

LOSS SCENARIOS

for Tech/IT Companies

The Cost of Litigation

The cost of litigation to information and network technology companies has risen dramatically in recent years as a result of product and service disputes. Why are we seeing this sudden influx of lawsuits?

- More and more customers are willing to sue long established business partners for performance failure problems. The result: an increase in business partner litigation.
- Dramatic increases in the average size and length of contracts raises the plaintiff's chance that a performance failure "will be worth the fight" and result in a large jury award.
- As market competition continues to increase, there is a greater chance that marketing and sales pressure will invite overpromising of capabilities.
- With companies putting more reliance on information technology solutions, it increases the likelihood that software solutions will be core business solutions. As a result, much more is at stake if the solution fails or doesn't perform as promised.
- Today companies are crossing borders to conduct business which brings a host of new exposures due to foreign laws and regulations.

Information and network technology companies need timely solutions that have evolved with their industry and the new exposures being presented. Chubb's information and network technology errors & omissions (E&O) insurance offers such solutions and can help protect your firm from the devastation of a lawsuit.

Take a look at these loss scenarios and then ask whether you have the proper insurance protection.

Corrupted Data

A communications company sues for lost revenue and expenses to recover billing files for wireless customers that were deleted by their software vendor who was updating the system.

Indemnity Paid: \$750,000

Defense Cost Paid: \$150,000

Software fails to maintain employee hours

A company provides timekeeping hardware and software to its customer. The software doesn't function correctly; it fails to maintain employee hours worked and to correctly apply the hourly and overtime rate of pay. The failure results in over/underpaying employees and the need to replace the timekeeping clocks. The customer sues the provider of the hardware and software

Indemnity Paid: \$440,000

A Web site is a lawsuit waiting to happen

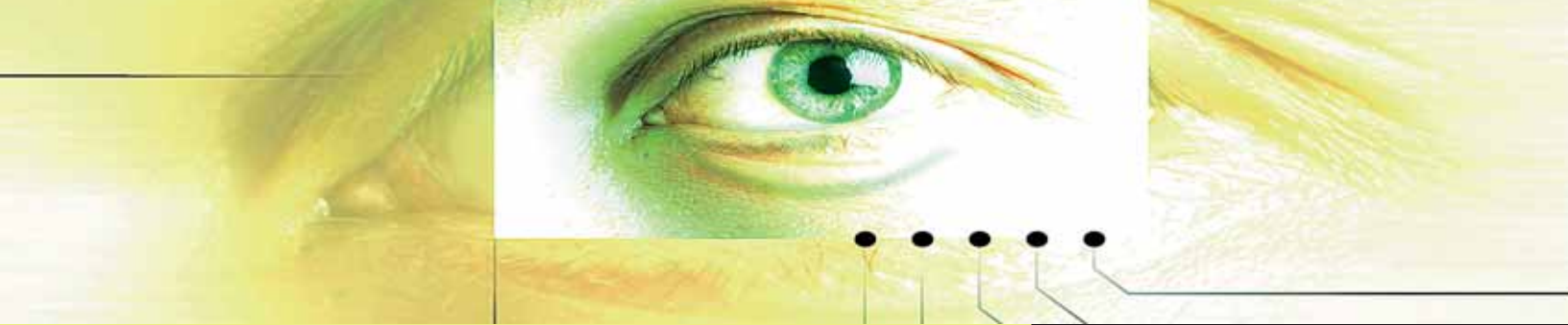
Attorneys who make their living defending Internet suits charge outrageously. Most suits involve intellectual property law. Many companies are unaware of the problem and are unprepared to cope with it.

Clearly, the Internet has become an essential operational feature of trade, despite the slump in Web-based commerce and the dot-com decline. Only a few years ago only 12 million persons were accessing the Internet but now this number is over 60 million and growing at geometrical rates. Many companies are establishing websites and communicate with others by means of e-mail, chat lines and bulletin boards. Some companies have started to promote and market products and services on the Internet. Liability rules that applied to advertising injury, libel, slander, infringement of copyright and trade marks will have to be reformed to comply with changing conditions of online communication.

What complicates matters is that the Internet is producing many exposures of unknown quantity, causing insurers frequently to introduce exclusions until they can get a better handle on what these exposures may produce.

Currently looming as a future battleground with insurance implications will be the question of who rightfully owns a particular domain name for a Web site. It is not unusual for one business to encounter another business with a domain name or a Website address similar enough to cause one or both of the parties to file suit.

