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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 COSTAR GROUP, INC., and COSTAR  
14 REALTY INFORMATION, INC.,

14 Plaintiffs,

15 v.

16 COMMERCIAL REAL ESTATE  
17 EXCHANGE, INC.,

18 Defendant.

19 COMMERCIAL REAL ESTATE  
20 EXCHANGE, INC.,

21 Counterclaimant,

22 v.

23 COSTAR GROUP, INC., and COSTAR  
24 REALTY INFORMATION, INC.,

25 Counterdefendants.

Case No. 2:20-cv-08819-CBM-AS

Hon. Consuelo B. Marshall

**THIRD AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

**REDACTED VERSION OF  
DOCUMENT PROPOSED TO BE  
FILED UNDER SEAL**

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1 Plaintiffs CoStar Group, Inc. (“CoStar Group”) and CoStar Realty  
2 Information, Inc. (“CoStar Realty”) (collectively, “CoStar”), by and through its  
3 undersigned counsel, bring this Third Amended Complaint against Commercial Real  
4 Estate Exchange, Inc. (“CREXi”) and allege as follows:

5 **PRELIMINARY STATEMENT**

6 1. CoStar brings this suit to redress CREXi’s flagrant and widespread theft  
7 of CoStar’s intellectual property and its unlawful scheme to build a competing  
8 business on the back of that stolen content.

9 2. The scale of CREXi’s wrongdoing is breathtaking. To date, CoStar has  
10 identified **48,649** CoStar-copyrighted photographs copied, displayed, or reproduced  
11 by CREXi without permission. This figure far surpasses the number of copyrighted  
12 images that resulted in CoStar’s record-setting \$500 million judgment against  
13 Xceligent.

14 3. Worse still, despite being sued in federal court, CREXi remains defiant,  
15 and its wrongdoing continues. Of the nearly 50,000 infringing images, CREXi  
16 infringed over **25,000** of them *after* CoStar filed its original complaint in 2020, and  
17 its infringement has continued through 2024.

18 4. CREXi has built its competing commercial real estate marketplace and  
19 data business by infringing CoStar’s content, and has refused to stop. To populate  
20 its marketplace and subscription database with property listings and records, it has  
21 copied them en masse from CoStar. And such property listings and records include,  
22 indeed require, property images—which are critical to attracting users. As Eli  
23 Randel, CREXi’s Chief Operating Officer, has admitted, when it comes to  
24 commercial property, “images matter.” Lacking any comprehensive image library  
25 of its own, CREXi—as a matter of company policy—harvests images from CoStar,  
26 including from CoStar’s competing LoopNet marketplace, knowing that such  
27 photographs are copyrighted.

28

1           5.       CREXi plotted to eliminate CoStar entirely, so that it could take over  
2 the industry and become a monopoly globally. In the midst of CREXi’s scheme to  
3 steal CoStar’s intellectual property, CREXi CEO Mike DeGiorgio crowed to a key  
4 investor and his fellow CREXi executives that they were close to achieving their  
5 goal of industry domination: “CREXi will dominate listings, transactions, leasing,  
6 CRM, lending, portfolio management, data/comps both in the usa and internationally  
7 and *literally soon be the one and only platform of the industry.*”

8           6.       CREXi’s quest to eliminate all competition, by all means necessary,  
9 became a consuming passion at the company. Speaking of rival marketplace  
10 Brevitas, CREXi’s Chief Operating Officer Eli Randel wrote to the CREXi executive  
11 team: “Fuck them . . . Let’s not let them get their footing.” He nicknamed CREXi’s  
12 competitor “Breastytas” and asked his colleagues to come up with more derogatory  
13 nicknames. CREXi’s no-holds-barred attacks has led to it becoming a pariah in the  
14 industry.

15           7.       For example, CREXi competitor BiProxi issued a press release railing  
16 against CREXi’s mass theft from BiProxi’s website: “Biproxi has recently  
17 discovered what it believes to be actions by [CREXi] compromising the integrity of  
18 the online commercial real estate listing industry . . . the copying or ‘scraping’ of  
19 listings from other sites without authorization undermines the integrity of the  
20 industry and devalues consumer confidence . . .” BiProxi’s CEO, Gordon Smith,  
21 stated further that “it appears that CREXi attempted to copy our online data in an  
22 attempt to create content at no cost to enhance their own listings, bypassing the  
23 established channels necessary to develop beneficial syndication partnerships” and  
24 that CREXi’s actions forced BiProxi to take “proactive measures” to “preserve the  
25 integrity of our industry.”

26           8.       Reflecting CREXi’s goal of worldwide industry domination, CREXi’s  
27 ongoing scheme of mass infringement is global in nature. Like Xceligent before it,  
28 CREXi has offshored much of its theft to agents abroad. CREXi used cheap offshore

1 labor to manually scrape LoopNet. From CREXi’s earliest days, CREXi executive  
2 Paul Cohen instructed his fellow CREXi executives, including Doug Shankman and  
3 Eli Randel, to employ “girls” located abroad to systematically copy from LoopNet,  
4 warning his colleagues to direct the offshore workers to use proxy servers (like  
5 “hide.me”) and fake (or what he called “BS”) accounts to avoid being caught by  
6 CoStar. In their internal emails just a few days prior, Shankman and Randel admitted  
7 that CREXi’s business strategy “*revolves around taking listings from LoopNet,*” an  
8 “approach” that had been “use[d] very effectively.”

9 9. Recently produced communications between CREXi and its agents  
10 abroad have further lifted the veil on CREXi’s illicit operations, demonstrating the  
11 systematic way in which CREXi copied CoStar’s intellectual property at scale.

12 10. As a matter of policy, and for years, CREXi has directed its offshore  
13 agents to copy CoStar-copyrighted images and associated listing details from  
14 LoopNet (and other CoStar websites) and from property brochures; to crop out the  
15 CoStar watermark from the copyrighted images; and to upload the cropped images  
16 and listing content to CREXi.com. These were the orders laid down by CREXi  
17 management, and followed by CREXi employees and agents.

18 11. For example, following CREXi’s written policy, then-CREXi Business  
19 Development Representative Christian Vien repeatedly sent CREXi’s Indian agents  
20 Dropbox links containing photographs with the CoStar watermark, and screenshots  
21 he had taken of listings on CoStar’s LoopNet site, for the purpose of creating CREXi  
22 listings. At the direction of CREXi management, Vien instructed the offshore agents  
23 to “*[e]xclude/cropout any LoopNet watermarks found in photos*” and use his  
24 screenshots of LoopNet listings to build out listings on CREXi’s competing  
25 marketplace site.

26 12. As another example, CREXi Customer Success Manager Austin  
27 Maddox repeatedly directed CREXi’s Indian team to “create listings from . . .  
28

1 LoopNet” and to “[p]lease use photos from [a LoopNet] flyer but *make sure to crop*  
2 *out the watermarked LoopNet logo* on the bottom right of them.”

3 13. By way of further example, fellow CREXi Customer Success Manager  
4 Steven Son sent listing materials to CREXi’s India-based Head of Deal Management  
5 over CREXi’s internal Slack messaging platform noting that there were “a few *LN*  
6 *[LoopNet]/CoStar watermarks* on some of the photos. *Please make sure to remove*  
7 *them before uploading.*”

8 14. Similarly, in a recorded training session, CREXi’s Manager of Business  
9 Operations warned CREXi’s Indian agents that, when they built listings, they needed  
10 to look for the “*CoStar logo in the bottom right*” of the images used to create CREXi  
11 listings and to “*crop [the CoStar logo] out of the picture. You can still use the*  
12 *picture but we need to make sure the watermark is removed.*” The examples of  
13 blatant wrongdoing go on and on.

14 15. CREXi’s practice of cropping out the CoStar watermark—before  
15 uploading the image to CREXi.com—is a vain attempt to cover-up CREXi’s  
16 industrial-scale infringement by seeking to obscure CoStar’s ownership of these  
17 photographs. The instructions from CREXi are shamelessly direct. One CREXi  
18 manager, in all caps, ordered an Indian agent to “**NOT ADD WATERMARKED**  
19 **PICTURES, PLEASE CROP.**” Orders like these from CREXi lead to the  
20 following:

21  
22 CoStar-Copyrighted  
23 Photograph on LoopNet



Cropped Image on CREXi





1           16. This compelling evidence of wrongdoing is repeated across thousands  
2 of images and years of misconduct, and is found in the hands of a slew of CREXi  
3 managers, employees, and the aforementioned Indian agents.

4           17. Little wonder then that discovery has revealed that CREXi management  
5 instructed its entire “business development” (i.e., mass copying-and-cropping) team  
6 specifically to engage in such wrongdoing *as a matter of policy*. Nick DeGiorgio,  
7 the CREXi CEO’s cousin and close associate, copying a Regional Director of Sales,  
8 a manager on the Customer Support Team, and a third senior CREXi manager,  
9 emailed the CREXi Business Development team group e-mail acknowledging that  
10 it was improper to copy from CoStar sites such as LoopNet, and thus when they did  
11 so they should cover their tracks: **“TAKE A SCREENSHOT OF THE PHOTOS  
12 ... TO ENSURE THAT THE WATERMARK LOGO IS REMOVED.”** The  
13 CREXi employees were further instructed to send the cropped CoStar photographs  
14 and associated LoopNet listing information to CREXi’s Indian agents to create  
15 listings on CREXi.com.

16           18. Thus—while CREXi’s refrain has been that it is merely a passive  
17 platform, and that the mass infringement was inadvertent—its own documents are  
18 to the contrary. Copying images from LoopNet, when deemed necessary by CREXi,  
19 and cropping out the CoStar logo from those images is CREXi’s written policy.

20           19. In testimony, a former CREXi Business Development Representative  
21 admitted that in accordance with this policy he accessed LoopNet listings from his  
22 home computer, copied listings containing CoStar-copyrighted images, and sent  
23 those listings to his CREXi work email to be forwarded to CREXi’s agents in India,  
24 so that they could crop the copyrighted images and use them to create CREXi  
25 listings. In that same testimony, the former CREXi employee confirmed that  
26 CREXi’s practice was to *“copy [a] listing from LoopNet, crop out the watermark,  
27 and build the listing on CREXi”* with the help of CREXi’s Indian agents.

28

1           20. CREXi was of course well aware that CoStar’s watermark indicated  
2 that CoStar owned a copyright in a photograph. CREXi’s Head of Deal Management  
3 recounted to James Burton, CREXi’s Manager of Business Operations, that his  
4 team’s practice was to “crop” logos from images “to *avoid any copyright issue.*”  
5 That practice was, in accordance with CREXi’s policy, widespread. Nick  
6 DeGiorgio, the CEO’s cousin, instructed his team that “[i]f you are submitting  
7 L\*\*pnet/Co\* flyers” to be built by CREXi’s Deal Management team, they should  
8 issue instructions to “PLEASE BE SURE TO REMOVE/CROP OUT ANY  
9 WATERMARKS ON ANY PHOTOGRAPHS.” Another team leader emphasized  
10 that it was important to follow Mr. Nick DeGiorgio’s instructions because failing to  
11 do so “*puts us at risk for a potential legal issue.*” And when Mr. Burton asked  
12 Lawson Dees, CREXi’s Vice President of Operations, if CREXi could do anything  
13 to identify “L[oop]N[et] pictures” on CREXi’s site because there was “a bunch of  
14 stuff” that—euphemistically—needed to be “cleaned up,” Mr. Dees responded that  
15 CREXi was “working on a tech solution to identify photos with *potentially harmful*  
16 *watermarks,*” i.e. *CoStar’s watermark.*

17           21. That “tech solution” was to hire a copyright vendor tasked with running  
18 software that *specifically looked for the CoStar watermark* (and only the CoStar  
19 watermark) on photographs in CREXi’s system, just in case CREXi’s cropping  
20 efforts were not 100% successful. The vendor stated in court documents that it was  
21 hired to “identify photographs in the real estate listings [CREXi] receives from  
22 brokers that might be *copyright protected,* so that those photographs can be removed  
23 from CREXi’s website.” After CREXi hired that vendor, Mr. Burton confirmed to  
24 a Customer Success manager that CREXi had hired a company to go “through the  
25 listings and delete[] everything that has a L[oop]N[et] watermark” for CREXi’s  
26 “*safety.*” But then Mr. Burton knowingly uploaded a photo that had been “cropped”  
27 to remove the CoStar watermark.

28

1           22. In other words, CREXi and its vendor affirmatively relied on the  
2 presence of the CoStar watermark to identify CoStar-copyrighted images. All while  
3 CREXi was cropping out that watermark and copying and posting the cropped  
4 images. There can hardly be better evidence of CREXi's willful infringement.

5           23. CREXi's mass cropping, in an effort to hide its wrongdoing, has been  
6 mirrored by its obfuscatory tactics in this case. CREXi failed to disclose the names,  
7 or even the existence, of many of the CREXi employees who provided listings to  
8 CREXi's Indian agents and who issued the direct orders to copy photographs from  
9 LoopNet listings and crop out CoStar's watermark—individuals like Mr. Vien and  
10 his former colleague Mr. Maddox. CoStar had to independently uncover their  
11 identities. And it was not until CoStar raised CREXi's failure to disclose those  
12 CREXi employees to the Court that CREXi finally agreed to search and produce  
13 their communications.

14           24. Likewise, CREXi has served discovery responses, verified under  
15 penalty of perjury, that also try to hide the ball. For example, CoStar asked CREXi  
16 to explain how it sourced listings and whether it cropped photographs. CREXi's  
17 written response does not disclose that it copies from LoopNet, and says nothing  
18 about the mass cropping of CoStar's watermark. In fact, the response indicates that  
19 if a suggestion was made that CREXi copy a listing from LoopNet, CREXi would  
20 pursue an alternative source. Not a word about the detailed instructions CREXi  
21 management issued on exactly how to copy (screenshot) a LoopNet listing, not a  
22 mention of the slew of instructions on cropping the CoStar watermark, just  
23 misdirection.

24           25. In depositions, CREXi's own witnesses were later forced to concede,  
25 in light of CREXi's voluminous emails and Slack messages discussing the mass-  
26 copying and cropping, that for years there was a *policy* dictating that CREXi would  
27 crop CoStar's watermarks, and a *policy* determining that CREXi would copy entire  
28 listings, including photographs, from LoopNet when CREXi deemed it warranted.

1 Yet CREXi’s under-oath, fully vetted, written discovery responses do not  
2 acknowledge that reality. The cover up has thus continued.

3 26. CoStar knew CREXi’s theft was brazen when CoStar initially filed suit,  
4 having already identified 10,000 CoStar copyrighted images. That number, it turns  
5 out, was the tip of the proverbial iceberg. And in the more than three years since  
6 CoStar initially sued CREXi, CREXi has done almost nothing to curb its  
7 misconduct, with infringement continuing apace since this lawsuit was filed. CREXi  
8 is a wrongdoer that has decided to thumb its nose at both CoStar and the legal system.

9 27. In fact, even after being sued, CREXi’s campaign to take down CoStar  
10 didn’t miss a beat. In January 2021, four months after this lawsuit was originally  
11 filed, CREXi’s Chief Marketing Officer Courtney Ettus wrote: “**Costar loopnet . . .**  
12 **OBVIOUSLY HERE TO FUCK THEM UP.**”

13 28. Over the past thirty-five years, thousands of CoStar employees,  
14 including hundreds of photographers, have worked hard to build a business that  
15 serves the needs of the real estate industry and beyond. CoStar is committed to  
16 protecting the work of those who have helped make CoStar’s success possible.  
17 CREXi’s shameless and ongoing free-riding on those efforts, and the billions of  
18 dollars invested by CoStar, must be redressed.

19 \* \* \*

20 29. CoStar is the nation’s leading provider of commercial real estate (a.k.a.  
21 “CRE”) information, analytics, and online property marketplaces. CoStar offers a  
22 password-protected database subscription service used by brokers and other entities  
23 that require comprehensive commercial real estate data. CoStar also owns a number  
24 of digital marketplaces containing listings of real estate for sale and for lease.  
25 CoStar’s LoopNet.com website is the leading digital marketplace for commercial  
26 real estate in the United States.<sup>1</sup> Listings on LoopNet contain CoStar-copyrighted

27  
28 <sup>1</sup> For the avoidance of doubt, CoStar’s allegations related to LoopNet in this case refer solely to  
CoStar’s LoopNet marketplace and not to broker websites powered by CoStar’s LoopLink service,

1 images, data from the CoStar database, and edits made by CoStar researchers to  
2 improve marketability. Everyday, buyers, sellers, lessors, lessees, owners, and  
3 brokers access and use the marketplace at www.loopnet.com in order to list, buy,  
4 sell, lease, rent, or browse commercial real estate. In addition, CoStar runs a  
5 commercial real estate auction platform, known as Ten-X.com.

6 30. CREXi is building its own online commercial real estate marketplace  
7 and auction platform by free-riding on CoStar's billions of dollars of investments  
8 and the thirty-plus years of hard work by CoStar's employees. With the aid of  
9 approximately 40 offshore companies working at CREXi's direction and on its  
10 behalf, including multiple Indian business process outsourcing organizations  
11 ("BPOs") (and collectively, "Agents"), CREXi engages in mass infringement of  
12 CoStar-copyrighted photographs to populate its rival marketplace and paid  
13 subscription service, Intelligence.

14 31. Based on a review of CREXi's website, as well as an analysis of images  
15 produced by CREXi through October 2022, CoStar has so far identified **48,649**  
16 copyrighted CoStar photographs copied, displayed, or reproduced by CREXi  
17 without permission, including over **25,000** that CREXi infringed *after* CoStar filed  
18 its original Complaint. (To give a sense of the harm inflicted and scale of  
19 wrongdoing, federal judgments have placed a value of \$50,000 on each CoStar  
20 image infringed.) These photographs almost certainly constitute a mere fraction of  
21 the total infringement present in CREXi's systems, as CREXi's public-facing  
22 website displays only photographs associated with active listings CREXi has  
23 decided to publish on that public-facing website; CREXi has failed to conduct a  
24 thorough search for CoStar-owned images in its back-end image library.

25 32. CREXi is a sizeable and well-funded company, and could compete  
26 fairly with CoStar if it so chose. As of early 2020, CREXi had purportedly already

27 \_\_\_\_\_  
28 a service that allows brokers to "link" their websites to "LoopNet" (with the LoopLink-hosted  
portion of a broker's website then operated and hosted by CoStar). IP Addresses associated with  
CREXi have accessed LoopLink without difficulty during this lawsuit.

