



Think Cloud Compliance

Microsoft Azure IP Advantage *Protecting innovation in the cloud*

“Our goal is to help foster a community that values and protects innovation and investments in the cloud. We want software developers to be able to focus on coding, and businesses and enterprises to be able to respond to the changing needs of their customers with agility without worrying about lawsuits.”

Brad Smith
President and Chief Legal Officer
Microsoft Corporation



Across the globe, the shift to cloud computing is accelerating, impacting every industry and every person. As our customers move to the cloud, business risks are changing. One issue is the increased IP infringement risk associated with delivering software-based products and services in the cloud. To support our customers and to foster a community and business environment that values and protects innovation in the cloud, we created the Microsoft Azure IP Advantage program.

Microsoft Azure customers now have access to best-in-industry protection against intellectual property (IP) risks in the cloud with Microsoft Azure IP Advantage program. One of the most comprehensive protection programs, it is designed to help customers protect their cloud-based innovations and investments against IP lawsuits and risks. We take seriously our responsibility to help ensure that the cloud is used for good. In partnership with our customers, we are working hard to help create an ecosystem where developers, entrepreneurs, enterprises, and customers can innovate with confidence.

Build confidently with uncapped indemnification

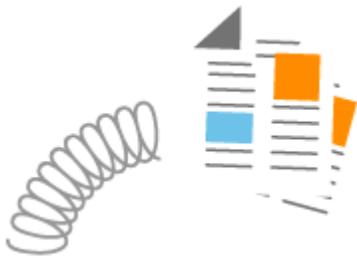
Build on Azure knowing that you have best-in-industry uncapped defense and indemnification coverage that extends to any open source technology that powers Microsoft Azure services, such as Hadoop used for Azure HDInsight. You don't have to do or pay anything extra, just use Azure knowing that our indemnification coverage is available if you ever need it.

Deter and defend lawsuits with patent pick



Defend against patent lawsuits targeting your innovation with access to a large patent portfolio. You become eligible for this benefit simply by using Azure on a regular basis. If sued, eligible Azure customers can acquire one of 10,000 patents that Microsoft will make available to help counter assert against an aggressor (7,500 available now, 2,500 more coming soon). To learn more about how to pick a patent, please read the FAQ.

Get broad protection with a springing license



We are pledging to Azure customers that if we transfer patents to non-practicing entities (NPEs), these patents cannot be asserted against them in the future. Non-practicing entities are companies that primarily use patents for revenue generation. While Microsoft doesn't have a general practice of transferring our patents to NPEs, if it were ever to occur, we offer a springing license to all eligible Azure customers.

What customers are saying

TOYOTA

"With Azure IP Advantage, we can operate and innovate more freely in the cloud while reducing our IP risk. Microsoft is uniquely able to provide such a comprehensive patent offering."

Shigeki Tomoyama, President of Toyota's Connected Company



"As we transform our business to create a more resourceful world, our ability to accelerate innovation in the cloud for the benefit of our customers is increasingly important. Azure IP Advantage delivers unique benefits that are important for us and our customers in this respect."

Greg Richards, Vice President, Global DevOps, Itron



"Mattel is a place of invention and imagination, and we aspire to spend as much of our time and energy creating as possible. Azure IP Advantage will let us focus on innovating and transforming our business, not fighting patent lawsuits."

Geoff Walker, Executive Vice President and Chief Strategic Technology Officer, Mattel

Microsoft Azure IP Advantage program FAQ

General

What is Microsoft Azure IP Advantage?

Azure IP Advantage is a program for Azure customers offering best-in-industry protection against intellectual property risks, so developers can focus on coding and customers can focus on running their businesses, with reduced risk and exposure to IP lawsuits without diminishing customers' own IP rights. It has three components to help customers protect their cloud investments:

1. The ability to pick from 10,000 Microsoft patents to help defend against an IP lawsuit
2. Industry leading uncapped indemnification for IP lawsuits, including open source incorporated into first-party Azure branded services
3. A springing license to any Microsoft patent that is transferred to non-practicing entities

Some eligibility requirements apply.

How do I get access to the program? Who is eligible to get this program?

All Azure customers are eligible to participate in Microsoft Azure IP Advantage, but the patent pick and springing license benefits are subject to eligibility criteria described in the Microsoft Azure IP Advantage terms and conditions.

Do I need to sign up for Azure IP Advantage to get the benefits? What is the enrollment process?

No, Azure IP Advantage is a feature of Azure and there is no sign-up process. Defense and indemnity are included in standard customer terms for Azure and the springing license benefit comes automatically once customers have met eligibility requirements. Exercise of the patent pick option is available to customers who want to pursue it.

