

NAR Issue Summaries

Technologies / Copyright/Trademark

NAR Committee:

Federal Technology Policy Committee

What is the fundamental issue?

For decades, many MLSs have obtained automated database copyright registrations protecting the arrangement, selection, and coordination of their MLS compilations. If the MLS owns all the underlying components of the database – meaning, the photos, text, and other listing content – then this copyright registration also gives those MLSs copyright protection in that content as well. It appears that a great number of MLSs obtain ownership of all listing content, so they've long viewed this type of copyright registration as an effective protection mechanism against a third party's unauthorized use of the listing content.

Recently, the Copyright Office has issued requests for clarification to hundreds of MLSs regarding their MLS database copyright registration applications. The Office asserts that the applications do not demonstrate sufficient creativity in the arrangement, selection, or coordination of the compilation. This response is viewed as a major sea change for MLSs who've been granted this type of copyright protection for decades.

I am a real estate professional. What does this mean for my business?

Real estate professionals create valuable content/intellectual property that is increasingly distributed on the internet. That content must be carefully protected from theft in a manner that does not create serious unintended consequences for members doing business on the internet. Our Multiple Listing Services (MLS) members support continuing protection for compilations of data as REALTORS® compile and utilize collections of information every day through the use of MLSs. These compilations had traditionally been thought to enjoy copyright protection. The 1991 Supreme Court ruling in the Feist v. Rural Telephone Service Company court case made it less clear whether this type of information is protected.

NAR Policy:

N/A.

Opposition Arguments:

None.

Legislative/Regulatory Status/Outlook

N/A.

Current Legislation/Regulation (bill number or regulation)

None at this time.

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