

IT and Technology companies face increased legal action from the economic downturn

The economic downturn is likely to expose companies within the IT and Technology sectors to potentially costly legal claims for delivering a product or service that clients allege does not meet their expectation or requirements. An alleged defective product or service from an IT consultant is one of the most commonly cited reasons for a breach of contract claim.

Over the last 4 years claims for breach of contract, where a company claims its IT supplier has failed to deliver a product or service in line with the original contract, made up more than 36% of all claims dealt with by specialist technology insurance company Hiscox. Of the 100 largest IT claims managed and paid by Hiscox, the main causes of claims were:

- 68% claimed defective products or services
- 60% claimed inadequate project management
- 56% claimed inadequate initial scoping of the project

Whilst IT and technology companies may improve their project scoping abilities, breach of contract claims could increase during an economic downturn as client companies, who may be short of capital funding, make cut backs and reduce investment. IT projects are often the focus for cost cutting analysis and companies may decide that they can recoup part of the initial expenditure or try and get out of an existing contract, by alleging their IT consultant has not provided them with the system or solution they were contracted to provide.

The current economic downturn highlights the importance to companies within the IT and Technology sectors of correct project scoping and agreeing a contract from the onset to avoid costly legal action. It is critical that the clearest contract terms are used when defining what they intend to deliver, with detailed cost structures, and development and implementation time scales. Then by careful management of the contract and the client expectations, ensure any potential opportunity for misunderstandings or disagreements is minimised.

Many companies within the IT and Technology sectors do not realise that their existing professional indemnity insurance may not provide the adequate cover.

Jurisdiction may be restricted, and even when cover is provided there are often a number of policy conditions that need to be complied with for the claim to be insured. It is absolutely critical that IT companies, from sole traders through to multi million global companies, check that their professional indemnity insurance policy provides cover for breach of contract.

More often than not companies within the IT and Technology sectors are provided with an 'off the shelf' professional indemnity policy which does not provide adequate cover for their business risks or contractual obligations. The risk profile of companies within the IT and Technology sectors varies significantly and it is critically important that professional indemnity policies are tailored to meet the varying and unique risk profiles. Additionally they should notify their insurance company immediately if they suspect a problem, which often first shows itself through an unpaid client invoice!

Please email Andrew Parkin or Richard Holmes to find out more:

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