

BEN CLINE

6TH DISTRICT, VIRGINIA

2443 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5431
Fax (202) 225-9681
WWW.CLINE.HOUSE.GOV



HOUSE COMMITTEE ON THE JUDICIARY

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AND ACCOUNTABILITY TO OVERSIGHT

HOUSE COMMITTEE ON APPROPRIATIONS

HOUSE COMMITTEE ON THE BUDGET

Congress of the United States
House of Representatives

October 12, 2023

Nicole Argentieri
Acting Assistant Attorney General
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

John Lynch
Chief, Computer Crime & Intellectual Property Section
United States Department of Justice
John C. Keeney Building, Suite 600
Washington, DC 20530

Dear Assistant Attorney General Argentieri and Chief Lynch:

CoStar Group, Inc. ("CoStar"), a large Virginia employer, has brought to our attention a concerning trend in the online database sector of the real estate industry. I write to bring this matter to your attention and request information about the Department's general approach to intellectual property theft.

Over the years, CoStar has been the repeated target of competitors who steal CoStar's proprietary content and impermissibly access its password-protected database of real estate information, a database that it has spent billions of dollars developing since the late 1980s. CoStar and its acquired companies have brought multiple civil lawsuits to protect against this misconduct. For example, back in 2015, Commercial Real Estate Exchange, Inc. ("CREXi") misappropriated highly confidential data from a rival, Ten-X, now a CoStar subsidiary.¹ This led to litigation in California, an injunction, a significant damages payment, and a public statement of regret by the CREXi CEO. In 2016, CoStar rival, RealMassive, settled a copyright infringement lawsuit relating to CoStar's copyrighted content.² Also in 2016, after uncovering yet more infringement, CoStar filed suit against rival Xceligent in federal court in Missouri, a case where the theft was of such scope that it resulted in the most significant judgment in

¹ <https://therealdeal.com/la/2017/05/11/crexi-settles-lawsuit-with-rival-ten-x/>

² <https://www.globenewswire.com/en/news-release/2016/03/02/906770/0/en/RealMassive-Resolves-Lawsuit-With-CoStar.html>

Winchester Office
100 N. Loudoun St, Suite 120
Winchester, VA 22601
Phone: (540) 546-0876
Fax: (540) 857-2675

Harrisonburg Office
70 N Mason St, Suite 110
Harrisonburg, VA 22802
Phone: (540) 432-2391
Fax: (540) 857-2675

Staunton Office
117 S Lewis St, Suite 215
Staunton, VA 24401
Phone: (540) 885-3861
Fax: (540) 857-2675

Roanoke Office
10 Franklin Rd SE, Suite 510
Roanoke, VA 24011
Phone: (540) 857-2672
Fax: (540) 857-2675

history for the infringement of copyrighted photographs (\$500 million).³ Further, a monitor appointed by the Federal Trade Commission determined that Xceligent had indeed improperly derived more than 38,000 copyrighted images from CoStar's systems.⁴ Despite those suits, all vindicated by damages awards and the related FTC monitor investigation, the misconduct has continued to spread.

According to court filings and public reports, CREXi is allegedly impermissibly accessing the database of CREXi's primary competitor, CoStar, and downloading content relating to the commercial real estate industry.⁵ Further, according to widespread press coverage, the wrongdoing is part of a global scheme involving companies in India aiding the infringement of more than 50,000 copyrighted images:

- Paul Bergeron, CoStar Sues Crexi for 'Flagrant and Widespread' Intellectual Property Theft, GLOBE STREET (Dec. 20, 2022), <https://www.globest.com/2022/12/20/costar-sues-crexi-for-flagrant-and-widespread-intellectual-property-theft/>
- How Some Indian BPOs Are Caught In A Crossfire Between Two US Realty Listers, THE ECONOMIC TIMES (Dec. 2, 2022), <https://economictimes.indiatimes.com/prime/corporate-governance/how-some-indian-bpos-are-caught-in-a-crossfire-between-two-us-realty-listers/primearticleshow/95921223.cms?from=mdr>
- Sukanya Sarakar, Key Witness Flips in US Real Estate Copyright Row, Managing IP (Apr. 12, 2023), <https://www.managingip.com/article/2bjnq4m89iw1jd02sf94w/key-witness-flips-in-us-real-estate-copyright-row#:~:text=Ritesh%20Jaiswal%2C%20CEO%20of%20247,preparing%20property%20listings%20for%20Crexi>

If the allegations are true, such actions seriously undermine the online database industry and Virginia's economy. CoStar is a key player in Virginia's economy, employing over 2,000 Virginians in high-paying jobs. CoStar has also committed to investing more than \$450 million to expand its research and technology center in Richmond to bring another 2,000 jobs to the area.⁶ Should the attacks continue; they threaten CoStar's ability to invest not only in Virginia's economy but the U.S. economy as a whole. Furthermore, this activity may not be confined to CoStar's database. Montana based Biproxi's CEO Gordon Smith released a press release in which he stated, "[b]ased on our investigation, it appears that CREXi attempted to copy our

³ <https://www.wc.com/News/145602/CoStar-Adversary-Agrees-to-500-Million-Judgment-in-Copyright-Case>.

⁴ *Id.*

⁵ Second Amended Complaint ("SAC"), 20-CV-8819 (C.D. Cal. March 13, 2023), 0kt. 351.

⁶ https://richmond.com/news/local/business/costar-group-plans-big-growth-in-richmond-to-add-2-000-more-jobs/article_aa0fd9e8-f0c6-11ed-a586-c7816a2688ff.html

online data in an attempt to create content at no cost to enhance their own listings, bypassing the established channels necessary to develop beneficial syndication partnerships.”⁷

Given the serious allegations against CREXi and the adverse effects on a critical employer in the Virginia and U.S. economies, I wanted to bring this situation to your attention. Furthermore, given the seriousness of the alleged conduct and the history of copyright infringement and database hacking in this industry, I would appreciate understanding the Department’s general approach to these matters.

I appreciate your review of these concerns.

Sincerely,

A handwritten signature in black ink that reads "Ben Cline". The signature is written in a cursive, slightly slanted style.

Ben Cline
Member of Congress

⁷ Press Release, Bipoxi Alerts Industry to Unprofessional Actions (Aug. 9, 2023) (<https://www.bipoxi.com/legal/immediate-release>).