



Cyberliability: *Are your assets protected?*

Presented by: Marshall & Sterling Insurance

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New Economy, New Exposures

- Business shift:
 - “Bricks and Mortar” to “Clicks and Orders”
 - Online business is bigger than ever!
- Public Web Presence for all to access
- Explosive Growth in the 21st century
 - 100 million Web sites and growing! Virtual worlds anticipate substantial growth!



New E-Policies

- 'Net' expansion outruns General Liability (GL) coverage
 - Deficiencies in existing policies
- Increasing intellectual-property liability claims
- Data Theft is commonplace

New E-Policies

- Evolution to existing e-policies
 - Coverages arising from exposures
 - Web sites, emails, and other electronic communications
- Employee Exposures:
 - Privacy violations
 - Discrimination and harassment

Employee-Related Exposures



Privacy Violations:

- ✓ Employees claim their privacy rights were violated after the employer reviewed e-mails or personal files
- ✓ Employees claim privacy violations for Internet Web site tracking or blocking of Internet sites

Employee-Related Exposures

Discrimination and Harassment:

- ✓ Employees receive unwelcome verbal, visual or physical conduct that is sexual or discriminatory in nature
 - ✓ Conduct interferes with employee's work
 - ✓ Employee feels violated and uncomfortable on the job
 - ✓ Conduct occurs via e-mail, bulletin board postings on the Internet or by physically showing another employee explicit websites

Economic Exposures

- Trademarks
- Copyright Implications
- Intellectual Property Rights
- Security
- Systems Failures
- Defamation



Trademarks

Risks:

- ✓ Cyber-squatting
 - ✓ Registering domain names without consent
- ✓ Deep linking
 - ✓ Doing so to Web pages within sites
- ✓ Using unauthorized links
 - ✓ To Web sites without consent

Copyright Implications

- ✓ Appropriate copyright licenses
- ✓ Unlicensed duplication of copyrighted material
- ✓ Theft of trade secrets

Intellectual Property Rights

- ✓ Web site agreements
 - ✓ Ownership issues
 - ✓ Who owns what content?
 - ✓ What is the scope of the licenses?
 - ✓ Patent Infringement
- ✓ Web site content
- ✓ Publisher's Liability
 - ✓ Content posted in chat rooms or bulletin boards
- ✓ Decrease legal liability with "terms of use" agreement
- ✓ Security and encryption concerns
 - ✓ Review methods of authenticating information

Security



- ✓ Privacy issues
- ✓ Collection and use of information
- ✓ Credit card information
 - ✓ Authentication
 - ✓ Posted privacy policy
- ✓ Transfer liability to 3rd party vendor with a secure site
- ✓ Unauthorized access to database

Systems Failures

- ✓ Security breaches
- ✓ Denial of service
- ✓ Virus attacks
- ✓ Exposures to business interruptions claim
 - ✓ 1st and 3rd party



Defamation

- ✓ Defamatory statements
 - ✓ Opinions versus facts
- ✓ Postings
 - ✓ Via websites
 - ✓ Chat rooms
 - ✓ Publications
 - ✓ Blogs
 - ✓ Online bulletin boards

Cyberliability Insurance

- **Scope:**
 - Any company with a Web presence or performing e-commerce activities
- **Coverage:**
 - Intangible 'economic' losses
 - Destruction of home pages
 - Network and server failure
 - Unauthorized obstruction of customer information
 - Restoration costs
 - Fake orders
 - Viruses
 - Industrial espionage
- **Base Rates:**
 - Overall revenues

Solution Options

Internet Liability Insurance:

- Covers for loss caused by fraudulent alteration or destruction of electronic information such as:
 - Malicious copying of trade secrets
 - Extortion, virus versus ransom
 - Loss of business income caused by virus or destruction of electronic information

Solution Options

Media Liability Insurance:

- Includes coverage for:
 - Libel and slander
 - Invasion of privacy
 - Infringement of copyrights
- Intellectual Property
- Network Security
- Product Recall

Solution Options

Other Options Available:

- International
- Internet Professionals Liability (IPL)
- Asset and Income Protection

Features

- ✓ Occurrence policy
- ✓ Claims Made Policy with extended reporting periods (ERP)
- ✓ Duty to defend
- ✓ Punitive damages
- ✓ Jurisdictional

Possible Exclusions

Typically, a traditional Commercial General Liability (CGL) policy will afford you coverage for business interruption, intellectual property damage, and similar losses.

However, insurers are avoiding liability by including specific exclusions and requiring endorsements for this coverage.

Therefore, a careful review of policy language is necessary.

Claim Example

✓ Corrupted data

Example: 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 Costs Paid: \$150,000

More Examples

- Company X, a oil company, hires another company to provide timekeeping hardware and software. The software does not function correctly and fails to maintain employee work hours, and also fails to correctly apply the hourly and overtime rate of pay. This results in over/underpaying employees and the need to replace the timekeeping clocks. The oil company sues the provider of the hardware and software.
- A software solutions company made performance promises within sales contracts that their software could not live up to. With that, their client sued and was awarded a large settlement.

Indemnity Paid: \$440,000

Indemnity Paid: \$2,400,000
Defense Costs Paid: \$350,000

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