Why is Microsoft offering this program?

At Microsoft, our commitment is to enable people and businesses throughout the world to realize their full potential. Aligned with this mission, we also believe that customers value partners who understand their business needs and are committed to helping them anticipate and address risks rather than taking their rights away.

Why should I care about Azure IP Advantage?

New IP risks emerge as businesses transform and drive more cloud usage. If you run services in the cloud or plan to do so in the future, you should consider your strategy for addressing IP infringement risk and choose a cloud platform partner that understands these risks and has a comprehensive plan to help you address them.

Where can I find details about Azure IP Advantage?

To learn more about Azure IP Advantage, visit: <http://aka.ms/AzureIPAdvantage>.

Do I lose my IP rights if I take advantage of Azure IP Advantage or use Azure? Does Microsoft require customers to give up their IP rights in order to get access to Azure services?

No. Microsoft does not require customers to waive their ability to assert their own IP rights as part of its standard hosting terms. Microsoft's philosophy is to provide IP benefits to its customers for using the Azure service.

Why did Microsoft choose an eligibility bar associated with usage of Azure services?

We believe that usage is an important indicator of customer engagement with the Azure platform, and Azure IP Advantage is meant to reward and benefit such customers.

How can I get further information on Azure IP Advantage?

To learn more about Azure IP Advantage, visit: <http://aka.ms/AzureIPAdvantage>. If you have questions, email IPAdvant@microsoft.com.

Indemnification

What is indemnification?

Indemnification is a contractual obligation often provided by the supplier of a product or a service to protect the customer from IP infringement claims asserted against the customer for its use of the product or service. In the context of Azure IP Advantage, Microsoft indemnification terms protect customers from IP infringement claims arising from customers' use of Microsoft cloud platform technologies and included open source components.

Does Microsoft cap the indemnification it is offering?

No, unlike some competitors, we don't cap indemnification.

Does Microsoft exclude open source code from its indemnity pledge?

No, unlike some of our competitors, we don't exclude open source when it is included in our branded Azure services.

Doesn't Microsoft already provide uncapped indemnity for its products and services? What's new here?

Yes, it has been Microsoft's policy for many years to indemnify and defend customers for IP risks as described in our contract terms. With the launch of this new benefit, we also defend and indemnify for IP claims against open source code included in first-party branded product and service offerings.

What do you mean when you say open source is indemnified by Microsoft?

Microsoft indemnifies open source software incorporated by Microsoft into Azure and provided under Microsoft's terms. For example, Azure HDInsight, our Hadoop offering, would be covered. Open source that is provided under a separate license, such as a Linux distribution in a VM, is not covered by Microsoft's terms, but may receive indemnification under another provider's terms.

How do we benefit from the indemnification available under Azure IP Advantage?

If you use Azure, you are already covered. Azure indemnification goes into effect as soon as you use Azure. It is part of the Azure terms of service, which were updated on February 1, 2017. There is no minimum usage requirement.

Are there any exclusions from indemnification?

Microsoft's indemnity obligation does not extend to the customer's own data, non-Microsoft products, or any modifications a customer may make to Microsoft software or online services. It also does not cover any customer use that violates the law or damages a third party. Customers should consult the terms of their Microsoft license agreements for details.

Patent pick

How many patents does Microsoft own?

As of February 8, 2017, Microsoft has about 60,000 patents on a worldwide basis.

How many patents are available in the "patent pick"?

Microsoft is making 10,000 patents available; see the Azure IP Advantage patent list. Initially, 7,500 patents will be listed and available, and 2,500 will be added in a few months. Microsoft may change and update the list from time to time.

Do the 10,000 patents include patents from other countries in addition to the United States? Do they include only issued patents or pending applications?

Yes, they include patents from outside the United States. The group includes pending applications that are ancillary to issued patents in the same patent family.

What is the purpose of the "patent pick"?

The purpose is to deter operating companies from suing Azure customers for patent infringement against their workloads running in Azure by giving such customers access to a very significant portfolio of world-class patents that can be used for defensive purposes in the context of a lawsuit.

What are the requirements to be eligible for the patent pick?

Any bona fide Azure customer is eligible, provided that (i) you have paid at least \$1,000 per month over the past three months for your usage of Azure; (ii) you have remained patent peaceful against Azure workloads in the last two years, and (iii) you are sued for patent infringement.

Please refer to the Microsoft Azure IP Advantage terms and conditions for more details.