1 raised approximately \$60 million, including (i) a \$4.3 million Seed funding  
2 announced in February 2016, (ii) an \$11 million Series A funding announced in May  
3 2018, and (iii) a \$30 million Series B funding announced in January 2020. CREXi  
4 has received significant investments from multiple venture capital backers, including  
5 Jackson Square Ventures, Freestyle Capital, Lerer Hippeau Ventures, Leon Capital  
6 Group LLC, Industry Ventures, and TenOneTen Ventures. Indeed, TenOneTen  
7 Ventures appears to have invested roughly \$8.7 million, separate and apart from its  
8 involvement in CREXi's initial Seed and Series A funding. And, these  
9 aforementioned investors merely account for the largest stakeholders; CREXi has  
10 garnered the financial support of a number of additional investors, including (but not  
11 limited to) Clark Landry, Manifest Investment Partners, Hack VC, Beta Bridge  
12 Capital, Prudence Holdings, Mitsubishi Estate Company, Wonder Ventures, and  
13 KohFounders. With those resources, CREXi could have grown its business  
14 legitimately; it does not need to harvest content from CoStar to survive. But CREXi  
15 has made the strategic choice to take a shortcut and build out its business on the  
16 cheap by stealing from CoStar.

17 33. CREXi's current and former employees—as well its Agents in India,  
18 the Philippines, and Pakistan—have routinely accessed LoopNet in order to copy  
19 CoStar's copyrighted photographs to populate CREXi's website, once the images  
20 have been cropped. They also copy CoStar-copyrighted photographs by extracting  
21 them from property brochures, and then cropping out the CoStar watermark when  
22 visible—on the instructions of CREXi senior managers such as James Burton—  
23 before creating CREXi brochures or uploading the images to CREXi. As CREXi is  
24 well aware, CoStar is a leading licensor of copyrighted real estate photographs for  
25 use in brochures.

26 34. CREXi's attempt to clone CoStar's business is as brazen as it is  
27 widespread. CREXi has gone so far as to infringe CoStar's copyrighted photographs  
28 in the marketing materials it uses to promote itself. Senior CREXi leadership—

1 including Mike Rosenfeld and Paul Cohen, CREXi’s National Sales Director—have  
2 hosted a number of virtual presentations to introduce CREXi in markets across the  
3 country. Incredibly, the sample listings specifically chosen for these marketing  
4 campaigns contain infringing content copied from CoStar.

5 35. There is no question that CREXi knows that its conduct is wrongful.  
6 CREXi’s internal correspondence acknowledges that it may not copy listings from  
7 LoopNet or other CoStar websites, and that its practice of removing the CoStar  
8 watermark from the photographs it copies is done for “copyright” and “safety”  
9 reasons. In a candid internal exchange, CREXi’s Vice President of Operations  
10 admitted that CREXi was working on a solution to identify photos with “potentially  
11 harmful watermarks.” And at his deposition, he admitted that CREXi did not want  
12 images on its website with “specifically a CoStar logo” because CREXi did not want  
13 to “attract CoStar’s attention and draw their ire.”

14 36. Moreover, CREXi engaged a copyright vendor, Restb.ai, LLC, in  
15 February 2019 to identify photographs on the CREXi platform that contain the  
16 CoStar watermark. That engagement alone demonstrates that CREXi is aware that  
17 unlawful copying of CoStar’s watermarked photographs would expose CREXi to  
18 potential copyright claims. Restb, whose website states that one purpose of its  
19 technology is to “[p]rotect your company from copyright lawsuits,”<sup>2</sup> purports to use  
20 “artificial intelligence to quickly recognize photographs that contain company logos  
21 or watermarks.” The purpose of that review of logos is to flag copyright ownership.  
22 According to Restb, “CREXi utilizes Restb’s services in order to identify  
23 photographs in the real estate listings it receives from brokers that might be  
24 copyright protected.” In order to do so, Restb looks for the CoStar watermark, the  
25 very same watermark that CREXi systematically seeks to crop out pursuant to a  
26 company-wide policy.

27  
28  

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<sup>2</sup> Restb.ai, <https://restb.ai/solutions/watermark-detection/> (last visited December 16, 2022).

1           37. CREXi belatedly applied ineffective fig leaves like Restb, a filter that  
2 does little to curb infringement. CREXi has used the filter since 2019, yet CoStar  
3 has found tens of thousands of infringing images on CREXi.com, not least because  
4 the Restb filter was not designed to find cropped images. Nevertheless, that CREXi  
5 hired a copyright vendor specifically to find CoStar-watermarked images  
6 demonstrates that CREXi’s copying and cropping of those very images constituted  
7 knowing, willful infringement.

8           38. That comes as no surprise. The evidence shows that copying CoStar’s  
9 copyrighted photographs is at the core of CREXi’s business model. CREXi accesses  
10 a property listing on one of CoStar’s marketplaces (e.g., LoopNet or CityFeet).  
11 Shortly thereafter, the same property listing is added *by CREXi* to its website with  
12 CoStar’s copyrighted photographs. And, in order to hide its copying of CoStar  
13 images, CREXi specifically instructs its Agents to crop out the CoStar watermark  
14 from CoStar-copyrighted photographs before adding them to CREXi’s website. As  
15 noted above, that was an instruction given to CREXi’s Agents by multiple CREXi  
16 managers and employees pursuant to CREXi’s official company policy.

17           39. There is also no question that CREXi and its Agents are responsible for  
18 copying a substantial number of CoStar’s copyrighted images without the  
19 involvement of any customer. Indeed, in many cases, the brokers whose listings  
20 feature CoStar’s copyrighted images have never even heard of CREXi—they contact  
21 CoStar to ask why their listings are appearing on CREXi’s site.

22           40. Copying without broker consent is central to CREXi’s business  
23 model—when one business development representative asked CREXi’s Vice  
24 President of Operations Lawson Dees whether he could copy multiple listings from  
25 LoopNet (for uploading to CREXi.com) even though he had never heard from the  
26 broker at issue about those listings, Dees succinctly replied: “*All day.*”

27           41. And even when CREXi does contact a listing broker, CREXi offers to  
28 post the listing itself, without revealing that it is copying the listing and its



1 copyrighted images from CoStar. CREXi explicitly advertises to brokers “Want Us  
2 to Add the Listing For You?” Indeed, a former CREXi employee testified that it  
3 was uncommon for brokers to build listings on CREXi’s site because brokers would  
4 rather have CREXi build listings for them. And when CREXi builds those listings,  
5 it does so by copying and uploading CoStar-copyrighted images to CREXi’s  
6 website.

7 42. Brokers do, sometimes, build their own listings on CREXi. But,  
8 CREXi knows that listings built by brokers (many of whom license their  
9 photographs from CoStar) are another source by which CREXi can obtain CoStar-  
10 copyrighted photographs. When CREXi launched its “Build Your Own” listing  
11 feature in October 2016, it was internally aware that brokers were using that feature  
12 to add CoStar-watermarked photographs. Upon discovering this, one senior  
13 employee brought it to the attention of Mr. Dees and another founding employee,  
14 Bryan Barajas, flagging that a broker had “dragged his photos str8 from loopnet”  
15 and that similar behavior “could be a serious issue going forward.” Mr. Dees  
16 testified that he was not aware of any changes or guardrails CREXi put in place in  
17 response to that internal red flag.

18 43. Discovery has shown that whether CREXi or a broker uploads a  
19 CoStar-copyrighted image to CREXi.com, CREXi itself plays a very active role in  
20 the infringement. When CREXi is posting a listing, it selects which images to copy  
21 and rejects others. For example, when Nick DeGiorgio instructed the entire CREXi  
22 “business development” team on precisely CREXi’s policy regarding how to copy  
23 from LoopNet, using screenshots and cropping, he directed CREXi’s employees to  
24 select only specific images—a primary external picture and an aerial view. CREXi  
25 senior manager James Burton also testified that CREXi would select a certain  
26 number of images (at most ten) when asked by a broker to build a listing.

27 44. When a broker itself attempts to upload a listing, both Mr. DeGiorgio  
28 and Mr. Burton confirmed, under oath, that CREXi would take an active role in

1 reviewing the listing, including the images, as it was to appear on CREXi.com. For  
2 example, when asked what oversight CREXi performed of listings, Mr. Burton  
3 testified that “it was always our process to QC listings for quality control, for all  
4 purposes.” That “QC” for broker-created listings included a “basic listing data  
5 review” that CREXi conducted to identify whether “something looked off,” such as  
6 “the price or the square footage.” If there was an error, CREXi would “fix it,” and  
7 “give [the broker] the listing back.” CREXi’s QC process also required CREXi  
8 employees to “Make sure all photos are clear and no loopnet/costar tags,” to “Check  
9 Marketing Description to make sure it looks clean and correct spacing/spelling” to  
10 “Check the OM/Flyer to make sure its not a loopnet/costar,” and to “make sure  
11 Brokerage Logo, License, Team Name etc. is filled out on admin.” Nick DeGiorgio  
12 testified that he personally removed images that were “blurry, upside down,” or  
13 “pixelated.” Consistent with its desire to maintain “high quality” listings, CREXi  
14 employees scoured CREXi.com to identify “fake deals” and “goofy looking”  
15 listings. Thus there is no question that CREXi exercises active editorial control over  
16 listings, and specifically the (copyrighted) images they contain, even those where  
17 brokers are involved. CREXi’s claim to be a passive platform could not be further  
18 from the truth.

19 45. As CREXi knows, CoStar has brought several successful lawsuits  
20 against rivals who have sought, like CREXi, to compete unfairly by stealing  
21 CoStar’s copyrighted photographs. As CREXi does now, Xceligent copied tens of  
22 thousands of CoStar’s copyrighted images from LoopNet and from property  
23 brochures. Xceligent—like CREXi—likewise ignored LoopNet’s “access denied”  
24 notices and rotated the IP addresses that it used in order to circumvent CoStar’s  
25 technological protections and maintain access to the copyrighted photographs it  
26 wanted for its site. And, like CREXi, rather than pay photographers to create their  
27 own library of images, Xceligent utilized low-paid labor in India and the Philippines  
28 so that it could harvest CoStar-copyrighted images on the cheap and around the

1 clock. In a highly publicized lawsuit, CoStar sued Xceligent for mass infringement,  
2 leading to a permanent injunction and a \$500 million judgment, the largest in history  
3 for the infringement of copyrighted photographs. That judgment valued each  
4 unlawfully copied real estate listing and each infringed CoStar image at \$50,000.

5 46. Even putting the large judgment aside, there is no question that  
6 Xceligent was a bad actor. After CoStar presented evidence that Xceligent had  
7 copied listings from LoopNet (using the same methods as CREXi), a monitor  
8 appointed by the Federal Trade Commission (“FTC”) independently concluded that  
9 38,489 images in Xceligent’s systems were “derived improperly by Xceligent from  
10 the Database of CoStar.” A key Xceligent contractor stipulated to a multi-count  
11 federal judgment in Pittsburgh after admitting that “with Xceligent’s knowledge and  
12 at Xceligent’s direction, [the contractor and an affiliate] used measures to  
13 circumvent CoStar’s security measures and thereby hack into CoStar sites [primarily  
14 LoopNet] in order to populate the Xceligent databases with content copied from  
15 CoStar.” Another affiliated Xceligent contractor agreed to be enjoined in India  
16 based on the same type of infringement, and was barred by court order from  
17 accessing CoStar-owned websites and databases for competitive purposes and from  
18 copying CoStar content without consent. And the officers and directors of a third  
19 contractor in the Philippines were indicted for violations of the Cybercrime  
20 Prevention Act of 2012. In recommending criminal charges, the Philippines  
21 Department of Justice observed that “accessing LoopNet in order to copy [CoStar’s]  
22 photographs before transmitting them to Xceligent” for “widespread infringement”  
23 was the “classic example of a computer crime.”<sup>3</sup>

24 47. Xceligent acted unlawfully and paid the price—yet CREXi was  
25 undeterred. Rather, it adopted Xceligent’s playbook (while claiming, incredibly,  
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27 \_\_\_\_\_  
28 <sup>3</sup> The evidence gathered from that contractor by CoStar also featured in the indictment of another  
of the contractor’s clients in the United States.

1 that Xceligent was unfairly targeted by CoStar). Thus, as in the Xceligent matter,  
2 CoStar has been forced to litigate.

3 48. Unsurprisingly, particularly in light of the foregoing revelations,  
4 CREXi is a repeat offender. CREXi's co-founder and CEO, Michael DeGiorgio,  
5 and co-founder, Luke Morris, both of whom previously worked for Ten-X—the  
6 commercial real estate auction site that is now part of CoStar—were caught red-  
7 handed with content they took from rival Ten-X to establish CREXi. In 2016, a  
8 California state court entered a preliminary injunction prohibiting CREXi from using  
9 the content that it had misappropriated from Ten-X. To end the litigation, CREXi  
10 made a seven-figure damages payment, and Mr. DeGiorgio stated: "I regret my  
11 conduct at the time I departed Ten-X." Clearly not. Mr. DeGiorgio, CREXi, and its  
12 employees have continued to steal to get ahead, now on an even greater scale.

13 49. Moreover, Mr. DeGiorgio has lashed out when he suspected that *CREXi*  
14 was the victim of mass theft by a rival. In July 2020, Mr. DeGiorgio sent a panicked  
15 email to CREXi's senior team suggesting that a competitor with a recent uptick in  
16 listings had copied—or as Mr. DeGiorgio described such conduct—"stole[n]" those  
17 listings from CREXi. Without a hint of irony, Mr. DeGiorgio emphasized that  
18 brokers were angry their listings were appearing on a marketplace without their  
19 knowledge. Mr. DeGiorgio then instructed his team to "threaten the shit out of [the  
20 competitor], do things to our site/product to prevent this from happening, everything  
21 and everything to end this now." Strong action was needed immediately because a  
22 rival copying CREXi's listings was incredibly damaging. Mr. DeGiorgio wrote:  
23 "The longer this goes on, the worse it will be for" CREXi.

24 50. The hypocrisy is breathtaking: CREXi's CEO was prepared to go on  
25 the warpath, threaten action against a competitor, take electronic countermeasures  
26 to protect CREXi's listings, and trumpet the imminent and significant harm to  
27 CREXi and its customers caused by listings theft, when he thought that a rival was  
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1 copying listings from CREXi and posting them on a competing marketplace—  
2 exactly what CREXi does to CoStar on an industrial scale.

3 51. As a consequence of CREXi’s misconduct, CoStar is entitled to  
4 millions of dollars in damages as well as injunctive relief to prevent continued  
5 irreparable harm to its business.

6 **BACKGROUND**

7 52. Founded in 1987, CoStar employs more than six thousand people  
8 worldwide. As a result of these employees’ diligent efforts—and the investment of  
9 approximately \$6 billion over the last three decades—CoStar has developed the most  
10 comprehensive database of commercial real estate in the world, which includes  
11 painstakingly researched and verified data about commercial real estate properties  
12 and transactions, integrated with millions of copyrighted photographs. CoStar and  
13 its affiliates expend enormous time and resources to populate and maintain the  
14 CoStar database, including averaging thousands of phone calls *per day* to brokers,  
15 owners, developers, and other real estate professionals, supporting an inventory of  
16 over 7 million properties globally, and taking nearly 1 million photographs annually.  
17 CoStar’s marketing research operations make millions of data changes to the CoStar  
18 database each day. CoStar works continuously to verify that the data contained in  
19 its database are up-to-date and reliable.

20 53. CoStar’s database is the engine that drives CoStar’s business, attracting  
21 paying subscribers, licensees, and users, and powering its various information  
22 services, analytical tools, and digital marketplaces, including LoopNet.

23 54. CoStar offers a password-protected subscription service that brokers  
24 and other industry participants use to obtain comprehensive commercial real estate  
25 data, news, and analytics, as well as copyrighted photographs of commercial real  
26 estate properties. Although CoStar licenses its copyrighted images, brokers and  
27 other CoStar customers are prohibited from providing those images to competitors.  
28 This license limitation makes sense, given that CoStar invested significant resources

1 to create high-quality images for its subscribers and has no incentive (or obligation)  
2 to make them available to rivals for use in competing against CoStar.

3 55. CoStar also owns and operates a number of digital marketplaces with  
4 listings of real estate for sale and for lease. LoopNet is the nation's leading digital  
5 marketplace for commercial real estate. Brokers and property owners use CoStar's  
6 marketplaces, including LoopNet, to market their listings. CoStar also owns and  
7 operates CityFeet and Showcase, similar digital marketplaces for leasing and selling  
8 commercial real estate. CoStar's marketplaces leverage the powerful CoStar  
9 database to build and enhance listings. For instance, if a broker or property owner  
10 wants to market a listing on LoopNet relating to a property that is in CoStar's  
11 database, he or she can populate the LoopNet listing with CoStar's copyrighted  
12 photographs (which brokers may license from CoStar) and a variety of data that  
13 CoStar has added to the database through its various research efforts. Listings are  
14 reviewed by CoStar employees, who may rewrite portions of the text and add  
15 CoStar-researched or CoStar-generated data.

16 56. Although the broker or property owner may upload his or her own  
17 photographs to the listing, this is not a requirement. Listers can, and often do, rely  
18 solely on CoStar's copyrighted photographs. None of the photographs at issue in  
19 this litigation originated with brokers or property owners; rather, this lawsuit  
20 concerns CREXi's infringement of photographs created, and copyrighted, by  
21 CoStar.

22 57. CREXi was founded in 2015 by Michael DeGiorgio, Luke Morris, Erek  
23 Benz, and Ben Widhelm. The founders had all worked at Ten-X, the auction site  
24 that is now part of CoStar. CREXi has described itself on its website as  
25 "revolutionizing the way commercial real estate professionals transact by  
26 accelerating deal velocity and democratizing access to both properties and industry  
27 data. In 2015, CREXi embarked on a journey to transform the CRE industry: to  
28 create a single-source hub for stakeholders to market, analyze, and trade commercial

1 property.” CREXi’s website ([www.crex.com](http://www.crex.com)) allows users to view commercial real  
2 estate listings in markets across the country. CREXi also runs an online auction  
3 marketplace similar to Ten-X, and its auction marketing materials trumpet over \$100  
4 billion in closed deals.

5 58. CREXi also offers a number of subscription options to its users.  
6 CREXi.com users can upgrade from free listings to the “Pro” service, which  
7 provides a suite of services to CREXi users. *See* [https://www.crex.com/broker-](https://www.crex.com/broker-plans)  
8 [plans](https://www.crex.com/broker-plans). In addition, CREXi offers a product called “Intelligence,” which provides  
9 paying subscribers with access to comparable property transactions (“comps”),  
10 reports, and information about the commercial real estate market. CREXi touts that  
11 Intelligence includes 153 million property records and 13 million comps, including  
12 records and comps that are available only to subscribers and that include property  
13 images, including CoStar-copyrighted photographs that CREXi has infringed.

14 59. Since CREXi’s inception, it has engaged a vast offshore network of  
15 BPOs and other Agents, who—behind the scenes—play a critical role in CREXi’s  
16 business model, including the mass infringement on which it relies. At CREXi’s  
17 contractual (and actual) direction, these BPOs and other Agents work within  
18 CREXi’s platform to source and build commercial real estate listings, make  
19 information accessible on CREXi.com, and copy, crop, and upload property images.  
20 Indeed, of the 10,000 exemplar infringing images that CoStar identified in its First  
21 Amended Complaint, CREXi’s Agents were responsible for uploading nearly two-  
22 thirds of them. The BPOs and other offshore Agents use proxy servers and virtual  
23 private networks (“VPNs”) to access CoStar’s U.S. websites. For example, CREXi  
24 executive Paul Cohen instructed fellow executives to employ offshore “girls” to  
25 manually scrape LoopNet. Those instructions included directing those workers to  
26 use a proxy server like “[hide.me/en/proxy](http://hide.me/en/proxy),” to give the CREXi executives’ “girls”  
27 “two logins for loopnet. [And to] create BS [LoopNet] accounts so it doesn’t get  
28 traced back to you.” As described in detail below, CREXi directs, inspects, and

1 performs quality control over the work performed by its BPOs and other Agents,  
2 who act at CREXi’s direction and with CREXi’s authority.

