that the parties intended that changes could be made.
 - It was undisputed that the infringement suit was not based on the changes
 - Defendant’s position would render the exclusion meaningless

ASSERTING INDEMNITY

Asserting Indemnity

- Timing of notice letter (material impact on ability to defend)
- Provide notice if mere threat of litigation or if non-litigation relief demanded (e.g., licensing demand)?
- Vouching in appropriate?
 - “Although vouching has been largely supplanted by modern impleader rules, see, e.g., Fed. R. Civ. P. 14, it remains a valid practice under certain circumstances.” *SCAC Transport (USA), Inc. v. S.S. "Danaos"*, 845 F.2d 1157, 1162 (2d Cir. N.Y. 1988)
- Statute of limitations— generally cause of action does not arise until after the underlying case has concluded
 - Unequal treatment of whether duty to defend triggered upon denial by indemnitor or upon conclusion of case

Sample Process for Making Indemnity Claim

- Collect agreements
- Monitor litigation
- Work with indemnitors (defend/indemnify)
- Consider particular circumstances (caps, specific exclusions, allocation among overlapping indemnitors)
- Negotiate percentage contribution



ALLOCATION OF COSTS

Allocation of Costs

- Single lawsuit against indemnitee may trigger reimbursement obligations of several indemnitors, and the situation may be addressed contractually
 - Compound Claim (Market Share)
 - Combination Claim (Proportionate Share + Market Share)



Allocation of Costs

- When will allocation occur?
 - Beginning of case?
 - Discovery or infringement contentions?
 - Expert reports?
 - End of case?
- When will bills be reimbursed?



BENEFITS OF AN INDEMNIFICATION PRACTICE

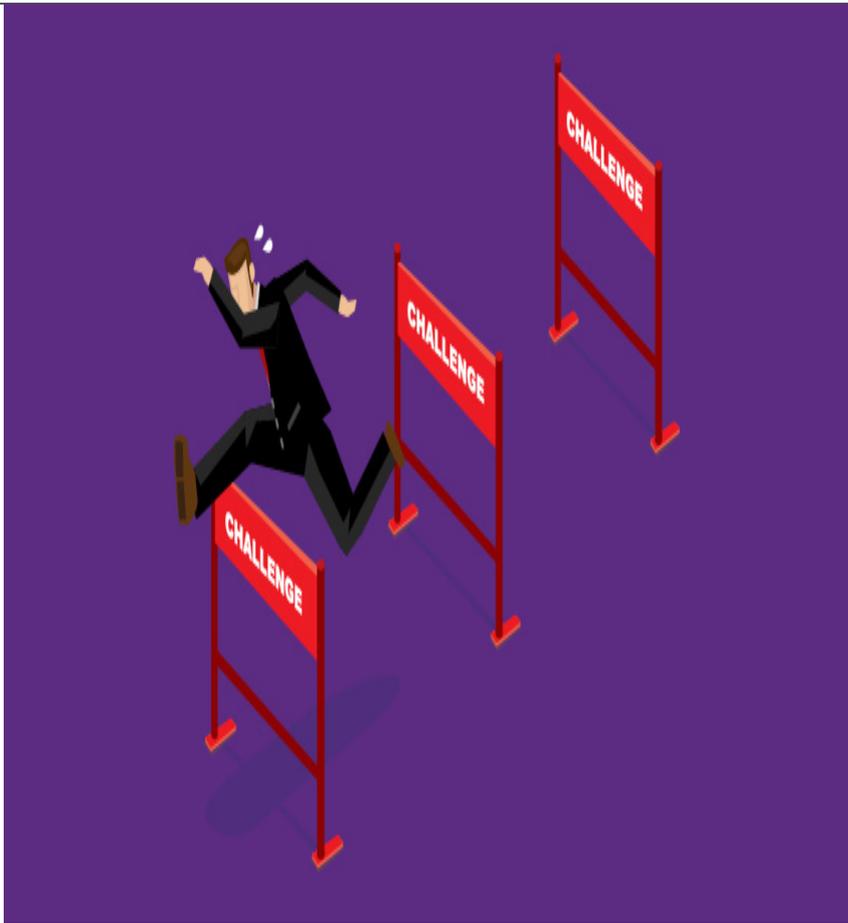
How can an indemnification practice defer expenses and fees for you?

