

Plaintiff sued an online service provider for trademark infringement. Plaintiff alleged that the provider's domain name violated trademark laws because plaintiff owned the trademark and was in the business of selling apparel, which was also the function of the provider's website.

A website provided information related to residential real estate sales. Another company that published a traditional print magazine with the same name used by the website and which also related to residential real estate sales, sued for trademark infringement and unfair competition.

A business that used a competitor's trademarked name as a metatag on the business website was sued by the competitor for trademark infringement and unfair competition.

A distributor of software products acquired another company that sold software pursuant to a license from plaintiff. The distributor continued to sell this software after the acquisition. The plaintiff sued for copyright infringement, alleging that the distributor's continued sale of the software violated the terms of the license.

An online service that provided music for users to download for a fee was sued by another company that allegedly owned rights to certain music. It sued for copyright infringement, alleging that the service sold unauthorized songs on the website. The service had obtained a license for the music from a third party who claimed to have the rights to transfer, but not from the claimant.

Owners of video footage sued a website owner for copyright infringement, alleging the website streamed the footage for webcast on the site without permission. There was an issue about whether the party from whom the website owner had obtained the footage actually owned the rights in the video footage to transfer.

A company created and licensed software that enabled golf courses to advertise and display their courses online. Another company alleged the software was substantially similar in function and appearance to its software.

A company obtained articles from various print sources and sold the articles to online archive websites. Free-lance authors sued the archive websites, alleging that they had given permission for the use of their articles in print format only, not for use in an electronic format. The archive websites in turn notified the company that provided the articles that they would seek indemnity if found liable to the authors.

A cosmetics company sued a search engine alleging that the search engine engaged in trademark infringement and unfair competition by selling banner advertising to another, competing cosmetics company. The search engine sold the competitor a banner ad on the results page that came up when a user entered the first company's name as a search term.

A company provided web site design and consulting services to a client. The parties eventually decided to end their relationship and the company sent its client a letter requesting payment of bills totaling \$750,000. The client responded by alleging that the websites designed by the company had architectural and performance issues and demanded \$9,000,000 to settle its claims.

A client sued a website developer alleging that its website crashed and blamed the crash on the developer's failure to competently provide services.

A company provided website construction and maintenance as well as software for e-commerce applications. A client sued alleging their website, launched with the company's assistance, did not function as promised.

ERRORS, OMISSIONS, AND NEGLIGENT ACT CLAIMS

A website owner sold an email list to a company that owned a different website. The company sued, claiming the list had wrong addresses, duplications, and contained names of the people who did not want to receive information from the company.

A company operated a website on which it conducted automobile auctions. A purchaser of a vehicle sued alleging the photo showing the car he bought was misleading and the person he spoke to about the car made misrepresentations.

A company that bought banner ad space on a portal website sued the portal operator. The company alleged the portal failed to make the necessary changes to the banner ads, and that the failure to make changes reduced the effectiveness of the ads.

A disgruntled employee corrupted data in the company's system that was used to upgrade a product already on the market. The corruption caused damage to client's trying to upgrade the product as well as delays, cost overruns, etc., resulting in a loss of \$50,000,000.

A large publically traded company's entire database was encrypted by a disgruntled employee. A ransom note read in effect: "try to crack the code or pay me \$1,000,000 and I'll give you the password". The company paid the \$1,000,000.

An accounting firm wanted to upgrade their office desktop technology. In the process of replacing their old computers they, "cleaned" the hard drives as the manual suggested prior to throwing them out. A hacker recovered the discarded computers and restored the data on three of the hard drives. He then threatened to disclose the financial records of the firm's private clients. The firm bought back the hard drives from the hacker for a multi-million dollar amount.

A software developer was hired to provide special tax revenue collection software for a state agency in the Southern U.S. The contract amount was approximately \$11,000,000. The consultant failed to deliver the software in a timely manner, resulting in significant loss of tax revenue to the state. The state agency sued and the trial court returned a verdict in favor of the state agency in the amount of \$474,000,000, much of which was punitive damages. [This is an example of a claim where the consequences of an error or omission greatly exceeded the value of the work completed.]