3 60. CREXi often simply copies listings from LoopNet, including their  
4 associated copyrighted photographs, without ever hearing from the broker  
5 representing the property at issue. Indeed, CREXi’s Director of Operations  
6 instructed a business development representative to copy listings from LoopNet  
7 without broker permission “[a]ll day.” Other times, CREXi contacts the listing  
8 broker and asks vaguely whether the broker would like the listing to appear for free  
9 on CREXi, without specifying where CREXi will obtain the listing. Then, rather  
10 than generate its own listing (which would take time, effort, and resources that  
11 CREXi has and chooses not to deploy), CREXi copies and uploads the relevant  
12 photographs and other listing content from LoopNet. As discussed in more detail  
13 below, listings on LoopNet typically contain CoStar-copyrighted images. CREXi  
14 takes them anyway.

15 61. For example, and as discussed in Section D.2, *infra*, on May 14, 2020,  
16 CREXi viewed a listing for an Alabama property on LoopNet, and the next day the  
17 same property appeared on CREXi’s website with a CoStar copyrighted photograph:

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## LoopNet Listing

(accessed by CREXi on May 14, 2020)

**65 Bagby Dr**  
73,434 SF | Office Building | Birmingham, AL | \$750,000 (\$10/SF)

**EXECUTIVE SUMMARY**  
Three and a half story building with a loading dock. Building was formerly a technical college and several classrooms as well as executive area. Convenient to I-65 interchange in a mature neighborhood. Close to restaurants, shopping, and medical facilities.

PROPERTY FACTS		Price		Typical Floor Size	
Sole Type	Investment or Owner User	Price	\$750,000	Typical Floor Size	24,478 SF
Property Type	Office	Price Per SF	\$10	Slab To Slab	9'
Building Size	73,434 SF	Tenancy	Single	Building FAR	0.57
Building Class	B	Building Height	3 Stories	Land Acres	2.97 AC
Year Built	1972				
Zoning	C1				
Parking	128 Spaces (1.74 Spaces per 1,000 SF Leased)				
Opportunity Zone	No				

Listing ID: 7279695    Date Created: 5/17/2017    Last Updated: 7/15/2020

**Avery Clenney**  
BRENTWOOD PROPERTIES  
205-598-1797  
2320 S Highland Ave  
Birmingham, AL 35205  
[Contact](#)

## CREXi Listing

(posted by CREXi on May 15, 2020)

**65 Bagby Drive Office Building**  
Office | 11 Space Available | 20,000 Sq. Ft. - 74,400 Sq. Ft. Birmingham, AL

**Address**  
65 Bagby Drive, Birmingham, AL 35209

**Building Details**

Property Type	Office	Subtype	Professional
Tenancy	Multiple	Total Building SQFT	74,400
Minimum Divisible SQFT	20,000	Max Contiguous SQFT	74,400
Vacant SQFT	74,400	Lot Size (acres)	2.97
Class	B	Year Built	1971
Stories	4	Total Parking Spaces	3/1000SqFt
Zoning	C1	County	Jefferson County

**Listing Contacts**

	Yearly Rate	Monthly Rate
Avery Clenney License: AL 00003071 Phone Number: Call Contact Broker   View my profile	\$13.50/SF/YR	\$113/SF/MO

62. Likewise, on May 15, 2020, CREXi viewed a LoopNet listing for a property in Nevada, and only three days later the same property appeared on CREXi with a CoStar copyrighted photograph:

**LoopNet Listing**

(accessed by CREXi on May 15, 2020)

The screenshot shows a LoopNet listing for a property. At the top, there is the LoopNet logo and a 'Print Listing' button. Below that, the listing agent's name 'Sherry Byrns' and phone number '(702) 501-6685' are displayed, along with the location 'Advantage - 55 W Pacific Avenue'. The main listing text reads 'C6 | 5532 S Fort Apache Rd' and '1,801 SF of Office Space Available in Las Vegas, NV'. A large photograph shows a modern, single-story office building with a parking lot containing several cars. Below the photo, the text 'ALL AVAILABLE SPACE(1)' is followed by a table with the following data:

SPACE	SIZE	TERM	RATE	SPACE USE	CONDITION	AVAILABLE
1st Fl-Ste 120	1,801 SF	3-5 Yrs	\$19.32/SF/YR	Office	Full Build-Out	Now

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## CREXi Listing

(posted by CREXi on May 18, 2020)

**5532 S Fort Apache Rd**  
Office 11 Space Available | 1,801 Sq. Ft.  
Las Vegas, NV

Building Details	
Date Added	18 May 2020
Days on Market	82 days
Time Since Last Update	3 months
Property Type	Office
Tenancy	Multiple
Vacant SQFT	1,801
Year Built	2006
Total Parking Spaces	8
County	Clark County

**Listing Contacts**

	Rate
Sherry Byrns License: NV 8.0018355 Phone Number: Call	Yearly Rate: \$19.32/SF/YR Monthly Rate: \$1.61/SF/MO

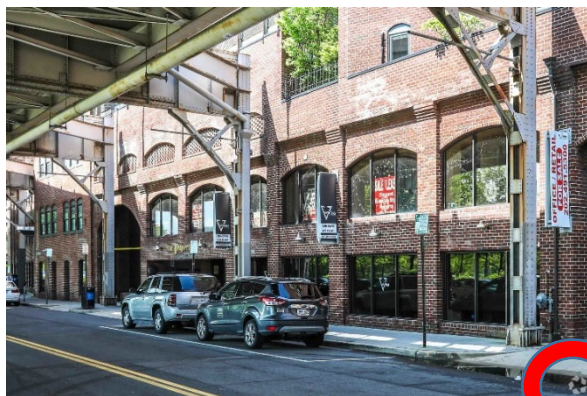
63. Many brokers are not even aware that their listings appear on CREXi. And even *if* CREXi had asked the brokers for permission to copy the listings from LoopNet or from a property brochure, brokers cannot provide permission to infringe CoStar’s copyrighted images. CREXi knows this. Indeed, as described in more detail below, often when CREXi talks with brokers, CREXi does not mention LoopNet. And if CoStar’s site comes up in conversation, CREXi will in many cases admit that it is not permitted to copy from LoopNet. But behind closed doors, it does so anyway.

64. Recognizing the unlawful nature of its infringement scheme, CREXi has taken numerous steps to attempt to conceal its actions. These include rotating its IP addresses to avoid technological blocking measures imposed by CoStar, and instructing its BPOs and Agents to delete in CREXi’s backend systems references to using CoStar websites. And specifically in order to hide its copying of CoStar images, CREXi has instructed the BPOs and Agents to remove, or crop, the CoStar

1 watermark from CoStar-copyrighted photographs before adding those photographs  
2 to CREXi listings, as seen here:

3 **CoStar Copyrighted Photograph on**  
4 **LoopNet**

3 **CoStar Copyrighted Photograph on**  
4 **CREXi**



25 65. As if the removal of watermarks were not enough, CREXi sometimes  
26 publishes *CoStar*-copyrighted cropped images featuring a *CREXi* watermark, as the  
27 examples below demonstrate:  
28

1 CoStar Copyrighted Photograph on  
2 LoopNet

CoStar Copyrighted Photograph on  
3 CREXi



16  
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19 66. However, CREXi is not always careful in making sure that CoStar's  
20 watermark has been removed from these images that feature CREXi's watermark.  
21 These images taken from CREXi's website show that CREXi's watermark even  
22 appears on images that still have the CoStar watermark:

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67. CREXi’s violations of law are willful, egregious, and in bad faith. CREXi’s industrial-scale infringement has harmed CoStar in ways that cannot be measured or remedied fully by monetary damages. As a consequence of CREXi’s misconduct, CoStar is entitled to millions of dollars in damages as well as injunctive relief to prevent continued irreparable harm to its business.

**JURISDICTION AND VENUE**

68. This action arises under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and the DMCA, 17 U.S.C. § 1201, *et seq.* The Court has federal question jurisdiction over claims arising under those statutes pursuant to 28 U.S.C. §§ 1331 and 1338(a).

69. The Court has personal jurisdiction over CREXi because, among other reasons, CREXi is headquartered and has its principal place of business in Los Angeles, California. The business transacted by CREXi bears a substantial nexus to CoStar’s claims. Through its acts, CREXi has invoked the benefits and protections of California’s laws and purposefully availed itself of the privilege of conducting activities within California.

70. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 1400(a) because CREXi resides in this judicial district, and a substantial part of the events or omissions giving rise to CoStar’s claims occurred in this judicial district.

**THE PARTIES**

1  
2 71. Plaintiff CoStar Group, Inc. is a corporation organized and existing  
3 under the laws of the State of Delaware with its principal place of business and  
4 corporate offices located at 1331 L Street, NW, Washington, District of Columbia,  
5 20005.

6 72. Plaintiff CoStar Realty Information, Inc. is a corporation organized and  
7 existing under the laws of the State of Delaware with its principal place of business  
8 and corporate offices located at 1331 L Street, NW, Washington, District of  
9 Columbia, 20005. It is a wholly owned subsidiary of CoStar Group.

10 73. Defendant CREXi is a corporation organized and existing under the  
11 laws of the state of Delaware with its principal place of business and corporate  
12 offices located at 5510 Lincoln Blvd, Suite 400, Playa Vista, California, 90094.  
13 CREXi's California Registration Statement lists its Entity Address as 5510 Lincoln  
14 Blvd, Suite 400, Los Angeles, California, 90094.

**RELEVANT NONPARTIES**

15  
16 74. Nonparty 247 Web Support ("247 Web") and its sister entity, Yansh  
17 Technologies ("Yansh"), are BPOs engaged by CREXi from at least January 2017  
18 to early 2023. 247 Web and Yansh were proprietorships organized and existing  
19 under the law of India with their principal place of business located at H. No. 309,  
20 3<sup>rd</sup> Floor, Pocket-2, Sector-22, Rohini North West Delhi, Delhi, 110086, India. Both  
21 BPOs worked under the supervision of CREXi's "Head of Deal Management,"  
22 Ritesh Jaiswal, and created listings for CREXi by copying information and images  
23 from third-party websites, including CoStar websites, and from brochures that  
24 include third-party images, including CoStar's copyrighted images. After following  
25 CREXi's directions to do so, including cropping out CoStar's watermark from  
26 CoStar's copyrighted images, 247 Web and Yansh uploaded that information and  
27 those images to CREXi's website on CREXi's behalf.

28



1 75. Nonparty Arcgate is a BPO engaged by CREXi from at least October  
2 2017 through August 2021. Arcgate is a private company organized and existing  
3 under the law of India with its registered office located at G1-10 I.T. Park, Madri  
4 Industrial Area, Udaipur, Rajasthan: 313001, India. As part of its work for CREXi,  
5 Arcgate sourced listing information from CoStar websites and uploaded that  
6 information to CREXi's website.

7 76. Nonparty Neptune is a BPO engaged by CREXi from at least 2017  
8 through October 2020 and from September 2021 through July 2022. Neptune is a  
9 private company organized and existing under the law of India with its registered  
10 place of business located at Door No. SP-7A Guindy Industrial Estate, Guindy,  
11 Chennai, Tamil Nadu, 600032, India. Neptune created listings on CREXi.com by  
12 copying information and images from third-party websites, including CoStar  
13 websites, and from brochures that include third-party images, including CoStar's  
14 copyrighted images. Neptune uploaded that information and those images to  
15 CREXi's website on CREXi's behalf.

16 77. In addition to the four above-listed entities, CREXi's network of BPOs  
17 and other Agents includes at least 35 other entities and individuals around the world,  
18 working on behalf and at the direction of CREXi.<sup>4</sup>

### 19 **FACTUAL ALLEGATIONS**

#### 20 **A. CoStar Invests Significant Time and Money to Maintain the** 21 **Nation's Most Comprehensive and Most Visited Commercial Real** 22 **Estate Services**

23 78. Like many innovative technology companies, CoStar's business began  
24 in its founder's basement with a simple idea: empower commercial real estate

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25 <sup>4</sup> CREXi's other known BPOs and Agents include: Smarna Anuj, Vinit Anuj, Lubna Basha,  
26 Slavica Sofija, Sofija Sofija, Fanica Sofija, Dayakar 247Headhunting, Trajce Sofija, Blagojce  
27 Sofija, Detriana Miguel, Tanvi Anuj, Supriya Anuj, Agent Anuj, Kruti Raystech, Jawad Ahmed,  
28 Mahaboob Basha Shaik, Abdul Basha, Pradhyuman Raystech, Apeksha Raystech, Raysoft  
Aarthi, Jeanmary Miguel, Priyanka 247Headhunting, bulbul bulbul, Ghazanfar Xavia360, Xavia  
Xavia360 / Xavia360 Xavia 360, Raysoft, SOPHI, Raystech, Anitha Anitha / Anitha2 Anitha,  
Anitha, 247Digitize LLC, Mobius Knowledge Services, 247 Headhunting, and Ricielle Zuleta.

1 brokers with professionally researched, unbiased commercial property information.  
2 Since its founding, and as a result of investments of almost \$6 billion and the efforts  
3 of thousands of employees to execute its business plan, CoStar and its affiliates have  
4 become the leading provider of commercial real estate information.

5 79. CoStar's core product is its CoStar-branded subscription database of  
6 real estate information, which includes millions of CoStar's copyrighted  
7 photographs, integrated with verified data about commercial real estate properties.  
8 The database is part of a suite of online services that include resources and tools for  
9 the real estate industry.

10 80. CoStar generates, updates, and curates the database's content at a cost  
11 of hundreds of millions of dollars each year. CoStar's research organization has  
12 more than 2,000 trained professionals who populate and maintain the database every  
13 minute of every working day and beyond. These professionals spend considerable  
14 time and effort proactively canvassing commercial properties, taking photographs,  
15 and gathering granular data about the properties to add to the database, even for  
16 properties that are not listed for sale or lease on one of CoStar's marketplaces. In  
17 total, CoStar's researchers make millions of changes to the database each year, and  
18 CoStar has taken, on average, over 1 million photographs annually in recent years.

19 81. CoStar licenses its subscription database content for a monthly fee.  
20 Those fees, which vary according to the scope of access the user seeks, generate  
21 significant revenue for CoStar.

22 82. CoStar provides this comprehensive commercial real estate intelligence  
23 to professionals throughout the economy, including real estate brokers and  
24 brokerage firms, owners and investors, property managers, lenders, developers,  
25 valuation professionals, as well as retailers, vendors, and corporations. The leading  
26 commercial real estate brokerages in the United States, as well as a significant  
27 number of smaller brokerages, property owners, banks, retailers, real estate  
28 investment trusts, and other professionals are subscribers. For example, brokers and

1 brokerages use CoStar in their day-to-day business to identify available spaces for  
2 lease and evaluate potential sales. Pursuant to licenses, these users utilize CoStar's  
3 professional, copyrighted photographs to market their listings.

4 83. CoStar's database, including its library of copyrighted images, powers  
5 digital marketplaces owned and operated by CoStar. One such marketplace is  
6 LoopNet. LoopNet is a digital platform where users can easily prepare and search  
7 commercial real estate listings. LoopNet provides information on more than  
8 700,000 for-lease and for-sale listings at any point in time and is a key revenue  
9 generator for CoStar. LoopNet's users rely on the platform's content being up-to-  
10 date, unbiased, and trustworthy.

11 84. LoopNet, like CoStar's other marketplaces, leverages CoStar's vast  
12 commercial real estate database to help market property listings. To add a listing on  
13 LoopNet, a lister (whether a broker or property owner) can start by simply typing in  
14 the property address. If the property is in the CoStar database, the lister can, and  
15 typically does, populate the LoopNet listing with CoStar's copyrighted photographs  
16 and with a variety of data that CoStar researchers have added to the database.

17 85. Together, CoStar's subscription database, LoopNet, and CoStar's other  
18 digital marketplaces provide broad access to vast commercial real estate data,  
19 helping to level the playing field in a \$43 trillion per year U.S. industry. Although  
20 CoStar has a number of competitors in each of its businesses, including its digital  
21 marketplaces, it has outworked and outperformed the competition through constant  
22 innovation and reinvestment over three decades. More than fourteen thousand  
23 CoStar researchers have contributed to the CoStar subscription database since its  
24 creation, adding millions of properties, shooting millions of professional photos and  
25 drone videos, and driving and flying millions of miles per year.

26 86. The benefits that CoStar's services provide to its customers and the  
27 economy at large, and CoStar's ability to continue generating job opportunities, are  
28 a direct result of the company's relentless efforts to research, collect, and create

1 content. The protection of that content, including CoStar’s intellectual property—  
2 and CoStar’s ability to vindicate its rights therein—is therefore critically important.  
3 If CoStar were somehow required to license its photographs, or open its products, to  
4 competitors and help them compete, its incentive to invest, to innovate, and to  
5 provide the benefits set forth above would disappear.

6 **B. CoStar Goes to Significant Lengths to Protect Its Intellectual**  
7 **Property**

8 87. CoStar protects its copyrighted photographs in three primary ways.  
9 *First*, CoStar registers its photographs with the United States Copyright Office, and  
10 displays those images publicly with a watermark of CoStar’s star logo in the bottom  
11 right hand corner, as described below. *Second*, CoStar’s licenses that encompass its  
12 copyrighted photographs contain restrictions that preclude sublicensing and  
13 preclude providing CoStar-copyrighted photographs to platforms that compete with  
14 CoStar. And *third*, CoStar employs anti-piracy technology.

15 **1. Copyright Protection**

16 88. CoStar owns the largest library of commercial real estate images in the  
17 world, including millions of photographs of commercial real estate properties taken  
18 by professional photographers employed by CoStar. As discussed above, these  
19 copyrighted photographs are used in CoStar’s services, including its subscription  
20 database and LoopNet marketplace.

21 89. As CoStar obtains new photographs of commercial real estate  
22 properties, it routinely registers them with the Copyright Office. CoStar is currently  
23 registering tens of thousands of commercial real estate photographs per month.

24 90. CoStar watermarks the images it owns with a logo in the bottom right  
25 hand corner, as shown in multiple examples above. This watermark consists of five  
26 polygons (representing map pins) that are arranged in a circular fashion so that the  
27 inner figure forms a five-pointed star—a play on “CoStar.”

28

1 91. The watermark, which is present on six separate registered CoStar  
2 trademarks and appears as the favicon next to the title of every browser tab opened  
3 to any CoStar webpage, is widely recognized in the industry and identifies CoStar  
4 as the owner of the images.

