

IT & Media

We are one of the few insurance-focused teams specialising in defending claims on behalf of insurers brought against technology and media professionals by their clients and former clients.

Whether addressing allegations of negligence and breach of contract, advising insurers on allegations of defamation, misrepresentation and breach of intellectual property rights, advising insurers on policy coverage and wordings, our experience and reputation stand ahead of the field.

What we do

We understand that the provision of Professional Indemnity insurance to the media and technology sector is a growing area. Those insurers holding a strong market share are feeling increasing pressure from new and emerging entrants, as well as changes in the ways customer relationships and claims are managed.

Most importantly, we understand that technology businesses often start small, before growing quickly. This presents insurers with challenges. Whilst in this growth period we understand the vital importance of reaching an early decision as to whether or not there is scope to preserve a contract or project and, if not, whether the policyholder needs to take action for repudiatory breach (usually non-payment). Further, we understand that this 'flexing' means insurers come under increasing pressure to find ways to ensure that insurance cover develops at the same pace as a policyholder's business, to meet the needs of all parties, at every stage.

At DWF we combine a reputation for our market-leading use, and understanding, of technology in our own business, as well as one of the largest and most respected insurance practices in the UK. This helps us to 'talk the insured's language' and develop a level of trust with the policyholder that aids resolution in the long run. Whether advising on claims, policy wordings or strategic matters, we understand the sector, the language and the issues facing policyholders (and insurers) in this rapidly expanding market.

Our IT & Media-related Professional Indemnity expertise includes advising on:

- Effective resolution of civil claims for breach of contract and/or negligence.

- Claims brought for misrepresentation and/or negligent misstatement
- Intellectual property rights disputes, including claims for passing off, breach of copyright and trade mark infringement
- Fee recovery actions
- The incorporation and suitability of terms and conditions
- Third party contract review services
- Policy wording
- Policy coverage
- Subrogated recoveries for both insured and uninsured losses
- Alternative dispute resolution, including mediation, expert determination and adjudication

Examples of our work include:

- Defending a £30m+ claim against a microelectronics company arising out of a failed project for development of a new technology product.
- Making a successful recovery for a telecommunications provider in relation to a £1m+ dispute with its former client over the failed implementation of a new contact and call centre.
- Acting for an IT consultant in the defence of a £9.7m claim (consisting of direct losses and loss of profit) brought by their client arising out of a ransomware attack.
- Acting for a PLC IT company in dispute with its customer in relation to the failed installation of a bespoke replacement integrated business management system.
- Acting for a digital marketing agency in relation to a claim for losses arising from failed website development and search engine optimisation alleged to have resulted in £1m+ losses.
- Acting for a photographer in relation to a breach of copyright claim arising from a shoot for a leading fashion magazine.
- Acting for a PR agency in defence of a claim by another member of the supply chain relating to a failed competition, with allegations of breach of contract, trade mark infringement and passing off.
- Providing pre- and post-publication advice to industry regulator in relation to their online and print publications, including with regard to defamation and privacy issues.

Why DWF?

- Our experts are based across the DWF offices, in Manchester, Leeds, London, Liverpool and Birmingham, as well as Belfast, Dublin, France, Cologne, Singapore and the Middle East.
- We speak the insured's language and work closely with the professional to achieve an outcome that is commercial and protects reputations where possible as well as existing client relationships where desired.
- We recognise that claims against technology and media professionals are often made as a tactic to avoid a fee claim. We are regularly instructed privately by insured clients to assist with their fee claims before any counterclaim has been made. Through our experience in the industry, we are adept at managing the tension between these competing claims. This allows us to shape the direction in which a case should head, before significant costs are built up.
- In 2017, 78% of the claims dealt with by DWF's technology and media team were settled pre-action, with 74% settled without any payment being made to the Claimant (and many involving in a positive payment to our insured clients).
- We deal with matters across the full spectrum of disputes, from those allocated to the small claims track through to the High Court. Our experience, expertise and industry-knowledge allows us to tailor our approach accordingly to ensure a satisfactory and commercial resolution for both insurers and their policyholders.
- We regularly act against litigants in person and tailor our approach accordingly to help facilitate a commercial resolution.

Contacts



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