

Practical Global Guide to the Effects of Insolvency on IP License Agreements

The intersection of insolvency and intellectual property (IP) licensing agreements presents a intricate legal and commercial landscape. Recognizing the paramount importance of safeguarding IP rights and minimizing business disruptions, we present an indispensable guide that delves into the practical implications of insolvency on IP licensing agreements worldwide.

Chapter 1: Understanding Insolvency and Its Impact on IP

This chapter provides a foundational understanding of insolvency proceedings, including bankruptcy, liquidation, and receivership. It explores how insolvency affects the rights and obligations of both licensors and licensees, demystifying the legal framework surrounding IP ownership and contractual performance.



Licences and Insolvency: A Practical Global Guide to the Effects of Insolvency on IP Licence Agreements

by Thomas F. Burke

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Should insolvency impact the right to adjudicate?



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As an adjudicator with many years of experience in Construction and Procurement, I know the number of adjudications referred in Northern Ireland is not rising fast.

For those companies, it is a 28-day process where the parties submit their cases and an independent third party, the adjudicator, makes a legally binding decision. It is a less costly, more time-efficient way of settling disputes, as and when they happen, without the need to 'go to court'.

As part of the Housing Grants, Construction and Regeneration Act 1996 (HGCRA) made it a statutory right. Any party to a construction contract can refer a dispute to adjudication 'at any time' (Section 108) - no conditions or limitations.

However, this has recently been brought into question.

Bresco Electrical Services was contracted by Michael J Lonsdale (Electricals) Ltd to complete electrical installation works. A dispute arose in December 2014, with both parties maintaining that the other had wrongfully terminated the contract, and Lonsdale claiming it was due costs for having to replace Bresco. Bresco referred the dispute to adjudication in June 2018.

On Appeal, Lord Justice Coulson stated that Justice Fraser in adjudication was not that Bresco's right to adjudicate was lost when it went into liquidation. However, he went on to uphold Justice Fraser's decision. A decision involving an insolvent company could not be enforced. Although the adjudication is deemed valid, it is 'exercise in futility'.

As it stands, therefore, an adjudicator does not automatically lose jurisdiction in an adjudication where a party is insolvent. However, it means the court will not allow enforcement to continue if the decision will not be capable of being enforced.

The court upheld the statutory right to adjudicate, with no conditions. However, the reality is far more complex, insolvency does mean companies can be left unable to invoke their legal rights and get what they are entitled to.

The lessons are, then, clear. Be careful with whom you are getting into a contract. Acquire the proper references, guarantees and insurances.

Secondly, settle disputes as soon as possible. If Bresco or Lonsdale had referred the dispute when it arose, a decision could have facilitated a quicker resolution of the matter.

Chapter 2: Key Considerations for Licensors

For licensors, insolvency raises concerns about protecting their IP assets and ensuring continued royalty payments. This chapter examines strategies for mitigating risks, asserting IP rights in insolvency proceedings, and maximizing recovery prospects. It offers guidance on safeguarding trademarks, patents, copyrights, and other valuable IP.

- **Protecting IP Rights:** Prudent steps to preserve IP ownership and prevent unauthorized use.
- **Asserting IP Rights in Insolvency:** Navigating the complexities of insolvency proceedings to protect IP interests.
- **Maximizing Recovery:** Strategies for maximizing royalty payments and recovering IP assets in insolvency.

Chapter 3: Critical Issues for Licensees

Licensees face unique challenges when their licensors become insolvent. This chapter analyzes the impact on royalty payments, access to licensed IP, and potential termination of agreements. It provides practical guidance on managing contractual obligations, negotiating with insolvency administrators, and exploring alternative licensing options.

- **Royalty Payments and Obligations:** Understanding the consequences of insolvency on royalty payment schedules.
- **Access to Licensed IP:** Ensuring continued access to licensed IP and minimizing business disruptions.
- **Termination of Agreements:** Navigating the potential termination of licensing agreements in insolvency.

Chapter 4: Cross-BFree Download Considerations

Insolvency proceedings often transcend national bFree Downloads, introducing complexities related to international IP laws and regulations. This chapter examines the interplay of insolvency regimes across jurisdictions, exploring the challenges and opportunities for cross-bFree

Download licensing agreements. It provides insights on enforcing IP rights, managing cross-border Download assets, and navigating legal disparities.



Figure 2: Navigating insolvency across international bFree Downloads

Chapter 5: Case Studies and Practical Guidance

To illustrate the real-world implications of insolvency on IP licensing agreements, this chapter presents insightful case studies and practical guidance. Experts share their experiences and offer valuable strategies for mitigating risks, maximizing outcomes, and navigating the challenges of insolvency. These case studies provide invaluable insights into the complexities of insolvency and its impact on IP rights.

- **Case Study 1:** Analyzing a high-profile insolvency case involving a major technology licensor.

- **Case Study 2:** Exploring the impact of insolvency on a global licensing program for a pharmaceutical product.
- **Practical Guidance:** Step-by-step guidance on managing IP licensing agreements in insolvency proceedings.

With a comprehensive overview of the legal and commercial implications of insolvency on IP licensing agreements, this Practical Global Guide empowers businesses to navigate the complexities of insolvency proceedings confidently. It provides a roadmap for safeguarding IP rights, mitigating risks, and maximizing outcomes in both domestic and international insolvency scenarios. By understanding the insolvency landscape and implementing prudent strategies, businesses can protect their IP assets, preserve commercial relationships, and emerge from insolvency with a strong foundation for future success.

Free Download Your Copy Today

Don't miss out on this invaluable resource for businesses and professionals involved in IP licensing. Free Download your copy of the Practical Global Guide to the Effects of Insolvency on IP License Agreements today. This comprehensive guide will help you navigate the challenges of insolvency and protect your IP interests.

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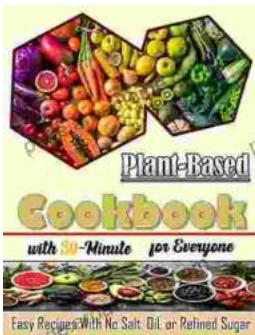
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