

5 KEY TAKEAWAYS

New Economy Businesses Need New Insurance: Can The Insurance Industry Keep Up?

Kilpatrick Townsend Attorney, **Will Um**, recently presented the “New Economy Businesses Need New Insurance: Can The Insurance Industry Keep Up?,” as a part of the ABA Insurance Coverage Litigation Committee CLE Seminar in Tucson, Arizona, on March 2, 2017.

Five key takeaways from the presentation, include:

1

We are in an era where technology is fueling rapid growth and changes in the economy on a regular basis. From businesses in the “shared economy” to “disruptive innovations” and new technological advances, these innovative businesses face new risks and liabilities outside of traditional business models. These new economy businesses cannot rely on traditional “off the shelf” insurance coverage to insure against liabilities and losses that even plaintiffs’ lawyers have yet to discover.

In this fast-changing environment, companies need to take extra care to review and to investigate their potential liabilities as they navigate the insurance market in the new economy.

2

3

New technology, such as 3-D printing, augmented and virtual reality, and autonomous vehicles, creates numerous benefits for the economy but they also present unknown risks and liabilities. Take, for example, the proliferation of 3-D printing. 3-D printers have been used to “print” endless consumer items from simple hair combs to lamps, and other household products, to breakthrough products in the medical and manufacturing fields. As the potential uses for 3-D printing are infinite, so are the potential legal implications and associated insurance risks.

These new technologies are changing the liability landscape and redefining traditional risks such as product liability, personal injury liability, and intellectual property liability. Because insurance is based on risk modeling and actuarial science, these new technological advances create challenges for the traditional underwriting and risk assessment models typically used by insurance carriers. The knee-jerk reaction to try to fit the proverbial “square peg into a round hole” by placing traditional lines of insurance onto these new disruptive innovations will not work.

This approach has not fared well in the marketplace. The current insurance options available for this new economy often feature high rates and are cost prohibitive for new start-ups. These rates will likely decrease as more risk modeling information is available and with more claims and loss history to draw from in the future.

4

5

With the rapid pace of technological advancements, now more than ever, insurance practitioners face many challenges to try to keep up with all of the potential liabilities and risks that come with these new innovations and business models. Businesses should work with knowledgeable professionals to help tailor individualized company risks with the appropriate insurance coverages in the marketplace and if necessary, to help craft new coverages to protect against unknown risks.

Will Um is a nationally recognized litigator who focuses his practice on complex business litigation, insurance recovery advice and related coverage litigation. Mr. Um advises and represents corporate policyholders in complex insurance coverage claims relating to a variety of matters including class actions, media liability, intellectual property disputes, data breach and privacy issues, professional services liability, directors and officers liability, and various environmental and toxic tort matters.

For more information, please contact: Will Um at wum@kilpatricktownsend.com.

www.kilpatricktownsend.com