



INFORMATION AND NETWORK TECHNOLOGY INSURANCE (INT INSURANCE)

What does an INT Insurance policy actually cover?

- Defence costs paid in advance
- Spouses, Estates & Representatives
- Un-intentional breaches of Intellectual Property Rights
- Breach of confidentiality
- Breach of privacy
- Defamation
- Misleading or deceptive conduct – under Trade Practices or other Unfair trading laws
- Fraud & Dishonesty of employees
- Loss of Documents
- New Subsidiaries
- Product Recall expenses
- Contractual Liability cover
- Statutory Compensation Orders
- Exemplary & Punitive Damages
- Implied Warranties & Conditions cover
- Loss Mitigation & Rectification
- Disciplinary enquiries
- Intellectual Property Rights
- Subsidiaries included in definition of insured
- Joint venture agreements
- Duty to defend clauses
- Contractors & Sub-contractors where Insured vicariously liable
- Continuous Cover
- Reinstatement

The BJS Insurance Group

The BJS Insurance Group can arrange an INT Insurance quotation on your behalf.

Why not contact Robert or Kelly today:

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Could this happen to you?

The following are examples of disputes and litigation that have occurred between Information and Network Technology (INT) organisations and their clients. These examples illustrate why every INT organisation needs a specialist Professional Indemnity Insurance policy and a combined Public and Products Liability Insurance policy.

Claim: **Lost Data**

Insured: A Developer

Scenario: 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 for breach of contract, negligence and consequential loss together with the cost of installing a replacement system.

Outcome: Paid in excess of \$500,000

Claim: **Copyright Infringement**

Insured: A Distributor

Scenario: 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.

Outcome: Damages of \$2,000,000 from its rival plus an injunction to prevent further sales.

Claim: **Consequential Loss**

Insured: Software Developer

Scenario: After a lengthy tender process, a company engaged a software developer to supply and implement a system that would become integral to their business. When the system did not run according to expectations, they commenced legal action alleging misleading and deceptive conduct in relation to the sale, negligence and breach of contract in respect of the implementation.

Outcome: Damages in the order of \$2,000,000 are being sought. This sum includes significant consequential loss.



Claim: Trade Practices Act

Insured: Software Developer

Scenario: A client having no knowledge of computers engaged a software developer to provide a computerised solution to calculate and record estimates and invoices for print jobs. The supplied hardware and software solution failed to provide the capabilities the software developer claimed they would. The developer was found to have engaged in misleading and deceptive conduct.

Outcome: Paid \$46,000

Claim: Terminated Contract and Return of Fees

Insured: A Company

Scenario: A company was hired to install a new automatic vehicle location control system in 30 buses. Towards the end of the 18 month contract, the third party terminated the \$4.3 million agreement as it became evident the system did not operate and are seeking a return of their \$2,000,000 paid to date.

Outcome: Potential Cost \$1,800,000 in additional expenses

Claim: E-Commerce

Insured: A Company

Scenario: A company along with their business partner entered into a series of software license and service agreements to customise and install an e-commerce software system. The project failed and the parties could never bring the system on line. It is alleged the company made errors in customising the software and used contaminated code.

Outcome: Potential cost \$280,000

Claim: Failure to Deliver to Specifications

Insured: IT Company

Scenario: 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 they went 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 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 due to breach of contract, lost business and damage to its reputation.

Outcome: Sued for \$20,000,000 including legal costs



Claim: **Technical Flaws**

Insured: Software Developer

Scenario: A Government Agency was provided by the Insured, a Human Resource solution. The Client found technically defective components in the solution and claimed for return of the fees paid to the developer, consequential loss damages suffered and the cost of replacing the system

Outcome: Settled for \$1,060,000

Claim: **Network Configuration**

Insured: Software Provider

Scenario: Following the installation of a software solution upgrade, the client encountered problems. The client alleged that the software provider failed to properly configure the network and install the file server according to their agreement. The contract price was \$175,000 and the subsequent rectification work was \$140,000.

Outcome: Sued for \$2,600,000 including lost business products

Claim: **Failure to Deliver**

Insured: Technology Software Developer

Scenario: The Australian arm of a multi-national sued the Insured for failing to deliver the promised software solution. Alleged damages include lost revenue and compensation after the developer could not produce the customised software that was core to the clients operations.

Outcome: \$20,000,000 including legal costs

Claim: **Publication**

Insured: Software Firm

Scenario: An employee of a software firm uses another firm’s copyrighted research material in an article prepared for their firm’s internal newsletter. An action by the owner of the copyrighted material is brought against the software firm for injunctive relief and royalties.

Outcome: Potential Cost \$100,000

Claim: **Copyright Infringement**

Insured: A competitor

Scenario: A gaming console manufacturer sued a competitor claiming they had copied a substantial part of the design of four of its consoles. The only difference between the original manufacturer’s products and the competitors was that the competitor’s products were in a different language. The competitor was found to be in breach of Australian Copyright laws and required to pay damages.

Outcome: Potential Cost \$1,000,000



Claim: Breach of Privacy

Insured: Internet Service Provider

Scenario: 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.

Outcome: Potential Cost \$2,000,000

Claim: Property Damage

Insured: IT Hardware Supplier

Scenario: 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.

Outcome: Paid \$250,000 for resultant fire damage

Claim: Denial of Access

Insured: Software Firm

Scenario: 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. The server was finally restored after two and half days during which time hospital staff had to rely on limited manual records and procedures putting people's medical treatment at risk.

Outcome: Paid \$250,000