How can I determine whether I meet the usage eligibility bar, as defined in the program's terms and conditions?

Your customer invoice or online usage reporting for Azure will indicate monthly Azure usage. If you submit a patent request form, Microsoft will review your usage and make a final determination of eligibility.

- Web Direct (MOSP) customers can download usage details for a subscription from Azure account center.
- Enterprise Agreement customers can review a usage summary in the Reports section of the Azure Enterprise Agreement portal.
- Customers who buy through a Cloud Services Provider should review their reseller invoices.

Does prepayment for Azure services through Azure monetary commitment count toward Microsoft Azure IP Advantage eligibility?

No, eligibility is based on Azure usage, regardless of whether it is paid in advance or in arrears.

Is the \$1,000 monthly eligibility bar averaged over the past three months? For example, if I use \$800 in month one, \$900 in month two, and \$1,500 in month three, do I qualify with average monthly usage in excess of \$1,000?

No, you must use at least \$1,000 of Azure services for each of the last three months to qualify.

Can I aggregate usage across several of my Azure subscriptions to meet the \$1,000 eligibility bar?

Yes.

Can I use any patent that I get as part of the "patent pick" to assert against other companies after I have used it for patent defense?

In general, the answer is no. The patents are being made available to customers solely for defense of suits against their Azure workloads. Please consult the terms and conditions for all the details.

Can I use the patent pick for an infringement lawsuit that was filed before the launch of Azure IP Advantage?

No, the patent pick applies only to lawsuits filed after the effective date of Azure IP Advantage, which is February 8, 2017.

Can I exercise the patent pick to defend from a lawsuit for which I am already indemnified (by Microsoft or by a third party)?

No. The patent pick is meant to help defend you from lawsuits for which you don't already receive indemnification.

How did Microsoft choose the patents to include in the "patent pick"?

Microsoft engaged in a lengthy and careful process to select a portfolio that we viewed as being representative of a broad cross-section of technologies within the Microsoft portfolio overall, weighted somewhat toward cloud-oriented technologies.

Can Microsoft remove patents from the list?

Yes, the patents on the list will continue to be owned by Microsoft unless or until they are transferred to a customer as part of Azure IP Advantage. When patents expire, they will be removed from the list. In addition, until such a transfer of a patent to a customer occurs, such patents may be removed from the list, assigned to third parties (subject to the springing license benefit), and included in Microsoft patent licensing programs. If Microsoft removes a patent from the list or a patent expires, however, Microsoft plans to add new patents so as to maintain a total list of 10,000 patents.

Will Microsoft add more patents to the list if it drops below 10,000 because some are "picked" by customers, removed, or if they expire?

Yes, Microsoft plans to maintain a pick list of 10,000 patents.

If a customer picks a patent from the Microsoft Azure IP Advantage list, how can it be used?

The patent may be used to counter-assert in a lawsuit for *defensive purposes* only. Furthermore, the patent may not be used against an Azure workload. Please consult the terms and conditions for all the details.

Will patents on the patent pick list that are chosen by customers be subject to Microsoft encumbrances on those patents?

Yes, all patents will be subject to any existing encumbrances.

Does a customer own the patent after Microsoft transfers the patent to the customer under the terms of the patent pick?

Yes.

Aren't the patents that Microsoft chose just ones that Microsoft believes are worthless?

No, we've carefully chosen a broad and diverse portfolio of patents that independent patent experts have evaluated and found to be valuable. See the Azure IP Advantage patent list.

Why is Microsoft requiring customers to affirm that they have not sued other Azure customers for patent infringement for two years in order to get access to the patent pick option?

Our goal is to create a community of interest among our customers in support of a peaceful zone of innovation, so we are offering an incentive through the patent pick benefit without taking away customers' IP rights.

How much of a fee is Microsoft planning to charge customers for sales of a patent, as part of the "patent pick"?

Microsoft will transfer patents selected through the "patent pick" benefit for a payment that approximates the administrative costs associated with the transfer—not the market value, which could be much higher. We are not profiting from these patent transfers.

What if multiple companies want the same patent from the patent pick list? Who gets priority?

As further described in the Azure IP Advantage terms and conditions, in general, patents will be assigned to the first qualified customer who meets the conditions for a patent transfer and completes the documents necessary to take title to a patent.

Is Microsoft trying to inject patent considerations into the cloud?

No, patent considerations are already in the cloud and need to be taken into account as part of a thoughtful approach to doing business in the digital world. The "patent pick" benefit is designed to help customers—who have demonstrated their commitment to peaceful behavior in the Azure community—to address real risks of doing business, by helping them defend themselves against lawsuits.

