

Comments on computer software, bugs, and accountability.

By shifting the burden-of-accountability to the producers of defective software, strict liability would . . . address a peculiar anomaly. One of the virtues of strict liability is that it offers a means of protecting the public against the potential harms of risky artifacts and property. Yet in the case of computing and its applications, we appear to live with a strange paradox. On the one hand, the prevailing lore portrays computer software as prone to error in a degree surpassing most other technologies, and portrays bugs as an inevitable by-product of computing itself. Yet on the other hand, most producers of software explicitly deny accountability for the harmful impacts of their products, even when they malfunction. Quite the contrary should be the case. Because of the always-lurking possibility of bugs, software seems to be precisely the type of artifact for which strict liability is appropriate; it would assure compensation for victims, and send an emphatic message to producers of software to take extraordinary care to produce safe and reliable systems.

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