

# REPRESENTATIONS & WARRANTIES

## TRANSACTIONAL LIABILITY

Many businesses are going through Mergers and Acquisitions these days. Having a Reprs & Warranties (R&W) policy in place can help avoid delays and keep the deal on track. R&W Insurance can help protect the Insured from financial loss or liability resulting from their Mergers & Acquisitions (M&A) Agreement.

- Policy unique to each M&A transaction
- Removes the need for escrow and/or providing indemnity
- Get payment to investors faster
- Makes the seller look better to buyers

### CLAIMS EXAMPLE:

A management team based in Silicon Valley recently sold their technology start-up for \$10M to a larger company interested in branching into wearable tech. 12 months after the acquisition, the management team (who then moved on to a new project) was notified there was a significant patent litigation regarding the proprietary software involved with the wearable technology.

The management team made clear and comprehensive representations regarding intellectual property. These representations included that there had been no notifications regarding patent infringement claims. However, unknown to the management team, the legal department had received two emails from a company based in Japan 18 months prior to the acquisition. These emails had not been identified as legitimate and were promptly discarded without notification to the management team.

After the acquisition, the business' buyer received further and more comprehensive contact from the Japanese company, which resulted in patent litigation. The litigation from the Japanese company was not successful, but the buyer incurred over \$200k in defense costs.

**Reach out to one of our Brokers for help placing Transactional Liability insurance for your insured.**

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