How does a customer know which patent to select?

Although Microsoft cannot provide customers advice on which patent to select, we recommend customers consider engaging legal counsel or IP experts to advise them. Here's a list of a few IP advisors: High Tech Solutions and TechInsights.

Can I benefit from Azure IP Advantage patent pick if I have workloads running in a hybrid Azure environment?

Yes, provided you meet the usage requirement for the Azure software or services operated by Microsoft and the other requirements of the program.

Springing license

What is a "springing license"?

As further described in the Microsoft Azure IP Advantage terms and conditions, a springing license is a benefit that comes into being (it "springs" into existence) upon the occurrence of a defined event. In the case of Azure IP Advantage, the eligible customers become fully licensed to one or more Microsoft patents if and when Microsoft were to transfer such patents to a non-practicing entity (NPE).

What are the requirements to be eligible for the springing license?

Any bona fide Azure customer is eligible, provided you have paid at least \$1,000 per month over the past three months for your usage of Azure.

Please refer to the Azure IP Advantage terms and conditions for more details.

Why is Microsoft offering a springing license as part of Azure IP Advantage?

Some customers have told us that they value springing licenses and would appreciate having Microsoft make such commitments as part of an Azure offering.

Does Microsoft sell patents to NPEs?

In general, Microsoft does not sell patents to NPEs.

How is the springing license offering different from the LOT network?

The LOT network is multi-party agreement whereby individual companies elect to provide springing licenses to other companies within the network in exchange for a reciprocal commitment to provide a springing license. Microsoft is providing a unilateral springing license to customers as part of Azure IP Advantage and is not asking for a reciprocal promise in return.

Scope of Azure IP Advantage

Is Azure IP Advantage available to customers everywhere Microsoft does business?

At this time, we are not making Azure IP Advantage available in China, where the Azure service is offered by an independent entity licensed by the Chinese government to provide cloud services under Chinese law.

How long will Azure IP Advantage be available?

Microsoft is committed to making Azure IP Advantage a success and our intention is to offer these benefits indefinitely. Every Microsoft customer receives the benefit of the IP indemnification, even if that customer is not otherwise eligible for other aspects of Azure IP Advantage, and Microsoft will not be narrowing the scope of that indemnification. Other parts of Azure IP Advantage may be adjusted to meet evolving business needs.

Is Azure IP Advantage applicable to Azure Stack in my own datacenter?

Yes. For example, the patent pick benefit is available to counter a patent lawsuit asserted against your workload running in Azure operated by Microsoft or in Azure Stack in your own environment. However, the usage threshold is measured against Azure operated by Microsoft. See the terms and conditions for details.

Are any of Microsoft's competitors offering benefits that are similar to Azure IP Advantage?

We believe that our offering is market-leading and that no other competitor has an approach to mitigating IP risk that is as comprehensive as the benefits we make available with Azure IP Advantage. We encourage customers to compare our competitors' offerings to Azure IP Advantage.

Can I benefit from Azure IP Advantage if I am a Microsoft Cloud Service Provider (partner)?

Yes, provided you meet the Azure subscription payment threshold and other requirements as defined in the Azure IP Advantage terms and conditions. Your eligibility is determined by your own Azure usage, not your customers' usage.

Can I participate in Azure IP Advantage if I use my Azure subscription to deliver a customer solution or managed service to my own end users?

Yes, provided your own usage meets the subscription payment threshold and other requirements as defined in the Azure IP Advantage terms and conditions.

What if I am a Microsoft customer but I don't use Azure? Can I still get access to these benefits?

The defense and indemnity benefits that are part of Azure IP Advantage are also part of the standard terms for all Microsoft service offerings. The patent pick and springing license benefits, however, are only available to eligible Azure customers at this time.

Notes

For patent pick eligibility: must (i) have an Azure usage of \$1,000 USD per month over the past three months; (ii) have not filed a patent infringement lawsuit against another Azure customer for their Azure workloads in the last 2 years; and (iii) show evidence of a current patent litigation that occurred after February 8, 2017. Legal transactional costs apply. For springing license eligibility: must have an Azure usage of \$1,000 USD per month over the past three months.

Additional terms apply. Email IPAdvant@microsoft.com to request detailed program terms and conditions.

Apache Hadoop® and associated open source project names are trademarks of the Apache Software Foundation.

Refer to the [Microsoft Azure IP Advantage terms and conditions](#) for additional detail.

To learn more about Azure IP Advantage, visit:
<http://aka.ms/AzureIPAdvantage>.