5 92. CoStar watermarks its copyrighted photographs to police infringement  
6 and has used its watermarks to identify infringers in the past, including rivals such  
7 as Xceligent. Moreover, the presence of watermarks helps third parties, including  
8 other companies in the commercial real estate industry, recognize and remove  
9 infringing images. Indeed, at one time, Xceligent retained a vendor to review and  
10 reject images bearing CoStar's watermark in an effort to avoid copyright  
11 infringement.

12 93. CREXi's own actions demonstrate that CREXi itself recognizes that  
13 this watermark signals CoStar's ownership of a copyrighted work. Like Xceligent,  
14 after several years operating with no filter, CREXi eventually (in 2019) engaged a  
15 vendor, Restb, "for the purpose of identifying photographs on the CREXi platform  
16 that contain the logo of a third party." That third party was CoStar. Restb states that  
17 it uses "artificial intelligence to quickly recognize photographs that contain company  
18 logos or watermarks." The purpose of that review of logos is to flag copyright  
19 ownership. According to Restb, "CREXi utilizes Restb's services in order to  
20 identify photographs in the real estate listings it receives from brokers *that might be*  
21 *copyright protected.*" It does so by looking for the CoStar watermark. Even CREXi  
22 itself characterizes its use of Restb as part of its (supposed, and belated) "effort to  
23 *prevent infringement.*"

24 94. In turn, Restb's CoStar-watermark review software is used by major  
25 companies in the real estate industry, including brokerages, a data provider, and a  
26 major marketplace, to try to avoid infringing CoStar-owned photographs, further  
27 demonstrating that the CoStar watermark on images is synonymous in the industry  
28 with CoStar ownership.

1 95. Users may provide their own photographs to CoStar for use on their  
2 listings in all CoStar services. CoStar does not claim ownership or copyright in user-  
3 uploaded photos. Indeed, LoopNet’s Terms of Use explicitly confirm that users  
4 “retain any applicable ownership rights that [users] may have with respect to”  
5 content submitted to CoStar, including “property descriptions, photographs, images,  
6 videos (which may include sound and/or music), graphics and financial, contact or  
7 other information.” CoStar’s practice of watermarking is reserved for its own  
8 copyrighted photographs and does not include watermarking photographs that are  
9 user-uploaded.

10 **2. License Limitations**

11 96. CoStar licenses its copyrighted photographs and content to commercial  
12 real estate brokerages (and other customers) for use on their own websites and in  
13 their own marketing material.

14 97. Such use, however, is subject to various contractual restrictions that,  
15 among other things, preclude those brokerages from providing CoStar-copyrighted  
16 photographs or other CoStar-owned content to platforms that compete with CoStar.  
17 Brokerages may, of course, provide their own photographs and information to such  
18 competing platforms.

19 **3. Technological Protection**

20 98. In addition to protecting its intellectual property and other content  
21 through copyright registration and limited licenses, CoStar takes proactive and  
22 prompt technological steps to protect against access to CoStar’s services consistent  
23 with mass infringement.

24 99. First, CoStar services, including LoopNet, employ an abuse monitor. If  
25 a single IP address views an excessive number of listings or executes an excessive  
26 number of searches on the site—consistent with mass infringement—that IP address  
27 is temporarily blocked from accessing the site. Second, CoStar’s services, including  
28

1 LoopNet, use firewall blocking, which enables CoStar to prevent certain IP  
2 addresses from accessing the content on CoStar’s websites.

3 100. Third, CoStar’s services, including LoopNet, employ a number of other  
4 third-party protections to guard against improper use, including IP reputation  
5 blocking, as well as anti-virus and anti-malware programs.

6 101. CoStar employs these technical measures to help protect its intellectual  
7 property from unscrupulous competitors—like CREXi—who seek to copy CoStar’s  
8 work and compete with CoStar without investing their own time and effort.

9 **C. CREXi Has Grown at CoStar’s Expense By Free-Riding on**  
10 **CoStar’s Investment and Misappropriating CoStar Content**

11 102. Since its founding, CREXi’s goal has been to “dominate” the industry  
12 and destroy all competitors. CREXi’s CEO Mike DeGiorgio pitched CREXi’s plan  
13 to a key investor by promising that “CREXi will dominate listings, transactions,  
14 leasing, CRM, lending, portfolio management, data/comps both in the usa and  
15 internationally and *literally soon be the one and only platform of the industry.*”

16 103. CREXi’s intention to establish global dominance of the industry, by all  
17 means necessary, drove CREXi’s business practices and ethos. When CREXi’s  
18 Chief Operating Officer, Eli Randel, learned of a marketing campaign by Brevitas,  
19 a rival marketplace firm, Randel wrote to the CREXi executive team: ““Fuck them  
20 . . . Let’s not let them get their footing.” Randel went further, attempting to denigrate  
21 CREXi’s competitor with the nickname “Breastytas” and even offered a cash award  
22 to CREXi employees for thinking of other offensive and derogatory nicknames for  
23 Brevitas.

24 104. This no-holds-barred approach to business, and more specifically  
25 CREXi’s reliance on stealing from from its rivals, has led it to become a pariah in  
26 the industry. For example, in 2023, another competitor, BiProxi, issued a press  
27 release announcing that it had discovered “actions by Commercial Real Estate  
28 Exchange, Inc. (CREXi) compromising the integrity of the online commercial real

1 estate listing industry.” BiProxi had learned that CREXi was “copying” and  
2 “scraping” BiProxi’s “online data in an attempt to create content at no cost to  
3 enhance their own listings.” In marked contrast to CREXi’s strategy of stealing from  
4 competitors to establish global “dominat[ion],” BiProxi committed itself to  
5 “preserve the integrity of our industry” by taking the necessary “proactive measures  
6 to prevent” falling prey to CREXi’s unethical business practices.

7 105. CREXi’s business model is founded on adding large numbers of  
8 listings, and their associated photographs, to its commercial real estate marketplace,  
9 by any means necessary. CREXi recognizes that having a large supply of listings  
10 allows it to attract buyers, sellers, and brokers, which in turn facilitates its ability to  
11 sell advertisements, conduct successful auctions, and generate revenue. During a  
12 May 15, 2020 virtual marketing event called “The Baltimore Market Report,” Paul  
13 Cohen, CREXi’s National Sales Director, boasted that CREXi has “more listings in  
14 most markets across the USA” than CREXi’s competitors, which include LoopNet.  
15 And during a June 19, 2020 virtual marketing event called “Welcome to CREXi:  
16 Richmond’s New CRE Marketplace,” Mr. Cohen claimed that CREXi was the  
17 “place where all the listings are.” That same day, during another virtual event called  
18 “Welcome to CREXi: Tampa’s New CRE Marketplace,” Mr. Cohen stated, “We  
19 have all the listings for the market—they’re already in there.” Mr. Cohen again  
20 claimed CREXi to be “the site where all the listings are.”

21 106. In short, CREXi needed listings, and their associated photographs, in  
22 order to build its business. In a podcast interview on September 8, 2020, Eli Randel,  
23 CREXi’s Chief Operating Officer, explained why CREXi needs to collect and  
24 publish real estate listings: “[s]upply begets demand, and then the second half of that  
25 recipe or equation is that demand begets monetization. So first and foremost,  
26 nobody wants to shop in an empty store, so you better stock the shelves with supply.”  
27 CREXi’s desire to avoid an “empty store” underscores why it keeps copying from  
28 CoStar.



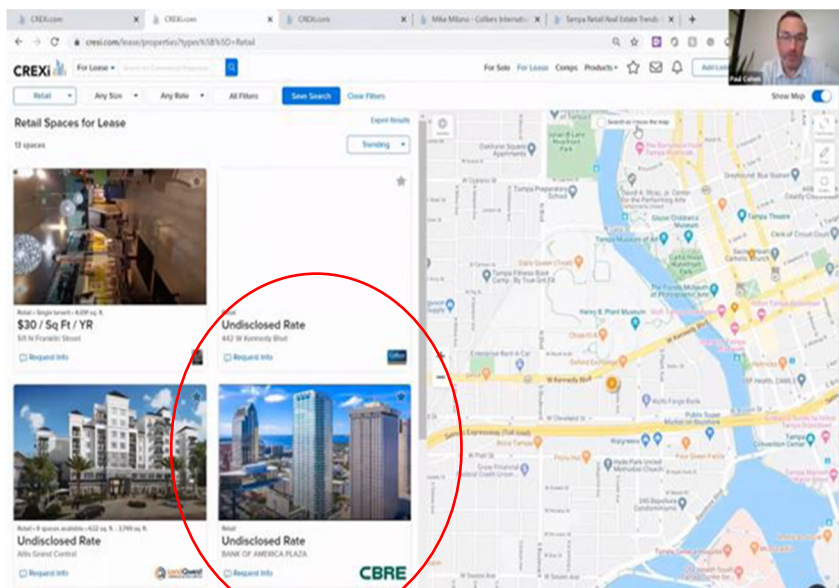
1           107. Indeed, documentation of what CREXi employees were doing to build  
2 out listings in specific markets confirms that the growth it has touted was the result  
3 of piggybacking on CoStar’s intellectual property (as well as copying from other  
4 rivals). Just three weeks before Mr. Cohen described CREXi as “Richmond’s new  
5 CRE Marketplace,” a CREXi Business Development Representative emailed his  
6 manager to explain how he was increasing Richmond listings on CREXi. He was  
7 using LoopNet and other rival websites. He noted that for Richmond, CREXi had  
8 contacted “the majority of the leasing brokers.... When I say that, I am referring  
9 primarily to the leasing brokers found on LoopNet, Realestatebook, and 42 Floors.”  
10 CREXi also manually copied listings from LoopNet and other competing websites  
11 like Brevitas, RealNex, and 42Floors through its “Listing Sync”, i.e., cross-  
12 referencing, service.

13           108. To drive business, CREXi trumpets both the current volume of its  
14 listings vis-à-vis its competitors and its ability to add thousands of new listings each  
15 week. For instance, in a May 4, 2020 podcast, Matthew Cors, CREXi’s Regional  
16 Director for the Western United States Sales Team, represented to listeners that  
17 CREXi had “over 100,000 for-sale properties” and “over 200,000 for-lease  
18 properties” active on the CREXi website on that day, and that CREXi is adding  
19 “thousands of properties a week on here on both sides of the marketplace.” Mr. Cors  
20 stated that CREXi’s “whole goal is to continue just building up the whole  
21 marketplace side of things.” In a separate podcast on June 24, 2020, Mike DeGiorgio  
22 echoed these sentiments with the telling comment that by driving “the supply side,”  
23 i.e., adding large numbers of listings for free, CREXi would necessarily get the  
24 “demand for free too.”

25           109. But what Mr. Cors and Mr. DeGiorgio do not say is that the means used  
26 to build up CREXi, or drive the supply side, involves infringement. Yet in the very  
27 promotional videos in which CREXi brags that it has more listings than its  
28 competitors, CREXi displays CoStar-copyrighted photographs in the listings it touts.

1 The screenshots below contain examples of the copyrighted photographs, along with  
2 an image of the CREXi presenter, Mr. Cohen, in the top right corner of the first  
3 example:

4 **CREXi Marketing Video**

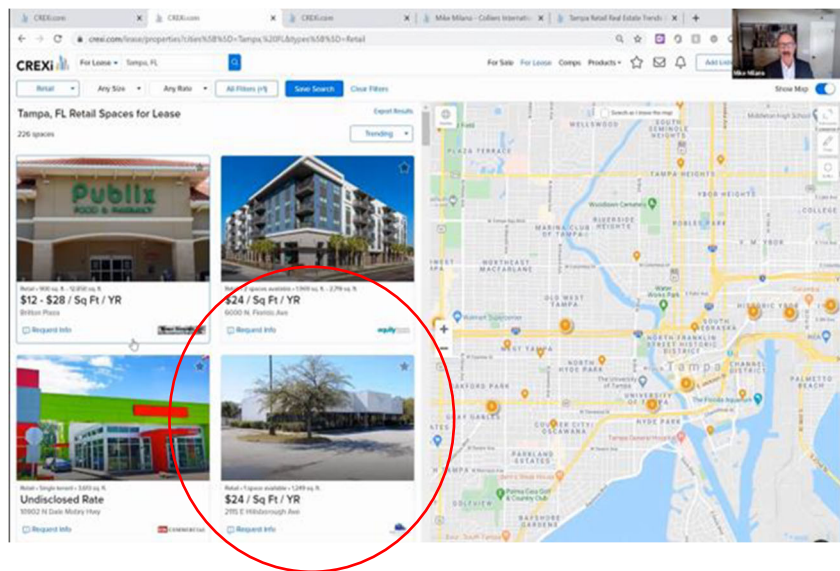


15 **CoStar's Copyrighted Photograph**



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### CREXi Marketing Video



### CoStar's Copyrighted Photograph



110. In other words, rather than making its own investments and competing fairly (which CREXi is capable of doing), CREXi is displaying and thereby infringing CoStar's intellectual property to market itself to brokers and claim superiority over CoStar. In an email to CREXi's Chief Operating Officer, CREXi's former Senior Vice President of Revenue admitted that CREXi's business strategy

1 “*revolves around taking listing from LoopNet,*” an “approach” that had been  
2 “use[d] very effectively,” including by CREXi’s Vice President of Sales, Steve  
3 Narish.

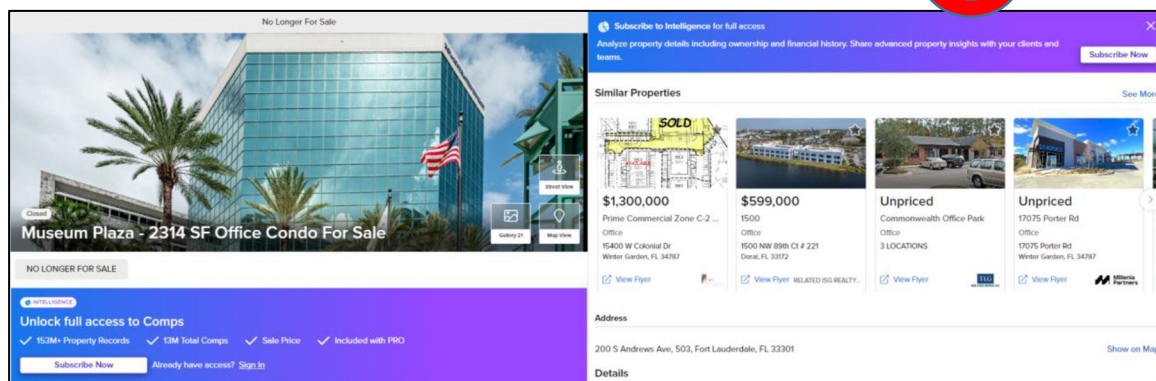
4 111. Copying from LoopNet and publishing CoStar’s intellectual property  
5 benefits CREXi by making it easier for CREXi to reach a critical mass of listings  
6 and thereby attract buyers, sellers, and brokers to its free website. This enables  
7 CREXi to sell advertisements in competition with CoStar and “upsell” its customers  
8 to paid services such as CREXi “Pro,” “Elite,” and “Fuse”—which diverts revenue  
9 streams and growth opportunities from CoStar and reduces CoStar’s market share—  
10 all while avoiding the hard work and resources that CoStar has invested over the past  
11 three decades.

12 112. CREXi knows that listings—and real estate images specifically—are  
13 critical to attracting users. Indeed, as Eli Randel, CREXi’s Chief Operating Officer,  
14 has admitted, “images matter.” This helps explain why CREXi is infringing on such  
15 a widespread scale. Rather than spend the time and effort to develop an image  
16 library of its own, CREXi steals CoStar’s photographs, crops out the CoStar  
17 watermark, and uses them to attract buyers, sellers, and brokers.

18 113. Brokers and other industry participants also readily rely on companies  
19 like CoStar and CREXi to provide “comps”—i.e., comparisons of similar properties  
20 in order to determine, for example, the market rate for rent. The provision of comps  
21 is a much sought-after and highly valued service in the world of real estate. CREXi  
22 places this valuable service behind a password as part of its Intelligence subscription  
23 product (comps are also included in CREXi’s paid “Pro” service). CREXi has  
24 admitted that multiple CoStar-copyrighted photographs at issue in this lawsuit were,  
25 in fact, displayed in Intelligence prior to this lawsuit.

26 114. But CREXi’s use of CoStar-copyrighted photographs in its “Comps”  
27 and “Intelligence” products did not stop when CoStar originally filed this lawsuit in  
28 2020. CREXi continues to display through this year CoStar-owned photographs—

1 including photographs at issue in this lawsuit—on “inactive” or “closed” CREXi  
2 listings that invite viewers to “subscribe” to CREXi’s Comps and Intelligence  
3 products. CREXi’s disregard for CoStar’s intellectual property rights is so brazen  
4 that CREXi unabashedly displays CoStar photographs bearing CoStar’s watermark  
5 to promote its own database products.



22 115. Thus, CREXi has not only piggybacked on CoStar to build out listings,  
23 but also to generate comps and market its lucrative subscription offerings.

24 116. CREXi’s wrongdoing has also enabled CREXi’s auction platform to  
25 grow at the expense of, divert revenue from, and compete unfairly with Ten-X, now  
26 part of CoStar. By stealing content from CoStar, including CoStar’s copyrighted  
27 images, in order to attract potential buyers and other customers, CREXi is able to  
28 drive interest in its auctions and divert opportunities and income from Ten-X.

1 CREXi thereby dilutes Ten-X’s market share through lost transaction opportunities  
2 and diminishes the value of Ten-X’s auction business.

3 **D. CREXi Mass Infringes CoStar’s Copyrighted Photographs, And**  
4 **Removes the CoStar Watermark**

5 **1. CREXi Steals Copyrighted Photographs from CoStar and Its**  
6 **Licensees and Publishes Them on Its Competing Website and**  
7 **in Its Subscription Product**

8 117. CREXi is infringing CoStar’s copyrighted photographs on a massive  
9 scale. A preliminary review by CoStar in 2020 revealed more than *ten thousand*  
10 copyrighted CoStar images on CREXi’s website. As CoStar suspected at the time,  
11 these instances of infringement were just the tip of the iceberg. As a result of  
12 CoStar’s ongoing investigation, and discovery produced by CREXi, CoStar has  
13 identified **48,649** CoStar-copyrighted images in CREXi’s possession, as set forth in  
14 **Exhibit A**, which summarizes certain information about those infringing images.  
15 Many thousands (at least) of these photographs were uploaded at CREXi’s direction  
16 and on CREXi’s behalf, and for its benefit, by CREXi’s offshore BPOs, including  
17 Yansh, 247 Web, Neptune, Mobius, and 247Digitize.

18 118. Notably, CREXi identified over 25,000 images flagged by Restb as  
19 containing CoStar’s logo *before* CoStar filed its original complaint in this action.  
20 Restb describes itself as “specializ[ing] in using artificial intelligence to quickly  
21 recognize photographs that contain company logos or watermarks.” Even if CREXi  
22 had not deliberately infringed CoStar’s photographs—and built a business around  
23 that practice—that Restb’s technology identified tens of thousands of images with  
24 CoStar’s star logo in CREXi’s possession independently put CREXi on notice that  
25 it had a mass infringement problem (and that is without accounting for the  
26 limitations on Restb’s technology to detect CoStar images where CoStar’s  
27 watermark has been cropped out, in whole or in part).

