

## Loss Scenarios for Intellectual Property, Privacy, and Defamation

The cost of intellectual property litigation can be staggering, particularly for lawsuits alleging copyright and trademark infringements, defamation and violation of the rights of privacy. Most technology companies cannot afford the financial burden of an intellectual property or communication lawsuit. If the adversary is larger and financially stronger, an organisation may be forced to settle rather than become embroiled for years in a prohibitively expensive legal battle.

Chubb's MasterPackage for Technology companies can help mitigate the financial risks associated with intellectual property and communications exposures.



Consider the following loss scenarios and then ask yourself whether you have adequate insurance protection in place.



### Copyright Infringement

**Settlement:** €700,000

A software company faces allegations of copyright infringement, breach of equitable duty of confidentiality and misleading and deceptive conduct. Expert lawyers in areas of Intellectual Property and information technology were engaged to resolve this matter on behalf of the insured, settling the case for €700,000.



### Training Materials

**Potential Cost:** €180,000

In an effort to raise awareness about a critical network application, a seller of switchgear reproduces and distributes, without permission, a manual and associated instructional video. The author of the material learns of this and sues to stop further distribution and seeks damages in the form of license fees.



### Publication

**Potential Cost:** €50,000

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 damages.



### Trademark Infringement - Product Name

**Potential Cost:** €255,000

An emerging technology component manufacturer introduces a new product name. A national firm sues the manufacturer for trademark infringement because the new product name is similar to the firm's registered trademarked name.



### Unauthorised Use of Software

**Potential Cost:** €400,000

A software development company supplied an exclusive license of a computer program designed to be used in the insurance industry to monitor the status of motor vehicle claims to a third party. In an audit the developer found the third party had passed the software onto a subsidiary. The developer sued for breach of copyright, claiming the sub-license was not transferable.



### Trademark Infringement - Software Functionality

**Potential Cost:** €300,000

A UK software company commenced legal action against a competitor claiming the competitor had infringed its copyright by reproducing part of its software code of a popular product without permission.



## Technology Company Sued Over Use of Licensed Photos

**Settlement:** €500,000

A technology company acquired a competitor that owned and operated a number of social media platforms. Although due diligence was performed prior to acquisition, the technology company did not assess an existing licensing arrangement before incorporating a significant number of photographs from the newly acquired platforms onto its existing websites and social media distribution channels. The company that originally licensed the photographs sued the technology company for copyright infringement. The plaintiff alleged that by using the photographs on its own websites and social media channels, the technology company substantially exceeded the scope of its original licensing agreement with the acquired company.



## Defamation

**Potential Cost:** €50,000

A media kit is distributed prior to a software product launch. During the presentation, a company executive reading from the kit makes defamatory comments about the executive officers of a competitor. The competitor sued for defamation.



## Privacy

**Settlement:** €130,000

An ISP was sued by its customers for breach of privacy after it was found the ISP was collecting the Internet Protocol address of customer's computers as well as web pages they visited. The software they installed to collect this information was allegedly used to speed up service and cut costs by preloading clients 'favourites' sites. The ISP was ordered to delete the information and pay damages of €130,000.



## Breach of Confidentiality

**Potential Cost:** €180,000

An employee was hired by a software development company for the purposes of developing software solutions for the company's clients. When the employee left the software company without notice he took a key element of source code with him. A third party sued the software development firm for breach of confidentiality as the solution the employee was working on was of a commercially sensitive nature.



## Copyright Infringement - Product Design

**Settlement:** €500,000

A gaming console manufacturer sued a competitor claiming that 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 competitor's was the competitor's products were in a different language. The competitor was found to be in breach of local copyright law and required to pay damages.



## Privacy Breach

**Potential Cost:** €1M

A software company designs and sells a customer relationship management platform for a regional hotel chain. Due to a design flaw in the software, records of recent guests are visible to non-privileged external parties. These records include the personal data of EU citizens, and the hotel chain must comply with GDPR notification standards. During the incident response, it is discovered that no records were exported externally, but the software company still incurs the response, notification, and legal costs of the incident.