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> Information technology claims show specialised errors and omissions and liability cover are essential for technology firms



# Information Technology Liability insurance

## Claim examples

The following are examples of disputes and litigation that have occurred between Information Technology (IT) Organisations and their clients. These examples illustrate why every IT Organisation needs a specialist Errors & Omissions Liability Insurance policy and a Combined General & Products Liability Insurance policy backed by experienced underwriters, claims managers and the financial strength of a global insurer like Liberty.

## Examples of disputes and litigation

### Failure to deliver to specification

A retailer contracted with an IT company to customise and install an e-commerce software system to accept orders, process payments and provide receipts. Despite working in the 'test environment', once going live the system did not operate as promised. Orders placed utilising the system were lost, payments were not received and goods were not provided to the customers. It took the retailer 48 hours to realise there was a problem and shut the system down. The retailer sued the IT company for damages of approximately $1.5 million dollars for breach of contract, lost business and damage to its reputation.

### Lost data

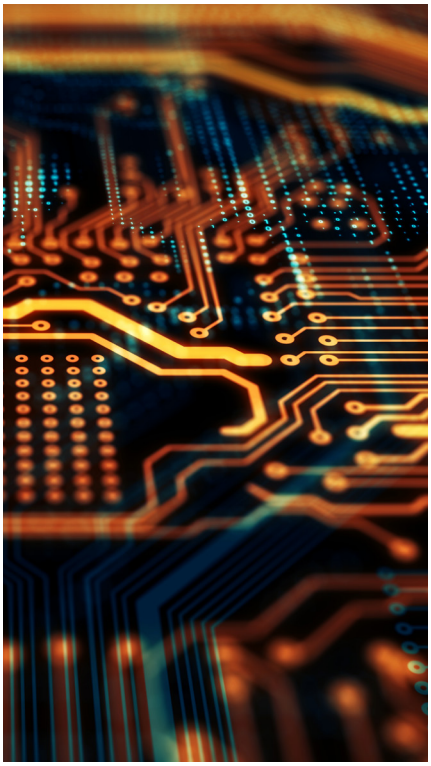
A company contracted a software developer to design and implement a solution to automate their business activities. A customised solution was developed and installed. All of the company's records were transferred to the system. A week after going live the system crashed and it was revealed the developer had not properly installed a back up for the data transferred to the system. As a result, the company's client information, billing records and other account details were lost. The company sued for damages in excess of $500,000 for breach of contract, negligence and consequential loss together with the cost of installing a replacement system.

### Copyright infringement

A company distributing database management software was sued by a software developer claiming the distributor hired a number of its former employees who stole the source code and used it to develop a competing product. The software developer sued for breach of copyright and breach of confidentiality and is seeking damages of $2,000,000 from its rival plus an injunction to prevent further sales.

### Property damage

An IT hardware supplier was sued by a customer's property insurer as a result of fire damage to the customer's premises. Faulty communications equipment provided by the supplier was found to be the cause of the fire. A defect in the manufacturing process caused the equipment to short circuit internally, leading to extreme heat and combustion. The resulting fire damage was $250,000.



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## Denial of access

An IT company was engaged to provide an upgrade to a network appliance storage server for a hospital. The upgrade failed which caused a system crash rendering the storage server unavailable. This meant hospital staff could not access online patient records, x-ray and scan imaging and other information. When a recovery was attempted it became apparent that all data on the server had been corrupted and was lost. A restoration from the latest back up tapes had to be commenced.

The IT company was required to engage external resources to assist with the restoration and fly in resources from the manufacturer at a cost of $100,000. The server was finally restored after two and half days during which time hospital staff had to rely on limited manual records and procedures potentially putting people's medical treatment at risk.

## Failure to deliver specification

An IT services company was engaged by an automobile insurer to provide an imaging system that could access online claims. An expected response time of two to four seconds was promised however response times averaged anywhere between 20 and 40 seconds. Initially damages of $9,000,000 were sought. Significant defence costs were incurred and the court awarded $4,000,000 in damages.

## Lost data

An IT company was engaged to provide a practice management system for a professional services firm. Following implementation of the system there were a number of problems with system crashes and data loss. The firm claimed compensation for consequential loss of revenue due to the loss of records of billable hours entered by fee earners and breach of contract in the amount of $700,000.

## Breach of privacy

An Internet Service Provider (ISP) was sued for breach of privacy by a number of subscribers after their details of internet searches were made available online. Although the details were taken down copies were already circulating. Lawyers acting for the subscribers are seeking class action status.

Although numeric identifiers had been substituted for subscribers' names, the ISP acknowledged that search queries might contain personally identifiable data revealing names, credit card numbers and medical conditions. The ISP blamed a researcher who had failed to gain proper clearances.

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