28

1 119. CoStar’s lawsuit has, nevertheless, failed to curb CREXi’s infringing  
2 activity. Over 25,000 of the CoStar images identified in **Exhibit A** were uploaded  
3 or displayed by CREXi *after* CoStar filed its Complaint. CoStar has repeatedly  
4 alerted CREXi to its continuing infringement after filing its Complaint, including as  
5 recently as May 20, 2024, but CREXi has failed to change its business model and  
6 failed to expeditiously remove infringing material from its website. Indeed, just a  
7 few months after CoStar filed this lawsuit, CREXi’s Chief Marketing Officer,  
8 Courtney Ettus, doubled down on CREXi’s burn-it-all down ethos, writing that the  
9 industry was “[f]illed by several shitty companies and one behemoth . . . NO  
10 NAMING NAMES – Costar loopnet RCA RCA . . . WE ARE WAY BETTER –  
11 OBVIOUSLY HERE TO FUCK THEM UP . . . .”

12 120. Starting in May 2023, over two years after CoStar commenced this  
13 lawsuit, CREXi began flooding CoStar’s registered DMCA agent with emails  
14 informing CoStar that potentially infringing images in CREXi’s possession had been  
15 flagged by a third-party image filter. CREXi informed CoStar that, even though the  
16 images were flagged as potentially owned by CoStar and even though hundreds of  
17 these images *had CoStar’s star watermark on them*, CREXi would continue to  
18 display those images on its website until and unless CoStar sent CREXi a formal  
19 “takedown notice” under the DMCA to remove the images from its website.

20 121. Some of these images were, astonishingly, identified as infringing in  
21 CoStar’s First and Second Amended Complaints. Nonetheless, CREXi continued  
22 with this tactic for months, ignoring CoStar’s repeated, direct requests to cease and  
23 desist publishing CoStar-watermarked images on CREXi’s website. Left with no  
24 choice, CoStar ultimately sent CREXi multiple DMCA “takedown notices,” and is  
25 now adding hundreds of these images (included in Exhibit A) to this lawsuit.  
26 CREXi’s recent wanton infringement not only constitutes new claims under the  
27 Copyright Act, but also underscores the willfulness of CREXi’s conduct during the  
28 entire relevant time period.

1           122. CREXi facilitates its scheme of willful mass infringement through its  
2 BPOs and other Agents, who (along with CREXi employees, and at the direction  
3 and control of CREXi employees), snip, crop, and upload commercial real estate  
4 images from real estate brochures into CREXi’s listing template via its internal  
5 platforms, including Salesforce. The Agents snip and crop such images to remove  
6 the CoStar watermark without regard to copyright ownership. Indeed, there is no  
7 evidence that they received adequate training from CREXi on the importance of  
8 complying with copyright laws, despite CREXi’s knowledge that CoStar is a large,  
9 if not the largest, licensor of such images to brokers, and despite the presence of  
10 CoStar’s star logo watermark on many of these brochures and the images in such  
11 brochures. These CREXi employees, BPOs, and other Agents then upload these  
12 images on CREXi’s external platform, after confirming the images are of sufficient  
13 quality to do so.

14           123. This knowing infringement was part of CREXi’s corporate policy. In  
15 an email issuing detailed directions to its entire team of “Business Development  
16 Representatives” responsible for recruiting brokers and sourcing listings, CREXi  
17 acknowledged that it was impermissible for CREXi to copy listings from LoopNet  
18 and other CoStar sites yet simultaneously provided step-by-step instructions for  
19 doing so. The CREXi team was told how exactly to surreptitiously copy LoopNet  
20 listings, using screenshots of CoStar’s website to “ENSURE THAT THE  
21 WATERMARK LOGO IS REMOVED.” Management instructed the Business  
22 Development Representative team to provide these screenshots of LoopNet listings  
23 and photos to CREXi’s offshore agents in India for uploading to CREXi.com.

24           124. A former CREXi Business Development Representative testified that  
25 he followed the instructions in this email, sending CREXi’s agents in India DropBox  
26 links containing screenshots of LoopNet listings and instructing those offshore  
27 agents to copy the information contained and ensure the CoStar logo was cropped  
28 out of photos before creating a listing on CREXi.com.



1           125. Unfortunately, it is plain that the 48,649 CoStar-copyrighted images  
2 identified by CoStar to date on **Exhibit A** still do not reveal the full size of this  
3 Titanic-scale iceberg. By way of example, CoStar does not have access to CREXi’s  
4 Intelligence subscription product, though as noted above, from publicly available  
5 information and certain information provided by CREXi in discovery, CoStar has  
6 identified many CoStar-copyrighted images displayed in Intelligence, including  
7 images at issue in this case that CREXi continues to display through 2024. Nor does  
8 CoStar have access to images in CREXi’s possession that CREXi copied, in  
9 violation of CoStar’s copyrights, but that are not currently, or were never, published  
10 on CREXi’s website (i.e., “offline” images in CREXi’s image library or other  
11 backend systems). (CoStar’s understanding is that CREXi has not effectively  
12 reviewed any “offline” images to identify potential additional instances of  
13 infringement.)

14           126. Set forth below are some of the images CREXi has infringed, as they  
15 appear(ed) on LoopNet.com and as they appear(ed) on CREXi.com. The  
16 photographs have been produced side-by-side for purposes of comparison:

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**CoStar Copyrighted Photograph**

**CREXi Listing Photograph**

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1           127. As the images above show, CoStar’s copyrighted images displayed on  
2 CREXi’s website have been cropped to remove the CoStar watermark. In an effort  
3 to conceal and disguise its copying, CREXi removes (or directs its BPOs and Agents  
4 to remove) the watermarks from CoStar’s images and generates cropped images—  
5 thereby improperly removing CoStar’s copyright management information and  
6 creating derivative works—to publish and display on its competing website without  
7 CoStar’s permission.

8           128. As described in more detail below, CREXi routinely accessed the  
9 copyrighted photographs on LoopNet only a few days before the infringing  
10 photographs appeared—without watermarks—on CREXi’s website. For example,  
11 a former Business Development Representative accessed LoopNet listings from his  
12 home computer for the purpose of photographing the LoopNet listings and sending  
13 the associated CoStar-watermarked photographs to his CREXi work email before  
14 forwarding the photographs to the CREXi listing creation team to India. He testified  
15 that he was “not necessarily” surprised that on multiple occasions, within days of  
16 doing so, listings from LoopNet appeared on CREXi.com, displaying CoStar  
17 copyrighted photographs with the CoStar watermark cropped out. He further  
18 testified that the reason this timing did not surprise him was because it was “*the*  
19 *practice at CREXi to copy the listing from LoopNet, crop out the watermark, and*  
20 *build the listing on CREXi.*”

21           129. CoStar’s watermarks on its copyrighted photographs undoubtedly  
22 served as a red flag that put CREXi on notice that these images belong to CoStar.  
23 The removal or alteration of CoStar’s watermark conceals CREXi’s infringement of  
24 CoStar’s copyrighted images, and violates the DMCA’s prohibition on removing  
25 copyright management information. Indeed, CoStar has used the presence of the  
26 watermark to identify infringement in prior lawsuits, such as the Xceligent litigation.  
27 And CREXi hired Restb, a company that “specializes in using artificial intelligence  
28 to quickly recognize photographs that contain company logos or watermarks,” to

1 identify CoStar-watermarked images on its website. Restb even markets its  
2 technology as helping to “protect compan[ies]” from “copyright lawsuits.” CREXi  
3 must also have been aware, simply as a matter of common sense, that removing the  
4 watermark would enable, facilitate, and indeed induce the infringement of CoStar’s  
5 copyrighted materials because it was publishing sought-after copyrighted  
6 photographs to the world with the indicia of copyright ownership removed.

7 130. The extent and consistency of the cropping, and the specific watermark-  
8 cropping instructions that CREXi gave to its BPOs and Agents, reflected in  
9 discovery, demonstrates that CREXi is responsible for this deliberate attempt to hide  
10 its infringement.

11 **2. CREXi Copies Real Estate Listings from LoopNet That**  
12 **Include CoStar-Copyrighted Images and Posts Them on**  
13 **CREXi.com without Broker Knowledge, Knowing It Is**  
14 **Violating Copyright Law**

15 131. CREXi has admitted that it is not allowed to copy listings, with their  
16 copyrighted CoStar photographs, from LoopNet, due to “copyright” reasons, and  
17 because that would be “illegal.”

18 132. For example, in an email chain instructing the CREXi Business  
19 Development Team to take screenshots of photos on LoopNet in order to remove the  
20 CoStar logo, senior CREXi manager James Burton stated “anything owned by  
21 C\*/LN is a no go” and Nick DeGiorgio called LoopNet a “WEBSITE[ ] WE  
22 CANNOT ACCESS.” CREXi’s deal building team also worked to ensure that  
23 property photos did not contain “loopnet/costar tags” to avoid drawing CoStar’s  
24 “ire.” Likewise, during initial training of CREXi’s Indian Agents, Mr. Burton  
25 admitted that it would be impermissible to access websites owned by CoStar “*due*  
26 *to copyright legality issues*” and noted that while “some” “competitor websites”  
27 allowed CREXi to access their sites, the Agents should not touch “anything owned  
28 by” LoopNet or CoStar and that, notwithstanding CREXi’s practices for sourcing

1 broker information, “we are not supposed to pull from our competitors’ websites,  
2 which is against the law.”

3 133. Mr. Burton put it bluntly, saying “*no competing websites. It’s illegal.*  
4 *We can’t upload anything from competing websites*” and specifically, to “NEVER  
5 go on [LoopNet], we do not have permission and its illegal.” CREXi’s Paul Cohen  
6 said the same to a broker, explaining that “[w]e don’t take [listings] off  
7 loopnet/costar for legal reasons,” and “I know a couple of the sites are in legal  
8 disputes with them for that.” But that is exactly what CREXi does, accessing  
9 LoopNet and copying CoStar-copyrighted photographs and their associated listings,  
10 often without contacting the relevant broker. And even when it does contact the  
11 listing broker, CREXi is careful not to discuss copying from LoopNet, other than to  
12 acknowledge its impermissibility.

13 134. CoStar has been contacted by bewildered brokers, asking whether  
14 CoStar was in business with CREXi because the brokers’ listings—including  
15 CoStar’s copyrighted materials—were appearing without the brokers’ authorization  
16 on CREXi’s site.

17 135. For example, one brokerage alerted CoStar after noticing that one of its  
18 Florida property listings appeared on CREXi with CoStar’s photographs. The broker  
19 confirmed that it never gave CREXi authorization to list the property on CREXi’s  
20 website, and that the broker did not upload CoStar’s photographs to CREXi.

21 136. CREXi’s listing of the broker’s Florida property contained several  
22 copyrighted CoStar photographs. The photographs had been cropped, but poorly, as  
23 CoStar’s watermark was still partially visible on a number of the infringing  
24 photographs:

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**CREXi Listing Photographs**

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137. This same story played out across the country. Brokers who learned that their listings were posted on CREXi were puzzled because they had never even heard of CREXi or sent CREXi any information about their properties, much less given CREXi any purported permission to copy CoStar copyrighted photographs associated with their property listings from LoopNet (or the listings as a whole).

1           138. By way of another example, a broker who listed a Nevada property on  
2 LoopNet was surprised to learn that her listing also appeared on CREXi. She had  
3 never heard of CREXi and never gave CREXi permission to post her listing (or,  
4 necessarily the photographs in it). Nevertheless, CREXi posted her property on its  
5 website and infringed CoStar’s copyrighted photographs in the process:

6           **LoopNet Listing Photograph**

7           **CREXi Listing Photograph**



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15           139. Notably, CREXi added this Nevada broker’s listing on May 19, 2020.  
16 On May 15, 2020—only four days earlier—an IP address attributable to CREXi  
17 viewed the same property on LoopNet. In other words, CREXi accessed LoopNet  
18 without authorization, viewed the individual’s LoopNet listing, and then four days  
19 later, the individual’s listing appeared without her permission and with CoStar’s  
20 copyrighted photographs on CREXi’s website. The obvious explanation: deliberate  
21 copying and publication by CREXi.

22           140. CREXi’s practice of copying listings wholesale without broker  
23 involvement is causing havoc in the marketplace. A representative property owner  
24 in Long Island started to receive multiple calls inquiring about the potential purchase  
25 of a property that had already sold. When she questioned a caller, it turned out that  
26 the property was listed for sale on CREXi. The owner-representative tracked down  
27 the listing broker featured on CREXi. The broker was unaware that the listing was  
28 even on CREXi, and said that he had certainly not posted it.

1 141. This pattern repeated across the country. In Arkansas, a brokerage  
2 received multiple calls about a property that had already sold. One of the callers  
3 revealed that the property was listed as for sale on CREXi. As in the New York  
4 example above, the brokerage had not added the listing to CREXi and was unaware  
5 that the listing was even on CREXi. The brokerage contacted CoStar asking if  
6 CREXi was a CoStar subsidiary and if CoStar would remove the listing.

7 142. In another example, a brokerage contacted CREXi demanding that  
8 CREXi remove 127 listings from CREXi's site. Days later, the same brokerage  
9 emailed CREXi's CEO to complain that the brokerage was "still having listings  
10 uploaded" by CREXi and noted that "We never authorized Crexi to upload our  
11 listings in the first place." The upshot: CREXi obtains and posts listings without  
12 broker involvement, and causes confusion for buyers, sellers, and brokers.

13 143. Though CREXi now claims that it always gets broker permission to add  
14 listings, documents produced by CREXi and testimony from CREXi's corporate  
15 designee revealed that the "permission" is often based on nothing more than a pre-  
16 existing "relationship." When asked to explain how CREXi determined it had  
17 obtained permission from a broker to add a listing when there was no written  
18 evidence of the broker ever instructing CREXi to add his or her listings, CREXi's  
19 corporate designee explained that CREXi concluded it *must* have received *oral*  
20 *permission* because CREXi only added listings once it received permission from  
21 brokers. That explanation, however, is tautologically self-defeating and contradicted  
22 by mountains of CREXi-produced evidence showing that CREXi routinely copied  
23 broker listings and created listings on CREXi without any permission at all.

24 144. In some instances, CREXi did at least contact the listing broker and  
25 offer to place the listing on CREXi free of charge. But CREXi was deliberately  
26 vague regarding how CREXi planned to obtain the listing and its associated  
27 photographs, and did not disclose that it intended to copy from LoopNet. For  
28 example, CREXi's Nick DeGiorgio—CEO Michael DeGiorgio's cousin—contacted



1 a marketing manager at a brokerage and offered to post one of the brokerage’s  
2 property listings in Maryland. The brokerage accepted, but was not asked to provide,  
3 and did not provide, CREXi with any information, photographs, or marketing  
4 material for the property. Neither did the brokerage upload any CoStar images to  
5 CREXi. Nevertheless, CREXi posted the listing on its website.

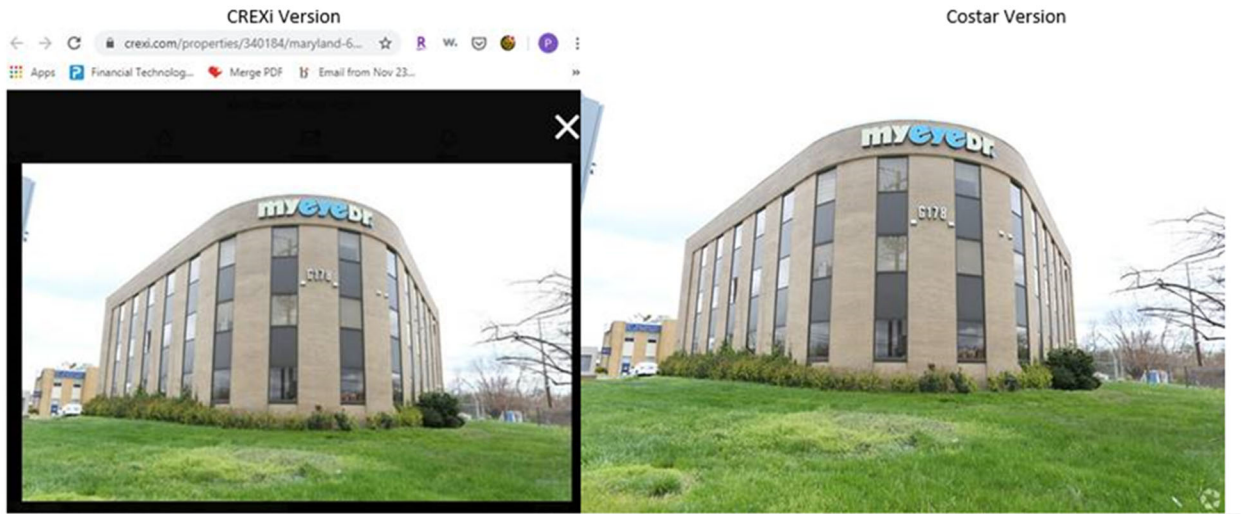
6 145. Subsequently, CREXi’s Mr. Rosenfeld called the marketing manager  
7 and tried to sell him a subscription to CREXi’s platform. The manager asked Mr.  
8 Rosenfeld where CREXi had obtained the marketing material that it used to list the  
9 property on its website, since the brokerage never provided CREXi with any such  
10 material. Mr. Rosenfeld replied vaguely that CREXi had various partnerships with  
11 companies that allowed CREXi to get the information. When the manager asked  
12 which companies, Mr. Rosenfeld would not provide that information.

13 146. The marketing manager then contacted Mr. Rosenfeld again, asking  
14 whether CREXi had a partnership with CoStar, because the CREXi listing contained  
15 exactly the same information as the brokerage’s listing on LoopNet. Mr. Rosenfeld  
16 admitted that CREXi did not have a partnership with CoStar. He stated that once  
17 CREXi received the brokerage’s permission to post their listing, CREXi copied the  
18 listing “off the internet.”

19 147. The manager notified CoStar of Mr. Rosenfeld’s suspicious statements  
20 and provided a side-by-side comparison of photographs from the CoStar and CREXi  
21 listings. As the manager pointed out, the photograph that CREXi posted exactly  
22 matches CoStar’s copyrighted photograph, with the exception that CoStar’s  
23 watermark had been fully cropped out of the lower right-hand portion of the  
24 photograph. The side-by-side comparison that the manager sent to CoStar appears  
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148. These photographs make clear that when Mr. Rosenfeld told the manager that CREXi pulled the listing “off the internet,” he really meant that CREXi copied the listing—including the copyrighted photograph—from LoopNet, even though CREXi was not authorized to do so. (Of course, had CREXi’s Mr. Rosenfeld believed that CREXi was permitted to copy from LoopNet, then he would have readily admitted that LoopNet, and not “the internet,” was the source.)

