

CoStar Accuses 'Free-Riding' Startup Of 'Remarkable' Theft

By Craig Clough

Law360 (September 25, 2020, 7:51 PM EDT) -- Commercial real estate information giant CoStar filed a lawsuit Friday in California federal court accusing rival CREXi of instituting a widescale theft of its online listing information, property photos and subscription database through an organized scheme "remarkable in its scope."

CoStar claims IP addresses affiliated with Commercial Real Estate Exchange Inc., or CREXi, have been in their own server more than a million times "even though such high-volume competitor access is forbidden by CoStar's terms of use."

CREXi is no ordinary scammer, CoStar said, as it's a startup that's already raised \$60 million and should know better, as CoStar secured a \$500 million judgment against the bankruptcy estate of rival Xceligent for similar allegations.

CoStar added, "CREXi is attempting to build its own online commercial real estate marketplace and auction platform by free-riding on CoStar's billions of dollars of investments and the thirty-plus years of hard work by CoStar's employees."

CoStar said in the lawsuit it is the nation's "leading provider of commercial real estate information, analytics, and online property marketplaces," but that CREXi has undertaken an organized effort to "build out its business on the cheap by stealing from CoStar."

Among the allegations is that CREXi "covertly harvests content" from CoStar, including broker directories, by using passwords issued to other companies to mine the information from CoStar.

"The rot permeates the company," CoStar said, adding that CREXi employees, including low-paid "researchers" in India, routinely access CoStar's subscription database.

"Once there, CREXi copies CoStar's content, including copyrighted photographs, real estate listing data, and broker information, to populate its website," CoStar said.

CoStar added that once a new listing appears on CoStar's system a nearly identical one tends to pop up on CREXi with an identical photo, the only difference being that CoStar's watermark is removed, although in some instances the watermark remains.

Many CREXi managers "cover their tracks" by using pseudonyms and non-CREXi email addresses, CoStar

said. In one example, CoStar said Nick Hanna, CREXi's senior product manager, created a LoopNet account registered to "Hank Mardukus," a fictional character from the 2009 movie "I Love You, Man."

CoStar said the alleged scheme is similar in scope to the one undertaken by Xceligent. CoStar in December secured a \$500 million judgment from the bankruptcy estate for Xceligent, which CoStar accused of repeatedly gaining access to CoStar's subscription databases and stealing its photos and information. Xceligent filed for Chapter 7 bankruptcy in late 2017.

"CREXi was undeterred," CoStar said. "Instead, it simply adopted Xceligent's playbook."

CoStar said it is owed unspecified millions in damages from CREXi as well as injunctive relief to prevent the continued theft from its database.

The lawsuit includes claims for copyright infringement, violation of the Digital Millennium Copyright Act, common law misappropriation, violation of the California Unfair Competition Law and breach of contract.

"The complaint speaks for itself," said CoStar attorney Nicholas J. Boyle of Latham & Watkins LLP in a statement. "CoStar uncovered a mountain of evidence that CREXi is free-riding on CoStar's services and intellectual property to build a rival business. CoStar filed a lawsuit because CoStar does not want to compete with itself."

CREXi did not immediately respond to a request for comment.

CoStar is represented by Nicholas J. Boyle, Jessica Stebbins Bina and Sarah A. Tomkowiak of Latham & Watkins LLP.

Counsel for CREXi could not immediately be identified.

The case is CoStar Group Inc. et al. v. Commercial Real Estate Exchange Inc., case number 2:20-cv-8819, in the U.S. District Court for the Central District of California.

--Additional reporting by Tiffany Hu. Editing by Jay Jackson Jr.