- On any particular litigation or claim, you may demand that one or more of your vendors
 - Be liable for payment of any judgment entered against you in the suit;
 - “Assume the defense” of the suit, or compensate you for defense fees and costs;
 - Pay for all or contribute to a settlement amount;
 - Pay for a license that protects your products;
 - Compensate you for any fees associated with asserting and pursuing your indemnification claim; and/or
 - Be liable for any pre-suit claims and compensate you for any losses and fees associated with any such claims.

What do you need to do to implement?

- Identify stake holders
 - Litigation group
 - Business unit
 - Specialized groups in business unit
 - Supply chain management in business unit
- Identify outsourcing vendors for business processing outsourcing and document outsourcing
- General review of standard supply chain and service contracts
- Make conscious decisions as to which risks to retain and which should be borne by suppliers
- Instill indemnity “culture” where these rights are pursued and enforced

Challenges of Indemnification Practice



- Contracts often negotiated years ago
- Little or conflicting case law
- Control of defense
- Single v. multiple indemnitors
- Plaintiff's arguments control allocations which increases complexity
- Legal analysis matters
- Business relationships are critical

Our Indemnification Practice Management Approach

- Identify tasks and timing
- Analysis of contractual and business relationships
- Notice letters
- Correspondence / case updates
- Allocations
- Invoicing
- 3rd party discovery support
- Litigation support
- Mediation / settlement support
- Collections
- Reporting



Our Indemnification Experience

- Started in 2006 with single case
 - Client was lone defendant
 - 12 indemnitors
 - Collected about 83% of allocated settlement and defense costs
- Expanded to multiple clients on both indemnitor and indemnitee side
- Over 120 cases, more than 75 currently active
 - Range from single indemnitor to more than 80 indemnitors
- Recovered or diverted in excess of nine figures



WHAT CAN WE DO FOR YOU?

What can we do for you?

- Review supply chain agreements to ensure proper indemnity language
- Help establish appropriate internal processes
- Project management approach to handle multiple cases with single or multiple indemnitors
- Analyze and respond to demands from your customers
- Create a culture of risk allocation and management



What can we do for you?

- Create database of relevant contracts and vendors
- Develop institutional knowledge of culture, subject matter experts and stakeholders
- Leverage existing BakerHostetler infrastructure – personnel, database, extranet
- Identify, assert, follow-up, and collect



What can we do for you?

- Interaction with indemnitors requires:
 - Coordination / negotiations / communications with the indemnitor
 - Proper notice of the claim
 - Supply the information necessary to evaluate obligation
 - Strategic and tactical decision making
 - Should/can you defend the suit and seek reimbursement?
 - Should you formally tender the defense and control of the litigation?
 - How is the defense to be coordinated with the indemnitor? With other potential indemnitors (e.g., other vendors, suppliers)?



Thank You



Lisa Collins is a partner at BakerHostetler where she leads the Firmwide Indemnification Team and the Atlanta Intellectual Property Group. Her practice focuses on the business and defense of intellectual property, including licensing, tech transactions, indemnification, IP strategy, trade secrets, portfolio management and patent, trademark and technology litigation. Lisa's extensive litigation background, integrated with her transactional work in intellectual property, allows her to have a deeper understanding of her clients' business needs and concerns and to bring value to their businesses. Lisa is a thought leader and accelerator in the areas of Diversity and Inclusion. She leads the Atlanta Inclusion and Diversity Committee, chairs the Firmwide Black Affinity Group, and serves on the Firmwide Diversity Council and Women's Committee. Lisa has received numerous awards and accolades for her work and leadership in the community-at-large, her legal acumen, and for her work to increase diversity and foster greater inclusivity.

Lisa N. Collins

Incollins@bakerlaw.com

(404) 256-8231 (o)

BakerHostetler

Atlanta
Chicago
Cincinnati
Cleveland
Columbus
Costa Mesa
Dallas
Denver
Houston
Los Angeles
New York
Orlando
Philadelphia
San Francisco
Seattle
Washington, DC
Wilmington

bakerlaw.com



D. Brian Kacedon

Brian Kacedon is a recognized authority in IP transactions having drafted and negotiated hundreds of agreements across all technologies. He is designated as a Certified Licensing Professional (CLP). He has also successfully litigated multiple lawsuits and arbitrations based on his extensive transactional experience.

Contact Brian:
+1 202 408 4301
brian.kacedon@finnegan.com