149. Once the brokerage indicated it was interested in seeing the listing on CREXi, CREXi simply copied the relevant information and copyrighted photograph from LoopNet, rather than spend the time and money to take its own photographs of the property and conduct its own research (or even ask the brokerage to send its own information). When the brokerage learned that pulling the information “off the internet” meant copying from LoopNet, the brokerage ended its relationship with CREXi.

150. As another example, on June 17, 2020, Mr. Rosenfeld accessed LoopNet and viewed another property listing in Maryland, as well as the listing broker’s profile on LoopNet. CREXi subsequently contacted the broker and offered to post the listing for free on CREXi. The broker agreed. However, there was no discussion of where CREXi would obtain the property photographs or associated listing information. The broker never gave CREXi permission to copy from

1 LoopNet. On June 19, 2020—only two days after Mr. Rosenfeld viewed the  
2 broker’s listing on LoopNet—the listing appeared on CREXi with CoStar’s  
3 copyrighted photograph:

4 **LoopNet Listing Photograph**



**CREXi Listing Photograph**

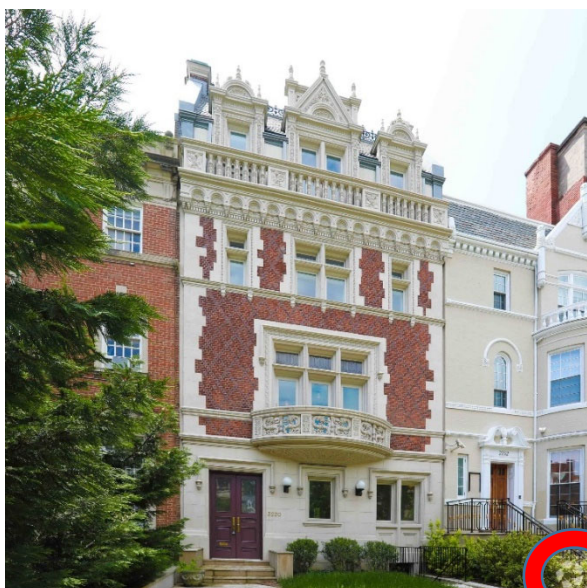


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13 151. Similarly, on April 2, 2020, Mr. Rosenfeld accessed LoopNet and  
14 created a saved search for properties in Washington, D.C., that met certain criteria,  
15 including a minimum price of \$1 million. Mr. Rosenfeld named the search “DC  
16 1M+.” That same day, Mr. Rosenfeld viewed two listings on LoopNet that met the  
17 search criteria.

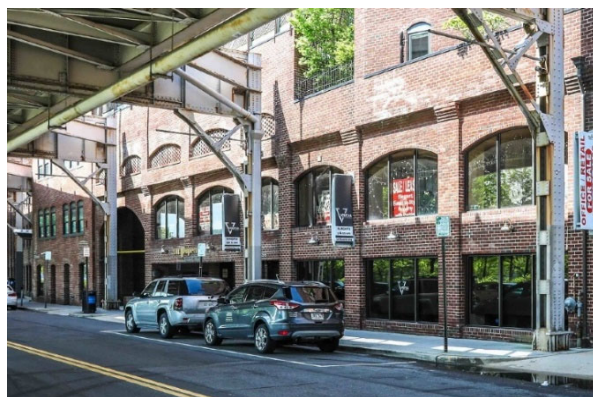
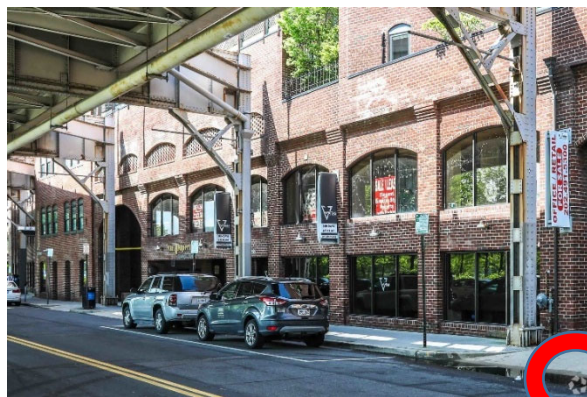
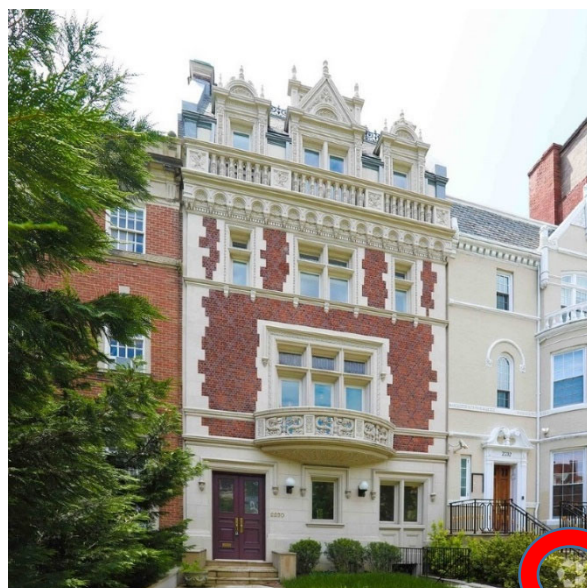
18 152. Unsurprisingly, shortly after Mr. Rosenfeld accessed these two listings  
19 on LoopNet, they appeared on CREXi with CoStar’s copyrighted photographs.  
20 Indeed, one of the photographs on CREXi still featured CoStar’s watermark:  
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**LoopNet Listing Photograph**



**CREXi Listing Photograph**



153. Although brokers can list their properties anywhere, brokers know— not least because of industry knowledge about CoStar’s efforts to protect its intellectual property—that they do not have the right to permit CREXi to copy from a CoStar site. For instance, CREXi contacted a brokerage in Alabama and offered to list its properties on CREXi for free. The brokerage agreed. But the brokerage and CREXi never discussed where the information for the listings would come from, and there was no mention of CREXi copying from LoopNet. The broker later acknowledged that he would not have the right to give CREXi permission to use CoStar’s copyrighted content. Nevertheless, the CREXi listing of the brokerage’s

1 property contains CoStar’s copyrighted photographs, cropped to remove the CoStar  
2 watermark:

3 **LoopNet Listing Photograph**

4 **CREXi Listing Photograph**



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12 154. CREXi posted the brokerage’s listing on its website on May 15, 2020.  
13 The day before the listing appeared on CREXi, an IP address associated with CREXi  
14 visited the same listing on LoopNet. In other words, CREXi visited a listing on  
15 LoopNet, and then one day later, the listing appeared on CREXi’s website with  
16 CoStar’s copyrighted material. Again, the obvious explanation is that CREXi copied  
17 the copyrighted photograph and associated listing from LoopNet, without  
18 authorization.

19 155. As can be seen, there is no question that even when it is not simply  
20 copying and pasting copyrighted images and their listings from LoopNet without  
21 broker involvement, CREXi routinely posts listings, rather than simply being a  
22 passive forum for uploads, when it makes contact with brokers. Indeed, CREXi  
23 trumpets the fact that it is actively involved in creating the listings, complete with  
24 photographs, on its site. Eli Randel, CREXi’s Chief Strategy Officer, explained  
25 during a webinar that CREXi users can send property information to CREXi, and  
26 CREXi will “build your listings for you.” And during a June 19, 2020 video  
27 conference titled, “Welcome to CREXi: Richmond’s New CRE Marketplace,”  
28 CREXi’s Paul Cohen stated to his broker audience: “If we don’t have your listings

1 on CREXi, send them to us today, and *we'll add them.*” Additionally, former  
2 CREXi Business Development Representative Christian Vien testified that when  
3 contacting brokers offering to put their listings on CREXi, he made a practice of  
4 telling brokers that CREXi would undertake the task of building their listings. Vien  
5 further testified that it was in fact uncommon for a broker to build a listing on their  
6 own, rather than have CREXi build the listing for them.

7 156. Given CREXi’s active role in “build[ing]” or “add[ing]” listings, it is  
8 unsurprising there are CREXi listings that display CoStar-copyrighted photographs  
9 that do not appear anywhere in the listing broker’s marketing materials. There would  
10 be no reason for brokers to upload their CoStar-copyrighted photographs to  
11 CREXi—an action that CoStar prohibits—while excluding those photographs from  
12 their own marketing materials—a use that CoStar permits. The obvious explanation  
13 (and the one consistent with CREXi’s offers to build listings on behalf of brokers)  
14 is that CREXi *itself* is taking the CoStar-copyrighted photographs directly from  
15 LoopNet—not from the broker’s marketing materials—and adding those  
16 copyrighted photographs to CREXi.

17 157. For example, a cropped version of the CoStar-copyrighted photograph  
18 of the commercial property shown below appears on CREXi. However, the broker’s  
19 marketing brochure contains different, non-CoStar copyrighted photographs,  
20 indicating that CREXi took this image directly from CoStar.

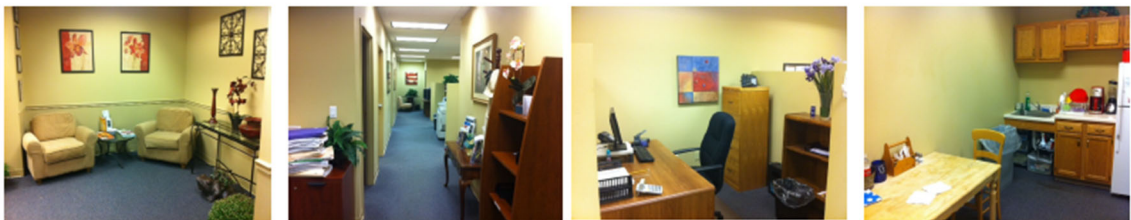
21 **CoStar’s Copyrighted Photograph**

21 **CREXi Listing Photograph**



**Photographs from Broker’s Marketing Brochure**

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158. As discussed above, CREXi fully understood that copying the images from LoopNet infringed on CoStar’s intellectual property rights. In one instance, a broker who agreed to list properties on CREXi’s website asked if CREXi could pull the listing information from LoopNet. Tellingly, CREXi said no and explained that it was not allowed to pull information from LoopNet. Relatedly, CREXi explained in a February 12, 2019, YouTube video titled, “Add Listings, Dispositions, View Leads on CREXi,” that brokers can send their property fliers directly to CREXi for uploads *“as long as they are not CoStar or LoopNet branded.”*

159. But time and again, CREXi nevertheless did copy CoStar’s copyrighted photographs and associated real estate information from LoopNet, despite knowing that it was not permitted to do so.

**3. Discovery of Communications with CREXi’s Agents in India Has Revealed The Details of CREXi’s Global Scheme**

160. As a matter of routine, CREXi specifically instructed its Agents in India—whom CREXi management described as part of CREXi’s “staff” and “the face of the company”—to copy listings from LoopNet, or brochures or flyers

1 sourced from LoopNet, being careful to hide the source, and to *remove* indications  
2 of CoStar’s ownership by cropping images with CoStar’s watermark. CREXi  
3 instructed its agents not to use flyers or photographs to build listings “if there is a  
4 watermark from our competitors like CoStar/LoopNet,” but CREXi’s workaround  
5 to use those flyers and images to build CREXi listings was simply to *crop out*  
6 CoStar’s watermark.

7 161. For example, in an email dated September 18, 2019, Nick DeGiorgio,  
8 CREXi’s Supply Growth Manager, directed James Burton, CREXi’s Project  
9 Manager, to tell CREXi’s “offshore” Agents to copy CoStar photographs, crop out  
10 the CoStar logo, and create listings for use on CREXi.com. He wrote “Can we have  
11 offshore buildout the attached [file of listings] for a new Pro broker? It is multiple  
12 listings in a combined file. *Some of the photos have CoStar branding so please*  
13 *advise offshore to crop out.*” As directed, Burton then passed on the instructions to  
14 CREXi Agents in India, including the statement: “*Some of the photos have Co\*\*\*r*  
15 *branding so please advise offshore to crop out.*” That one email alone attached 42  
16 properties accompanied by CoStar-owned images.

17 162. Those directions to CREXi’s Indian Agents were in accordance with  
18 CREXi’s written policy regarding copying and cropping CoStar photographs, as  
19 discussed in an email from Nick DeGiorgio, CREXi’s Supply Growth Manager,  
20 instructing employees to “manually submit[ ]” listing information and images  
21 obtained from LoopNet and other CoStar websites to CREXi’s Indian Agents.  
22 CREXi employees were further instructed in bolded, all capital letters, as follows:  
23 **“YOU MUST TAKE A SCREENSHOT OF THE PHOTOS . . . TO ENSURE**  
24 **THAT THE WATERMARK LOGO IS REMOVED.”**

25 163. A few weeks later, Mr. DeGiorgio sent a “Friendly reminder” about  
26 “L\*\*pnet flyers” to CREXi employees with the instructions “If you are submitting  
27 L\*\*pnet/Co\* flyers to JIRA [to be built by CREXi’s offshore workforce], please  
28 ensure you are providing language to **“GENERATE A CREXI FLYER BASED**



1 **OFF THE [LoopNet] INFO PROVIDED.”** He added that, “[a]s an extra  
2 precaution” CREXi employees should instruct the offshore team to “**PLEASE BE**  
3 **SURE TO REMOVE/CROP OUT ANY WATERMARKS ON ANY**  
4 **PHOTOGRAPHS.”**

5 164. CREXi’s then-Head of Business and Sales Development  
6 Representatives responded “Nick – thanks for sending this to everyone” and  
7 explained to CREXi’s employees that following Mr. DeGiorgio’s instructions was  
8 important because “*Things like this puts us at risk for a potential legal issue*” and  
9 the “entire company” was aware CREXi was building listings using LoopNet flyers.  
10 These communications show CREXi’s policy and practice laid bare: knowing  
11 intellectual property infringement, using offshore Agents, all directed by CREXi  
12 management.

13 165. CREXi’s instructions to its Agents to use LoopNet flyers and CoStar  
14 images to create CREXi listings were repeatedly issued and confirmed. The same  
15 month Mr. DeGiorgio instructed CREXi’s U.S. employees to “**REMOVE/CROP**  
16 **OUT ANY WATERMARKS**” from CoStar-copyrighted images, CREXi’s Head of  
17 Deal Management (based in India) emailed Mr. Burton with concerns, explaining  
18 that his team had “been getting [a] few loopnet deals (information/images in  
19 dropbox) from some [] crexi guys . . . We need to build these deals..right?” Mr.  
20 Burton emphatically confirmed that Mr. Jaiswal’s team in India should build those  
21 deals but to “make sure you ALWAYS use a CREXi flyer and *please make sure*  
22 *that you don’t use any images with a watermark, you can crop over those.*  
23 Anything from our competitors it is extremely important we use a CREXi flyer!”

24 166. When training another group of Indian Agents, Mr. Burton explained  
25 that the Agents “cannot add anything from our competitors” and that “with pictures  
26 it is pretty simple to tell, but we always need to be looking in this bottom right hand  
27 corner [] for a watermark logo.” But rather than instruct the Agents not to use  
28 CoStar-copyrighted images, CREXi told them to go ahead and do so, but to be

1 careful to hide the infringement. Mr. Burton explained that the Agents “*will see a*  
2 *CoStar logo in the bottom right*” of an image and that “*we would just need to crop*  
3 *that out of the picture. You can still use the picture but we need to make sure the*  
4 *watermark is removed.*”

5 167. Later that summer Mr. Burton again issued the same instructions to  
6 CREXi’s Head of Deal Management, based in India: “PLEASE ADD ASAP AND  
7 PLEASE CREATE CREXI FLYERS, DO NOT ADD WATERMARKED  
8 PICTURES, **PLEASE CROP.**” The instructions in Mr. Burton’s email directly  
9 concerned CoStar images contained in LoopNet brochures.

10 168. The use of CoStar-copyrighted images was critical. When CREXi’s  
11 Agents in India failed to add CoStar photographs to CREXi.com, CREXi employees  
12 ensured that the issue was addressed and that the Agents did so. For example, in  
13 June 2020, CREXi’s Austin Maddox wrote to the manager of CREXi’s Customer  
14 Support Services, Roger Smith, and to Mr. Burton, asking why the Agents “didn’t  
15 pull any of the photos from the LoopNet listings I sent them. Do they not pull those  
16 anymore?” Cognizant of the risks, Mr. Smith noted the Agents “could potentially  
17 screen shot [the images] and not include the LN [LoopNet] watermark” as long as  
18 Mr. Burton agreed. Mr. Burton replied “Yessir!”

19 169. Mr. Maddox took those instructions from CREXi management and  
20 asked CREXi’s Agents: “Can you please also use the photos from the LoopNet  
21 Listings? **Make sure to exclude the LoopNet Water mark at the bottom right**  
22 **when you screen shot them.**” A week later, another CREXi employee issued the  
23 exact same instructions to the Agents and also circled CoStar’s star watermark in an  
24 example image to make even clearer to the Agents what to crop (CoStar’s  
25 watermark).  
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1 170. CREXi’s Agents followed CREXi’s direct instructions. For example,  
2 Neptune accessed LoopNet on September 7, 2020, and viewed a property listing at  
3 4229 Lafayette Center Drive, Chantilly, Virginia. That same day, details of that  
4 property—including cropped versions of CoStar-copyrighted images published on  
5 LoopNet—appeared on CREXi:

6 CoStar-Copyrighted  
7 Photograph on LoopNet



Cropped Image on CREXi



14 171. CREXi knew that it was engaging in, and directing its Indian Agents to  
15 facilitate, wrongdoing. Its practice was to do so, even as it repeatedly admitted in  
16 writing that its actions were wrongful. For example, CREXi acknowledged that its  
17 Indian BPOs should “refrain from using any site that is, or could be considered, a  
18 direct competitor of CREXi.” And CREXi told its customers that it could not copy  
19 from CoStar’s sites. CREXi’s Nick DeGiorgio told a broker that for “*legality*  
20 *reasons, we cannot pull anything off L\*\*pnet.*” CREXi’s Paul Cohen, a Director  
21 in Sales, repeatedly told brokers that he could not access LoopNet “*for legal*  
22 *reasons.*” Nevertheless, CREXi continued to instruct its offshore Agents to copy  
23 and crop CoStar-copyrighted photographs and associated listing information. Time  
24 and time again, IP addresses associated with CREXi’s BPOs accessed property  
25 listings on LoopNet containing CoStar-copyrighted images. Shortly thereafter,  
26 including in some cases mere hours later, listings for those very same properties  
27 began appearing on CREXi’s platforms with CoStar’s copyrighted photographs. In  
28 almost all cases, CoStar’s image was cropped to exclude CoStar’s watermark.

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2 172. When a former CREXi employee was presented with similar evidence  
3 showing that, after CREXi's offshore agents received LoopNet listings from  
4 CREXi's U.S. employees, those listings would appear on CREXi containing cropped  
5 CoStar-copyrighted images, that former employee agreed that sequence of events  
6 was not surprising because it was CREXi's "*practice*" to "*copy the listing from*  
7 *LoopNet, crop out the watermark, and build the listing on CREXi.*"

8 173. In short, CREXi knowingly and willfully infringed on CoStar's  
9 copyrights, using Agents in India, to build its business and compete with CoStar, the  
10 owner of the intellectual property at issue.

