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When Is “Yours” Not Yours? Pennsylvania Superior Court Interprets “Your Computer” Definition in Commercial Property Policy

Article By:

John Mark Goodman

Aaron J. Campbell

Sometimes defining the simplest phrases proves anything but simple. So learned the insurer in a property loss and bad faith case brought by its insured and decided earlier this year by the Pennsylvania Superior Court (*Watchword Worldwide v. Erie Ins. Co.,* 308 A.2d 728 (Pa. Superior Ct. 2024)).

Watchword Worldwide engaged in the business of producing and selling Biblical videos. Its sales process involved a customer’s use of a mobile application and an application programming interface (API) that verified the sale and delivered the purchased video. Watchword’s videos and its API were housed on a server owned by GoDaddy; Watchword leased an account on GoDaddy’s server under a license, but the server was owned by GoDaddy.

In 2017, Watchword learned that an unknown hacker had deleted its videos and API from the GoDaddy server. It asserted a claim against its property and liability insurer, seeking recovery under the policy’s electronic data coverage. The policy provided coverage for loss or damage to electronic data, “which is owned by you, licensed or leased to you, originates and resides in your computers, and is used in the e-commerce activity of your business.” The insurer, Erie, denied the claim, in part on the basis that Watchword’s data at the time of its loss resided on GoDaddy’s server, not Watchword’s.

Watchword then filed suit for breach of contract and bad faith against Erie. The jury returned a verdict in Watchword’s favor, and Erie appealed. The appeals court reversed the jury’s verdict, on the ground that Watchword had not adequately shown that its loss exceeded the policy’s deductible but ruled against the insurer on the “your computers” issue.

In a question of first impression – not only in Pennsylvania but apparently the country – the court ruled that “your computer” could reasonably both include or exclude computers the insured had a right to use but did not own. The court noted that policy did not define the term “your computer” and that no case law existed interpreting it and so applied the common understanding that “your computer” could reasonably apply to computers that the insured did not own but had a right to use.

Because both definitions were reasonable, the term was ambiguous and therefore had to be construed in the insured's favor. In this case, the term "your computer" was not defined, which allowed the court to apply its own common-sense definition that expanded coverage. Had the policy contained its own, more restrictive definition, the analysis could have come out very differently. The takeaway for policyholders here is that simple phrases in an insurance policy may not be so simple after all. It makes sense to check your electronic data coverage, particularly if your data is being preserved on or passing through servers or other computer facilities that you don't technically own.

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