Somehow, many people got the idea that if it was online, it was free for the taking, and that copyright laws do not apply. This is absolutely not true. If it's online, the same kinds of laws apply as in the real world. Copyright law is actually one of the easiest and most straightforward areas of cyberspace law. You should not steal someone else's copyrighted material. Even if there is no copyright statement, you can still assume that the material is copyrighted and can't be distributed without the author's or copyright holder's explicit consent.



Missed deadlines cause a breach of contract

A firm outsources to an information technology and management service company for the replacement of hardware, software and infrastructure as well as telecommunications and related services in order to upgrade its ability to serve customers and address any problems. The information technology and management services firm fails to meet deadlines due to a high turnover of staff and a breakdown of project management.

Indemnity Paid: \$2,000,000

Expense Paid: \$500,000

Lawsuit in France

A software developer is sued in French courts for failing to deliver an operational version of a software system. The plaintiff alleges that the system sold and installed was not compatible with their mainframe systems, despite assurances to the contrary. The plaintiff sues for recovery of consequential damages.

Indemnity Paid: \$600,000

Breach of security

A telecommunications firm is sued by a customer claiming they were sold a defective system with inadequate security protections. The customer claims the faulty system allowed individuals to access their phone system and, as a result, they incurred fraudulent overseas charges.

Indemnity Paid: \$3,450,000

Defending software that performed as promised

A software company was sued by a customer after he used the company's cost estimating software. The software itself was found to have functioned perfectly. The error was on the part of the user who later underbid a work project. The customer eventually dropped the case, but only after considerable legal expenses were incurred by the software company.

Indemnity Paid: \$0

Defense Cost Paid: \$175,000

Million dollar verdicts and costly legal fees can easily destroy a firm's bottom line...if it's not properly protected. Talk to InsureCast about information and network technology errors & omissions insurance. Get the protection you need now.

Why IT Firms need EO

The risk of legal assessments caused by programming or service mistakes makes E&O insurance an absolute necessity in the IT business. Even with IT work that seems less risky, there's no outsmarting the consequences of a lawsuit. Practically any firm or individual that improperly performs services can cause a client to suffer economic loss.

Commercial General Liability does NOT provide coverage for programming errors, contract performance disputes or any other Professional Liability issues. IT consultants and companies who have General Liability without Professional Liability (Errors or Omissions) coverage are taking a serious risk. Even if you're not at fault, litigation is time-consuming, costly and potentially disastrous to a your firms reputation. E&O insurance is a cost effective way to protect your business.

Typically, a general liability policy does not cover consequential financial loss, and most exclude claims arising out of professional services. To properly cover your exposures, you need comprehensive Errors and Omissions coverage in addition to your existing General Liability Policy. Optional coverages may include Media and Network liability.

Network Security Liability

Can be Transmission of malicious code (i.e. computer virus), security breach of your network by a hacker, or unauthorized access to, use of, or tampering with data or systems.

Media Liability:

Means any form of defamation or tort related to: infringement of copyright (including software copyright), trademark, title, trademark, trade name, slogan, or service name; allegations of libel, slander, breach of privacy, product disparagement, trade libel; misappropriation of name or likeness or ideas, plagiarism, infringement of copyright, trademark, or negligence regarding the content of any media communication



Providing Business Insurance Since 1895

InsureCast is a division of Gaston & Associates, Inc., a NY based insurance agency tracing its roots through 4 generations of family, and incorporated in 1895.

InsureCast's marketing territory is national in scope, and we hold property-casualty and life-health licenses in all U.S. states & DC — except Alaska, Hawaii, Iowa, North Dakota, Oklahoma, and West Virginia.

Our customers range from start-ups to public companies. We serve about four thousand clients nationally and throughout the world. We specialize in providing personal and commercial lines of property and casualty insurance, group health coverage, and individual life insurance.

InsureCast has become a world leader in technology insurance and professional liability insurance products for Information and Network Technology companies by proactively anticipating changing client needs in order to offer the most up-to-date solution.

Mission Statement

The mission of Gaston & Associates is to provide professional insurance services to the clients we represent.

- ✓ We strive to develop a customer base that will appreciate our service orientation and value added approach.
- ✓ We provide our clients with competitive, high quality insurance oriented products.
- ✓ We endeavor to maintain long-term customer relationships that are based on coverage and service.
- ✓ We embrace automation as a means to enhance service and improve communication.

To accomplish these goals, we establish departments, standards, workflows and procedures that enable us to provide a consistently high level of service to our customers. We staff each department with competent, ethical, individuals who are dedicated to continuing education and professional development.

GASTON & ASSOCIATES INC

100 S. Bedford Road

Mount Kisco, NY 10549

Phone: 914.244.1055

212.697.2444

800.432.7435

Fax: 914.244.1056

212.697.2920

Email: info@insurecast.com



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