11 **4. CREXi Is Well Aware That CoStar Does Not Permit**  
12 **Competitors to Copy Content from Its Website**

13 174. Even putting aside CREXi's conversations with brokers and  
14 instructions to its BPOs described above—including the acknowledged prohibition  
15 on copying from LoopNet—there can be no doubt that CREXi is aware that CoStar  
16 does not permit competitors to infringe its copyrighted photographs, and that CoStar  
17 protects and vindicates its intellectual property though many methods, including—  
18 when the copying is on a huge scale and clearly deliberate—litigation.

19 175. The trade and national press have extensively covered CoStar's prior  
20 lawsuits against those who have infringed its copyrighted photographs, such as  
21 Xceligent, Apartment Hunters, and RealMassive.<sup>5</sup> CoStar has litigated across the  
22 country, from New Jersey to Kansas City, from Austin to Los Angeles, to protect its  
23 intellectual property, and has obtained judgments and injunctions that value its  
24 copyrighted images and real estate listings most recently at \$50,000 per photograph,  
25 and \$50,000 per real estate listing.

26 \_\_\_\_\_  
27 <sup>5</sup> See e.g., Real Estate Data Dispute Yields \$500 Million Judgment (available at <https://finance-commerce.com/2020/01/real-estate-data-dispute-yields-500-million-judgment/>); Apartment  
28 Hunters Found Liable in CoStar Copyright Infringement Dispute (available at <https://therealdeal.com/la/2017/03/29/apartmenthunterz-com-found-liable-in-costar-copyright-infringement-dispute/>).

1 176. CREXi is well aware of CoStar’s judgments protecting its intellectual  
2 property and contractual rights, including the record-breaking half-billion dollar  
3 judgment against Xceligent, the result of copying copyrighted CoStar photographs  
4 and other content from LoopNet. Publicly available news articles covering the  
5 Xceligent case were circulated internally at CREXi and discussed among CREXi’s  
6 executives, with one executive cautioning the others to continue to “be smart.”

7 177. Xceligent’s wrongdoing was acknowledged and condemned by  
8 multiple bodies. In addition to the federal judgment and injunction against Xceligent  
9 itself in its hometown of Kansas City, Xceligent’s contractor in Pittsburgh was  
10 likewise enjoined and consented to entry of judgment after admitting its involvement  
11 in the unauthorized copying of content from LoopNet; a related contractor was  
12 enjoined in India on the same basis; and the directors and officers of a third  
13 contractor in the Philippines were indicted for accessing LoopNet without  
14 authorization and copying listings. In addition, after an extensive audit, an FTC-  
15 appointed monitor concluded that the tens of thousands of CoStar photographs in  
16 Xceligent’s systems, which the court cases had shown were copied from LoopNet,  
17 had been “derived improperly by Xceligent” from CoStar’s systems.

18 178. Nevertheless, CREXi has engaged in the same misconduct as  
19 Xceligent, including infringing tens of thousands of copyrighted images with the  
20 help from offshore agents.

21 **5. CREXi Knows Full Well That CoStar’s Star Logo Signals Its**  
22 **Copyright Ownership**

23 179. CREXi knows that CoStar’s star logo signals CoStar’s copyright  
24 ownership over a photograph. As noted above, in February 2019, CREXi engaged  
25 a copyright vendor, Restb, for purposes of identifying photographs on the CREXi  
26 platform containing CoStar’s star logo. Restb uses “artificial intelligence to quickly  
27 recognize photographs that contain company logos or watermarks.” According to  
28 Restb, its logo-detection technology is designed to protect companies from copyright

1 lawsuits, and in particular, “CREXi utilizes Restb’s services in order to identify  
2 photographs in the real estate listings it receives from brokers that might be  
3 copyright protected.”

4 180. According to CREXi, since February 2019, Restb has identified more  
5 than 48,000 images with CoStar’s watermark in CREXi’s possession. CREXi has  
6 further represented that photographs flagged by Restb as containing the watermark  
7 are then removed from CREXi.com or prevented from ever publicly appearing on a  
8 CREXi listing (although Mr. Dees testified that “images that Restb flagged as having  
9 a true positive result of the CoStar watermark” would still be “maintained in  
10 CREXi’s image library,” which continues CREXi’s infringement).

11 181. Restb’s filtering technology, and its bespoke CoStar logo solution in  
12 particular, is widely used by many of the largest players in the industry, including  
13 by CREXi’s own customer base, from national brokerages like [REDACTED] and  
14 [REDACTED] to real estate marketplaces like [REDACTED] to CRE data companies like  
15 [REDACTED]. It is apparent to the industry, and thus to CREXi, that CoStar’s  
16 watermark signifies ownership of its photographs.

17 182. In addition, even though its actual practice was to the contrary, CREXi  
18 acknowledged in writing that its BPOs should not be publishing photographs bearing  
19 the watermark or logo of a third party, including CoStar, specifically because those  
20 are “indicat[ors] of copyright protection.” For example, CREXi’s contracts with  
21 Arcgate, Neptune, and Yansh (which CREXi foisted on its Agents *after* CoStar filed  
22 its original complaint in 2020) contain nearly identical language stating that  
23 “[CREXi] does not re-post images over which another entity has indicated copyright  
24 protection.” Those contracts thus directed that the BPOs should “not publish or  
25 provide to [CREXi] any photographs bearing the watermark or symbol of another  
26 company” or “crop, edit or otherwise modify any photos to remove a watermark or  
27 symbol of another company;” rather, the contracts commanded that the BPOs “shall  
28 only publish or provide to [CREXi] photographs that do not contain a watermark or

1 symbol of another company.” In short, ***CREXi’s own contracts acknowledge that***  
2 ***logos on commercial real estate photograph denote copyright ownership.***

3 183. Consistent with those contracts, after CoStar filed its original complaint  
4 for copyright infringement against CREXi, CREXi held regular videoconference  
5 trainings with its third-party Agents and BPOs in which it communicated a similar  
6 policy (again, a policy contrary to actual practice, and indeed contrary to its prior  
7 written policy)—that photographs specifically containing the CoStar logo should not  
8 be copied (or cropped)—yet another acknowledgement that CREXi is well aware  
9 that the CoStar logo in particular evidences CoStar ownership. And in post-lawsuit  
10 training materials provided to CREXi employees, CREXi instructed its employees  
11 on how to deal with photographs that contain a “third-party logo, watermark or  
12 CMI.” CREXi instructed its employees that “watermarks on the photos” were  
13 “reason to believe” that those photos were “owned by a third party.” Those  
14 instructions also directed employees to “not add the [watermarked] photos to the  
15 Crexi platform,” “not crop or otherwise modify the photo,” and “not instruct others  
16 to crop or modify the photo.”

17 **E. CREXi Actively Participates in Creating Listings, Including**  
18 **Uploading Infringing Images to CREXi’s Platform**

19 184. CREXi is not a passive internet service provider for user-driven and  
20 submitted content. Rather, CREXi actively participates—and indeed touts its role—  
21 in creating listings for its customers. Indeed, a former CREXi Business  
22 Development Representative confirmed in his testimony that it was uncommon for  
23 brokers to build their own listings on CREXi. As CREXi’s Manager of Business  
24 Operations has explained, brokers “send [CREXi] all the listings” to build because  
25 brokers “don’t want to log into their CREXi account” to build or update the listings  
26 themselves, including the images incorporated therein. CREXi’s active involvement  
27 in image uploading and displaying renders CREXi liable for copyright infringement.

28

1           185. CREXi actively participates in gathering and displaying the images on  
2 its website in multiple ways. As detailed above, CREXi instructs its offshore team  
3 to create listings from images and data in property brochures and from listings on  
4 LoopNet. CREXi instructs its offshore Agents to manually obtain listing  
5 information and associated images from such brochures and from websites owned  
6 by CoStar and by third parties. The offshore team then creates and uploads property  
7 listings to CREXi’s platform using that content, including thousands of CoStar-  
8 copyrighted images. CREXi also makes decisions on how and when to display  
9 uploaded images, even at times giving its offshore team discretion on which broker-  
10 provided images to upload, how to arrange their position in listing “galleries,” and  
11 when to time CREXi’s marketing e-blasts containing listings.

12           186. CREXi’s U.S. employees also actively participate in creating listings  
13 using images and data sourced from LoopNet. In one illustrative example, when a  
14 CREXi employee asked CREXi’s Vice President of Operations Lawson Dees  
15 whether the employee could copy multiple listings from LoopNet (for uploading to  
16 CREXi.com) even though CREXi had had no contact with, let alone a direction  
17 from, the relevant broker about those listings, Dees replied: “*All day.*” CREXi’s role  
18 in such circumstances could, therefore, hardly be less passive; it was copying and  
19 uploadings listings and their associated images with zero third party input.

20           187. And just a few months before CoStar filed this lawsuit, CREXi  
21 management provided detailed instructions to its U.S. business development team to  
22 proactively copy (certain) images and data from LoopNet so CREXi’s offshore  
23 Agents could upload that LoopNet content onto CREXi.com. For example, CREXi  
24 management specifically instructed CREXi’s U.S. employees to “SCREENSHOT”  
25 LoopNet listings and to “only us[e] the main photo and aerial/overview photo” while  
26 “ENSUR[ING] THAT THE WATERMARK LOGO IS REMOVED.”

27  
28



1 188. Even when CREXi works directly with brokers to create listings on  
2 CREXi, CREXi is still actively involved in selecting, curating, and displaying  
3 images. CREXi advertises its ability to curate listings to brokers: “Want Us to Add  
4 the Listing For you? Get started by uploading a flyer, offering memorandum, or  
5 brochure and our team will *do the rest.*” See <https://www.crexix.com/add-properties>:

6 **Want us to add the property for you?**

7 3. Select "Upload Property Details" to upload your property marketing materials and let us take care of the rest!

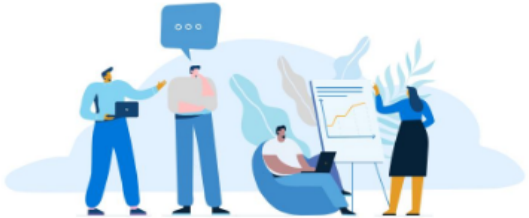
8

9 **Want Us to Add the Listing For You?**

10 Get started by uploading a flyer, offering memorandum,  
11 or brochure and our team will do the rest.

12

13 Takes up to 48 hours



14

15 **Listing on Crexi**

- 16 ✓ Always free to list
- 17 ✓ Access to the most active CRE marketplace in the world
- 18 ✓ Customizable email templates for marketing campaigns
- 19 ✓ Advanced lead tracking, dashboards, and reporting
- 20 ✓ Free storage for due diligence and confidentiality agreements
- 21 ✓ Your contact information and brokerage branding on all of your listings

22 189. “Do[ing] the rest” means that CREXi curates and controls the broker’s  
23 listing, including adding photographs and data and determining how that content,  
24 and specifically the images, should be displayed. For example, when training  
25 CREXi’s Agents on CREXi’s listing-building processes, Mr. Burton instructed the  
26 Agents to “just take the most relevant photos” and to “be creative” in deciding which  
27 images to upload to CREXi’s website. In other words, CREXi was actively selecting  
28 which photographs to display on its site. And as a general rule of thumb to ensure  
that CREXi could create listings in a timely manner, CREXi instructed its agents to  
take “the first 10 images” from a listing brochure or existing online listing, no matter

1 how many images the broker provided.

2 190. When building listings for brokers, CREXi also controls the order in  
3 which images and videos are displayed on specific listings and pays particular  
4 attention to ensure that a front-facing image—i.e., an image that “highlights the  
5 property”—is set as the cover photo for a listing. And CREXi will disobey a  
6 broker’s instructions to create a listing on either CREXi’s sale or lease marketplace  
7 if CREXi believes the broker “messed up” by submitting the listing to the wrong  
8 part of CREXi’s website. In those cases, CREXi will create the listing on the “right  
9 platform.”

10 191. CREXi also rejects listings (and associated images) if they don’t meet  
11 certain criteria—for example, they showcase residential, rather than commercial,  
12 properties—and prioritizes which listings, with their associated images, to create  
13 first, depending on whether the broker submitting the listing is a VIP paying user or  
14 a broker who uses CREXi for free.

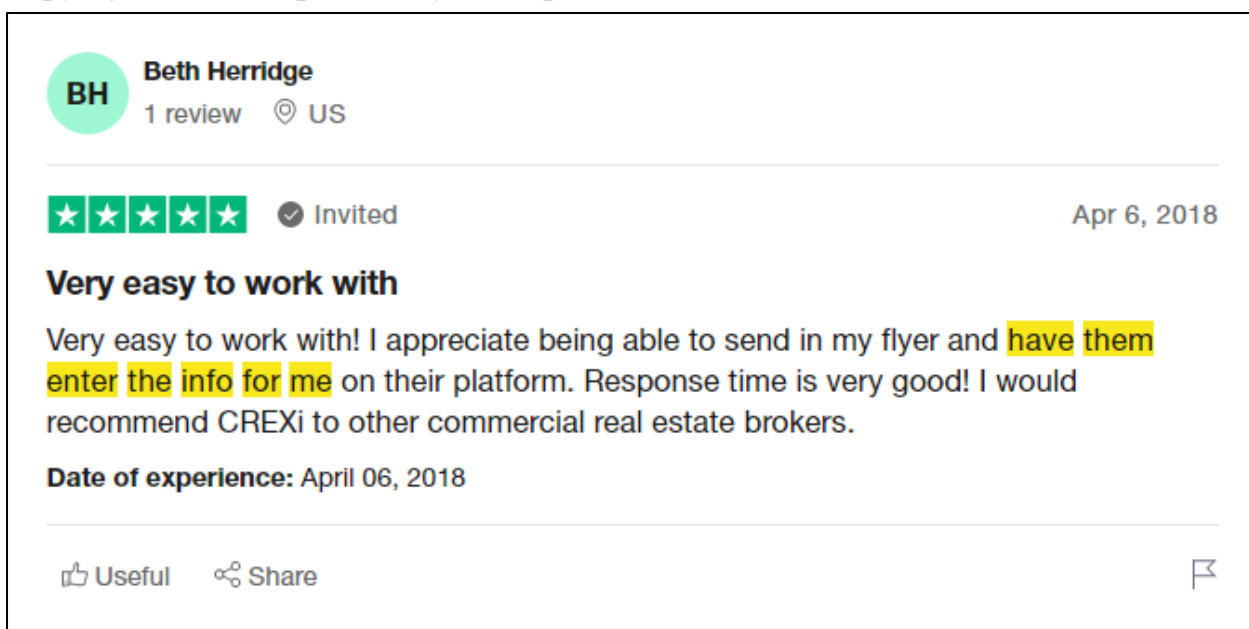
15 192. CREXi’s active role in selecting (and rejecting), and displaying, images  
16 does not stop there. CREXi specifically performs quality control review of the  
17 images uploaded to CREXi on behalf of brokers and selects high resolution images  
18 for display on its website, directing its Agents to “update the pictures [from  
19 brochures]” with “ones from the website” if the pictures provided by a broker are  
20 low-quality. For example, Nick DeGiorgio instructed James Burton to “[p]lease  
21 have offshore go through this team . . . and do their best to do the following: . . .  
22 Attempt to remove any pixilated, or blurry photos (high res ones can be found on  
23 their site).” Burton then instructed the Neptune offshore team to “Follow the steps  
24 below to find the high quality pictures to add to the listings . . . please check on the  
25 front-end of CREXi to ensure they look high quality.”

26 193. All of this work to find, select, and display only certain images is done,  
27 according to Mr. Burton, because CREXi wants images that are the “highest quality  
28 as possible.” And CREXi “want[s] the listing to just ultimately look really really


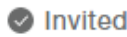
1 good on the site” because “[t]hat’s what makes [CREXi’s] website.” Nick  
2 DeGiorgio also testified that when he “was the one uploading listings on behalf of  
3 brokers” he would use his judgment to “[m]ake sure” images were not “pixilated  
4 [sic],” “blurry, sideways, [or] upside down.”

5 194. CREXi refers to this entire process as a “white glove” service it  
6 provides to brokers. See [https://learn.crexix.com/en/articles/6535337-listing-](https://learn.crexix.com/en/articles/6535337-listing-properties-on-crexix)  
7 [properties-on-crexix](https://learn.crexix.com/en/articles/6535337-listing-properties-on-crexix) (“You can utilize Crexi’s white glove service where one of our  
8 skilled Crexi professionals can help you with the process.”).

9 195. Customer reviews confirm that brokers utilize this service, relying on  
10 CREXi—and its Agents—to enter listing information and images (without regard to  
11 copyright ownership) directly to its platform:

12 




13 **BH** Beth Herridge  
1 review US

14   Invited Apr 6, 2018

15 **Very easy to work with**

16 Very easy to work with! I appreciate being able to send in my flyer and **have them**  
17 **enter the info for me** on their platform. Response time is very good! I would  
18 recommend CREXi to other commercial real estate brokers.

19 **Date of experience:** April 06, 2018

20  Useful  Share 

21

22 196. Moreover, even when brokers build their own listings, CREXi’s team  
23 applies many of the same principles (or quality control checks) described above to  
24 its review of broker-built listings. That review includes making “sure all photos are  
25 clear and no loopnet/costar tags,” making “sure Map View / Street View is accurate,”  
26 checking “Property Details to make sure its [sic] accurate,” checking “Marketing  
27 Description to make sure it looks clean and correct spacing/spelling,” and checking  
28 “the OM/Flyer to make sure its not a loopnet/costar.” If listings and their associated

1 photographs met CREXi’s criteria, they would be designated “All Good.” If not,  
2 CREXi would put the listing “On Hold”—and off the active marketplace—until  
3 CREXi or the broker fixed the issues.

4 197. In short, whether CREXi is building a listing itself, or reviewing a  
5 listing submitted by a broker, its role is extremely active. CREXi.com is the opposite  
6 of a passive platform.

7 **F. CREXi is Ineligible for the DMCA Safe Harbor Defense in**  
8 **17 U.S.C. § 512**

9 198. CREXi has at various points attempted to disclaim the full extent of its  
10 infringement by relying on the so-called “safe harbor defense” afforded to certain  
11 online service providers that comply with the requirements of the DMCA, 17 U.S.C.  
12 § 512. Specifically, CREXi has asserted that it is merely a “service provider” storing  
13 material “at the direction of a user.” 17 U.S.C. § 512(c). As an initial matter, CREXi  
14 cannot claim the protections of the DMCA at all for the reasons described above—  
15 it is not a passive entity storing images at the direction of users. Instead, CREXi has  
16 actively sought out, copied, and displayed CoStar’s copyrighted images. And it has  
17 done so pursuant to a belatedly-admitted policy.

18 199. Moreover, as described above, CREXi has instructed its Agents to crop  
19 out CoStar’s watermark from CoStar-copyrighted photographs even as it employed  
20 a copyright vendor that identified copyrighted images by looking for that very same  
21 watermark. The intentional and systematic cropping out of CoStar’s watermark  
22 constitutes deliberate modifications to the content of CoStar’s copyrighted images,  
23 rendering CREXi ineligible for the protections of the DMCA safe harbor as a matter  
24 of law.