Publisher's liability through e-commerce activity.

Emulex Corp had its stock trading halted after news information service distributed a bogus press release that briefly drove down the shares of the Costa Mesa, CA, based manufacturer of computer and networking gear. The source for the bogus press release turned out to be from an Emulex competitor.

Copyright infringement through e-commerce activity.

A book seller with an online service allowed a famous author to advertise a book in one of its forums. The online service was sued for copyright infringement by an artist who claimed that the author used certain artwork on the cover of the book without obtaining the artist's permission.

A personal laptop computer stolen from a data processing center contained the account numbers for over 300,000 credit card customers of several major issuers. Requires the data processing center to notify all credit card customers and give them to access to their credit history free for one year. The claim was approximately \$1,500,000.

A technical instruments manufacturer had a disgruntled employee delete their entire data base. It cost the company \$7,800,000 in lost revenues and \$2,200,000 to replace the lost data.

A computer virus was introduced into the company's computer system and from there into software installed on the company's product. The virus was not discovered until after the products shipped. The virus caused damage to the product purchasers and resulted in a loss to the company totaling approximately \$14,000,000.

A company faced a class action lawsuit arising out of the company's jukebox software, which allowed a user to store recorded music files on his or her computer. The class alleged the software secretly recorded the titles of the CDs and individual music tracks a user played on his or her computer and sent the data back to the company, which then used the information to create a detailed profile of the user's musical tastes.

A major U.S. Publications Company had a breach and exposed 12,000 subscription orders which included personal information including credit card information and numerous customers were victims of identity theft.

Privacy Invasion actions :

Plaintiff sued an online magazine alleging the magazine published his picture without his permission.

The operator of an online bulletin board filed suit against a couple who posted many rude and threatening messages on the bulletin board. The couple filed a counterclaim alleging the operator's use of cookies was trespass, conversion, and invasion of privacy.

A Doctor's office failed to secure online patient records and numerous social security numbers and patient health care issued were published on the web.

An online retailer attempted to sell its customer's personal information to pay creditors as part of the retailer's bankruptcy proceedings. The retailer's privacy policy had stated that personally identifiable information would not be sold. Several parties threatened to sue on privacy grounds.

Defamation actions:

The claimant, an unsuccessful candidate for County Sheriff, alleged that a website owner allowed defamatory postings to be published on its website which caused him to lose the election.

The publisher of an email newsletter faced suit for publishing an allegation that the plaintiff possessed paintings looted by the Nazi during World War II. A disgruntled contractor who had worked on the plaintiff's house sent the newsletter publisher an email message containing the allegations. The publisher distributed the email, which contained the plaintiff's name, address and phone number to subscribers.

A pathologist posted a message on a bulletin board accusing another university affiliated doctor of receiving kickbacks from an outside company in exchange for his assistance with the company's efforts to obtain a contract to provide pathology services to the university. The university doctor sued and a jury awarded \$675,000

Infringement Insurance reimburses insureds for four types of costs, as follows.

1. Costs to enforce patents, trademarks, and copyrights against infringers
2. Legal costs incurred when the insured's intellectual property is challenged by countersuit for invalidity. Case in point: an insured discovers that a competitor has been infringing upon one of its patents. It sues the competitor after making this discovery. In response, the competitor countersues, alleging that the insured's patent is invalid. In this situation, Infringement Insurance covers the insured's cost to defend the countersuit. Countersuits are a common tactic used by patent infringers.
3. Costs required to reexamine, in the patent office, the named insured's patent. This is often required when, in countersuing an insured, an infringer attempts to invalidate an insured's patent.
4. Cost of reissuing a patent. Reissue costs assist an insured in strengthening patent claims when attempting to enforce a claim against an infringer.