25 200. In any event, even if CREXi had a passive role in storing the infringing  
26 images at issue in this case, and it does not, it would still not be entitled to the DMCA  
27 safe harbor defense because it has failed to comply with any of the threshold  
28 requirements for that defense. CREXi claims that it complies with the requirements

1 of the “safe harbors” of the DMCA, that it respects content owners’ intellectual  
2 property rights, and that it has adopted a policy of terminating users who are deemed  
3 to be repeat infringers. *See* CREXi Terms of Service § 5.2. None of that is true.

4 **1. CREXi Failed to Properly Designate a DMCA Agent**

5 201. At the time of the infringing activities at issue, CREXi either did not  
6 have a designated DMCA agent or it failed to appropriately maintain and publish  
7 contact information for its designated DMCA agent with the U.S. Copyright Office  
8 and on its website, as required by the DMCA and relevant regulations. *See* 17 U.S.C.  
9 § 512(c)(2); 37 C.F.R. § 201.38(b)(3); 81 Fed. Reg. 75695 (Nov. 1, 2016)  
10 (Copyright Office final rule). CREXi’s omission of this information, and its  
11 publication of inconsistent information, makes it needlessly cumbersome for  
12 copyright owners to find accurate information for CREXi’s designated DMCA agent  
13 and submit notices of claimed infringement to CREXi.

14 **2. CREXi Knew or Should Have Known of Infringing Activity**  
15 **on Its Platform and Failed to Expediently Remove Claimed**  
16 **Infringing Images**

17 202. Additionally, CREXi knew or should have known of infringing activity  
18 on its platform, but failed to expediently remove infringing images, as required by  
19 17 U.S.C. § 512(c)—despite repeated notices from CoStar after the filing of this  
20 lawsuit that such infringing images remained on CREXi’s website for months.  
21 These notices stated that CoStar-copyrighted images had been added to CREXi’s  
22 website without CoStar’s authorization and provided CREXi with information about  
23 each copyrighted image, including the copyright registration, the photographer,  
24 copies of the CoStar-copyrighted and infringing images, and their URLs on CREXi’s  
25 website. The notices also contained the signature and the contact information of  
26 CoStar’s counsel, who is authorized to act on behalf of CoStar, the owner of the  
27 infringed copyrights.

28

1 203. Specifically, between March and July 2021, CoStar identified over  
2 2,100 CoStar-copyrighted photographs that continued to appear on the CREXi  
3 website without CoStar’s authorization, notwithstanding the fact that CoStar  
4 previously identified these CoStar-copyrighted photographs to CREXi.

5 204. Then, starting in May 2023 (over two years after CoStar commenced  
6 this lawsuit), CREXi began flooding CoStar’s registered DMCA agent with emails  
7 informing CoStar that potential CoStar-owned images in CREXi’s possession had  
8 been flagged by a third-party image filter. CREXi informed CoStar that, even  
9 though the images were flagged as potentially owned by CoStar and even though  
10 hundreds of these images *had CoStar’s star watermark on them*, CREXi would  
11 continue to display those images on its website until and unless CoStar sent CREXi  
12 a formal “takedown notice” under the DMCA to remove the images from its website.  
13 Some of these images were, astonishingly, identified as infringing in CoStar’s first  
14 and second amended complaints. Nonetheless, CREXi continued with this tactic for  
15 months, ignoring CoStar’s repeated, direct requests to cease and desist publishing  
16 CoStar-watermarked images on CREXi’s website.

17 205. Left with no choice, CoStar ultimately sent CREXi multiple DMCA  
18 “takedown notices,” and now seeks to add hundreds of these images (included in  
19 Exhibit A) to the TAC. And for its part, CREXi ultimately realized the foolishness  
20 of its conduct and purported to return to its prior practice of removing filter-flagged  
21 images with CoStar’s watermark from its website.

22 206. CREXi’s infringement of CoStar photographs has continued unabated  
23 through this year (2024), including images that CoStar flagged to CREXi through  
24 DMCA takedown notices. CREXi has continued to display—and thus, infringe—  
25 scores of CoStar photographs *at issue in this case* on its listing marketplace and  
26 throughout its Intelligence product.

27 207. CREXi’s retort has been that its continuing infringement is excusable  
28 because some of the images it has continued to infringe are associated with

1 “inactive” listings that are harder to find on CREXi’s website, and it has used new  
2 URLs and “Content IDs” that are different than the URLs and Content IDs CREXi  
3 originally used to infringe CoStar’s images. CREXi knows those arguments are  
4 foreclosed by law, and its insistence that it is doing nothing wrong by continuing its  
5 mass infringement demonstrates that it remains undeterred—almost four years into  
6 this lawsuit—from ceasing its infringing activities.

7 208. The continued appearance of CoStar-copyrighted material on CREXi’s  
8 website—and CREXi’s refusal to remove thousands of CoStar-copyrighted images  
9 even after CoStar provided detailed information of the specific instances of  
10 infringement, and even when the images displayed CoStar’s star watermark—  
11 demonstrates CREXi’s knowledge of (and failure to expeditiously remove or disable  
12 access to) infringing material from its platform, and underscores the willfulness of  
13 its conduct throughout the relevant time period.

14 209. Furthermore, the allegations herein demonstrate that CREXi receives a  
15 financial benefit directly attributable to the infringing activity and had the right and  
16 ability to control that infringing activity, beyond its mere technical ability to remove  
17 or disable access to infringing materials. Among other activities, CREXi and its  
18 Agents *actively participate* in creating listings for CREXi users, including by  
19 obtaining, selecting, and uploading images. Further underscoring its active  
20 participation, CREXi has affirmatively modified CoStar-copyrighted images by  
21 cropping out CoStar’s watermark.

### 22 3. CREXi Failed to Design and Reasonably Implement a 23 Repeat Infringer Policy

24 210. CREXi claims that it has designed and adopted a policy of terminating,  
25 in appropriate circumstances, users who are deemed to be repeat infringers, pursuant  
26 to the DMCA. *See* CREXi Terms of Service § 5.2. Not so.

27 211. Even assuming that CREXi has had an established written *policy* for  
28 terminating repeat infringers, CREXi failed to terminate, or persistently turned a

1 blind eye toward, repeat infringers when their identities were made known to  
2 CREXi. As detailed above, between March and July 2021, CoStar identified over  
3 2,100 instances of repeat infringements to CREXi. Several of these repeat  
4 infringements were associated with users with listings on CREXi.com that contained  
5 infringing images identified in CoStar’s original Complaint. And as also set forth  
6 above, from approximately May 2023 to September 2023, CREXi identified to  
7 CoStar hundreds of filter-flagged images with CoStar’s watermark on them, and  
8 continued to publish those images on CREXi’s website until and unless CoStar sent  
9 CREXi a formal “takedown notice,” despite that fact that some of those images were  
10 also repeat infringements (i.e., images identified in CoStar’s first and second amended  
11 complaints in this lawsuit). When CREXi’s executives—including CREXi’s Chief  
12 Operating Officer, Managing Director of Auctions, and Vice President of  
13 Engineering—were asked under oath whether they had ever seen CREXi’s policy  
14 for dealing with repeat infringers, the executives said “No.”

15 212. CREXi has produced a purported Repeat Infringer policy through  
16 discovery in this case. But it is intentionally refusing to implement that policy.  
17 CREXi has been on notice of tens of thousands of infringing uploads by CREXi’s  
18 employees and its users for years but waited until April 2023 to issue any strikes to  
19 users who submitted CoStar-copyrighted photographs to CREXi. And even then,  
20 CREXi gave brokers only a single strike regardless of the number of listings they  
21 submitted that contained one or more of CoStar’s photographs identified in CoStar’s  
22 Second Amended Complaint.

23 213. When asked why CREXi issued just one strike to a user who (according  
24 to CREXi) uploaded over 100 CoStar photographs to various listings on  
25 CREXi.com, CREXi’s Vice President of Operations testified that CREXi made that  
26 decision because of its “business perspective.” It is no wonder how CREXi’s  
27 “business perspective” influenced its implementation of its repeat infringer policy—  
28 if a user receives six strikes, CREXi’s written policy requires CREXi to terminate



1 the user. In all its years as a company facilitating and participating in infringement,  
2 CREXi has never terminated a paying or free user pursuant to its Repeat Infringer  
3 policy.

4 **G. CREXi’s Wrongdoing is Consistent with Its Prior Willful**  
5 **Misconduct**

6 214. This is not the first time that CREXi has improperly profited from  
7 another company’s investment and intellectual property. Indeed, CREXi sought to  
8 establish itself based on content misappropriated from Ten-X, now part of CoStar.

9 215. CREXi’s co-founder and CEO, Michael DeGiorgio, and co-founder  
10 Luke Morris previously worked for Ten-X and were engaged in a scheme to  
11 misappropriate highly confidential trade-secret customer lists from Ten-X to launch  
12 CREXi. Ten-X uncovered the theft and brought suit against CREXi and Mr.  
13 DeGiorgio, immediately securing a preliminary injunction.

14 216. The California state court that entered the preliminary injunction  
15 against CREXi found that Ten-X was highly likely to succeed on the merits of its  
16 claims for misappropriation of trade secrets, breach of the duty of loyalty, breach of  
17 a proprietary information and inventions agreement, and breach of a confidentiality  
18 agreement. The court barred the operation of CREXi to the extent it operated online  
19 real estate auctions, and prohibited CREXi’s use of Ten-X’s customer lists and all  
20 documents and information derived therefrom. The court also ordered that the  
21 misappropriated materials be returned or purged.

22 217. Seeing the writing on the wall, CREXi paid \$1.6 million in damages,  
23 issued a public apology, and—according to a press release issued by CREXi—  
24 agreed to certain ongoing restrictions, including a prohibition on any further use of  
25 the misappropriated information. In a public statement, Michael DeGiorgio  
26 “apologize[d] to Ten-X for the actions which led to this lawsuit” and stated, “I regret  
27 my conduct at the time I departed Ten-X.”  
28

1 218. Despite the payment and (hollow) apology, CREXi and Mr. DeGiorgio  
2 have picked up where they left off.

3 **FIRST CLAIM FOR RELIEF**

4 **Copyright Infringement**

5 219. CoStar repeats and realleges each and every allegation set forth above,  
6 and incorporates them herein by reference.

7 220. Each of CoStar's photographs constitutes an original work of  
8 authorship and copyrightable subject matter under the laws of the United States.

9 221. CoStar owns or has exclusive rights to all rights, title, and interest in  
10 and to the photographs.

11 222. CREXi had and has access to CoStar photographs through the internet  
12 or other means.

13 223. CREXi has copied, reproduced, distributed to the public, and/or  
14 displayed publicly on CREXi.com CoStar's copyrighted photographs—including  
15 without limitation those copyrighted works identified in **Exhibit A** hereto—without  
16 the consent or authority of CoStar, thereby infringing CoStar's copyrights.

17 224. Further, CREXi has created derivative works based on CoStar's  
18 copyrighted images by cropping and manipulating CoStar's registered images.  
19 Examples appear on **Exhibit A**. CREXi sometimes publishes *CoStar*-copyrighted  
20 cropped images featuring a *CREXi* watermark. Examples appear at ¶¶ 65-66, *supra*.

21 225. CoStar owns the exclusive rights in each of the photographs detailed in  
22 **Exhibit A**. Prior to the filing of this Third Amended Complaint, for each image  
23 CoStar is pursuing an infringement claim over, CoStar has validly registered each of  
24 the photographs detailed in **Exhibit A** with the United States Copyright Office.  
25 CREXi copied, reproduced, distributed, or publicly displayed on CREXi's website  
26 without authorization each of the copyrighted photographs detailed in **Exhibit A**.

27 226. Upon information and belief, CREXi's unlawful copying, reproducing,  
28 distributing, and public displaying of these CoStar photographs occurred on or

1 around April 21, 2020, to May 20, 2024, as set forth in **Exhibit A**. On information  
2 and belief, a valid registration was obtained by CoStar for each photograph CoStar  
3 asserts an infringement claim over detailed in **Exhibit A** prior to CREXi's first  
4 infringement of the photograph.

5 227. CREXi's copies, reproductions, distributions, and displays are identical  
6 and/or substantially similar to CoStar's photographs. Further, CoStar, which owns  
7 an exclusive right to prepare derivative works of its copyrighted images, did not give  
8 CREXi permission to create any derivative works.

9 228. CREXi is directly liable for these acts of infringement in violation of  
10 17 U.S.C. §§ 106 and 501.

11 229. The infringement of CoStar's rights in each of its copyrighted  
12 photographs constitutes a separate and distinct act of infringement.

13 230. CREXi's acts of infringement have been willful, intentional,  
14 purposeful, and in disregard of CoStar's rights under the Copyright Act. CREXi  
15 knew its acts were infringing and intentionally or recklessly disregarded the law by  
16 its conduct.

17 231. CoStar did not authorize CREXi's acts.

18 232. CoStar believes that additional instances of CREXi's infringement of  
19 its copyrighted photographs will be revealed during the discovery process.

20 233. As a result of CREXi's willful copyright infringement, CoStar has been  
21 and will continue to be damaged as a direct and proximate result of the infringing  
22 acts set forth above, and CREXi has profited and will continue to profit as a result  
23 of its unlawful infringement of CoStar's copyrighted photographs in an amount to  
24 be proven at trial.

25 234. CREXi's conduct also has caused irreparable and incalculable harm  
26 and injuries to CoStar and is ongoing. Unless enjoined, CREXi's conduct will cause  
27 further irreparable and incalculable injury, for which CoStar has no adequate remedy  
28 at law.

**SECOND CLAIM FOR RELIEF**

**Violation of the Digital Millennium Copyright Act (“DMCA”)**

**Removal of Copyright Management Information, 17 U.S.C. § 1202(b)(1)**

235. CoStar repeats and realleges each and every allegation set forth above, and incorporates them herein by reference.

236. With respect to the 48,649 copyrighted CoStar images identified in CREXi’s possession, CoStar’s watermark constitutes copyright management information (“CMI”), as it identifies CoStar as the copyright owner of such photographs. As described above, CREXi has engaged a third-party vendor, Restb, for purposes of identifying photographs on the CREXi platform containing the logo of a third party, including CoStar’s logo, on the basis that the logo denotes copyright ownership. Furthermore, CREXi itself has acknowledged that the CoStar logo evidences CoStar copyright ownership, as evidenced by, for example, its explicit instructions to its BPOs to crop out CoStar’s watermark prior to uploading to the CREXi platform.

237. In many such photographs, including several specifically identified above as examples, CREXi intentionally and systematically cropped out (or instructed its Agents to crop out) CoStar’s watermark from CoStar-copyrighted photographs.

238. CREXi removed CoStar’s CMI while knowing, having reasonable grounds to know, and with the intent that it would induce, enable, facilitate, and/or conceal infringement of CoStar’s copyrights, in violation of 17 U.S.C. § 1202(b).

239. CREXi’s removal and alteration of CoStar’s CMI was made without the knowledge or authority of CoStar.

240. CoStar has suffered damage and loss as a result of these violations.

241. CoStar has suffered and will continue to suffer irreparable harm as a result of CREXi’s continued removal of CoStar CMI on CoStar-copyrighted photographs, and, as such, CoStar has no adequate remedy at law.

**THIRD CLAIM FOR RELIEF**

**Violation of the Digital Millennium Copyright Act (“DMCA”)**

**Distribution of Works with Removed or Altered Copyright Management Information, 17 U.S.C. § 1202(b)(3)**

242. CoStar repeats and realleges each and every allegation set forth above, and incorporates them herein by reference.

243. CoStar’s watermark constitutes CoStar’s protected CMI. As described above, CREXi has engaged a third-party vendor, Restb, for purposes of identifying photographs on the CREXi platform containing the logo of a third party, including CoStar’s star logo, on the basis that the logo designates copyright ownership. Furthermore, CREXi itself has acknowledged that the CoStar logo evidences CoStar copyright ownership, as evidenced by, for example, its explicit instructions to its BPOs to crop out CoStar’s watermark prior to uploading to the CREXi platform.

244. CREXi has distributed and is distributing CoStar’s protected works, or copies of works, knowing that protected CMI has been removed or altered without CoStar’s authority.

245. CREXi distributed CoStar’s CMI while knowing, having reasonable grounds to know, and with the intent that it would induce, enable, facilitate, and/or conceal infringement of CoStar’s copyrights, in violation of 17 U.S.C. § 1202(b)(3).

246. CoStar has suffered damage and loss as a result of these violations.

247. CoStar has suffered and will continue to suffer irreparable harm as a result of CREXi’s continued distribution of CoStar’s protected works, or copies of works, knowing that protected CMI has been removed or altered without CoStar’s authority, and, as such, CoStar has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, CoStar prays for relief as follows:

1. For an order pursuant to 17 U.S.C. § 502 permanently enjoining and restraining CREXi and its officers, agents, servants, and employees and

- 1 all those in active concert or participation with them from directly
- 2 committing, aiding, encouraging, enabling, inducing, causing,
- 3 materially contributing to, or otherwise facilitating the infringements of
- 4 CoStar’s exclusive rights under the Copyright Act, or from authorizing
- 5 any other person to do the same;
- 6 2. For an award pursuant to 17 U.S.C. § 504 of CoStar’s actual damages
- 7 and CREXi’s profits or, alternatively at CoStar’s election, for statutory
- 8 damages for CREXi’s infringement and willful infringement—
- 9 including without limitation for the instances of infringement identified
- 10 in **Exhibit A**, and other instances of infringement subsequently
- 11 disclosed or uncovered during discovery—in the maximum amount
- 12 allowable by law;
- 13 3. For a finding that CREXi has willfully infringed CoStar’s federally
- 14 registered copyrights;
- 15 4. For an award pursuant to 17 U.S.C. § 1203 of CoStar’s actual damages
- 16 and CREXi’s profits, or alternatively at CoStar’s election, for statutory
- 17 damages for CREXi’s violations of the DMCA in the maximum amount
- 18 allowable by law;
- 19 5. For further permanent injunctive relief as deemed necessary by the
- 20 Court, including without limitation for an order pursuant to 17 U.S.C.
- 21 § 503(b) or otherwise requiring the purging and destruction of all
- 22 CoStar copyrighted photographs from CREXi’s database(s) and
- 23 system(s) by an independent source that reports to CoStar and the Court
- 24 and monitors CREXi’s future compliance with the Court’s orders;
- 25 6. For an award of CoStar’s costs, including its reasonable attorneys’ fees;
- 26 7. For pre-judgment and post-judgment interest according to law;
- 27 8. For exemplary and punitive damages to the extent available; and
- 28

1 9. For such further and additional relief as the Court may deem just and  
2 proper.

3 **JURY DEMAND**

4 Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Civil L.R.  
5 38-1, CoStar hereby demands a trial by jury.

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Dated: August 22, 2024

Respectfully submitted,  
**LATHAM & WATKINS LLP**

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