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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ROBERT STEVENS and STEVEN
VANDEL, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

CORELOGIC, INC., a Delaware
Corporation,

Defendant.

Case No.: 14CV1158 BAS (JLB)

**FIRST AMENDED CLASS ACTION
COMPLAINT**

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1 Plaintiffs ROBERT STEVENS and STEVEN VANDEL bring this action
2 individually and on behalf of all others similarly situated (the “Class,” as defined
3 below), by and through undersigned counsel, against defendant CORELOGIC,
4 INC. (“CoreLogic”).
5

6 I. NATURE OF THE ACTION

7 1. This case arises from CoreLogic’s falsification, removal and/or
8 alteration of photographers’ copyright management information (such as the name
9 of the author and copyright owner) in photographic works in violation of 17 U.S.C.
10 §1202(a) and (b). Plaintiffs Stevens and Vandel and the other class members are
11 real estate and architectural photographers. Plaintiffs allege that CoreLogic knew or
12 had reasonable grounds to know that its falsification, removal and/or alteration of
13 copyright management information would induce, enable, facilitate or conceal
14 copyright infringement of the photographic works of the individual Plaintiffs and
15 the Class. The individual Plaintiffs and the Class seek civil remedies under 17
16 U.S.C. §1203(b), including an injunction, impounding of any device or product
17 involved in a violation of 17 U.S.C. §1202 for remedial modification or destruction,
18 damages, costs and attorneys’ fees.
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23 II. JURISDICTION AND VENUE

24 2. This action arises under the Copyright Act, 17 U.S.C. §101, *et seq.*
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IV. FACTS

A. CoreLogic Data and MLS Products

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9. “A multiple listing service is a common database where member companies submit listings to facilitate the exchange of information about one another’s listings so agents can cross company lines to sell one another’s houses and can show clients all houses on the market, not just those homes listed with their own company.” *Mid-America Real Estate Co. v. Iowa Realty Co.*, No. 4:04-CV-10175, 2004 U.S. Dist. LEXIS 10155, 2004 WL 1280895, at *2 (S.D. Iowa 2004).

10. Multiple Listing Service (“MLS”) organizations typically require every listing contain at least one, and sometimes several, photographs of property offered for sale. CoreLogic is the largest provider of technology services to MLS organizations in the United States.

11. CoreLogic represents it has as clients 17 of the 20 top MLS organizations.

12. CoreLogic represents that its data includes more than 3.3 billion property and financial records spanning more than 40 years.

13. CoreLogic represents its data includes more than 99 percent of U.S. property records.

14. CoreLogic’s data includes photographs of real property created by Plaintiffs and the Class.

1 15. CoreLogic represents its data includes more than two million multiple
2 listing systems-based active property listings. On information and belief, these
3 listings include photographs of real property created by Plaintiff and the Class.
4

5 16. CoreLogic offers three MLS technology products under its
6 MarketLinx® line: Fusion™, Innovia™ and Matrix™.
7

8 17. CoreLogic products allow users of its MLS products to upload
9 photographs of real estate listings. CoreLogic's Fusion™ product features include
10 uploading multiple photos to a listing simultaneously. CoreLogic's Innovia™
11 product features a drag-and-drop photo utility. CoreLogic's Matrix™ product
12 features include a Matrix Photo Manager where users can upload multiple images at
13 once. On information and belief, millions of photographs of real property created
14 by Plaintiffs and the Class were uploaded using products in CoreLogic's custody or
15 control.
16
17

18 18. Homes sell better when real estate listing photos are created by
19 professional photographers. *See* "A Picture is Worth a Thousand Dollars. True or
20 False?" at [http://www.redfin.com/research/reports/special-](http://www.redfin.com/research/reports/special-reports/2010/a_picture_is_worth_a_thousand_dollars_true_or_false.html)
21 [reports/2010/a_picture_is_worth_a_thousand_dollars_true_or_false.html](http://www.redfin.com/research/reports/special-reports/2010/a_picture_is_worth_a_thousand_dollars_true_or_false.html) accessed
22 on July 14, 2013.
23
24

25 19. Adding additional photographs to a listing increases the price that can
26 be obtained for a property. *See* Benefield, at al., On the Relationship Between
27
28

1 Property Price, Time-on-Market, and Photo Depictions in a Multiple Listing
2 Service, Journal of Real Estate Finance and Economics, Vol. 43, No. 3, 2011.

3
4 20. CoreLogic pays MLSs for the right to use data in CoreLogic's risk
5 management operations for its MLS Data-Drive Products.

6 a. Lenders use CoreLogic's MLS Data-Driven Solutions to provide
7
8 timely and accurate information (analytics / solutions) to support risk
9 management initiatives.

10
11 b. Appraisers seeking to improve the quality of valuation products and
12 services (to lenders) can benefit from CoreLogic's MLS Data-Driven
13 Solutions reports.

14
15 c. Government Agencies use MLS Data-Driven Solutions to provide a
16 solution for risk management initiatives.

17
18 **B. Copyright Management Information and the Adoption of the**
19 **DMCA**

20 21. The Copyright Act grants exclusive rights to Plaintiffs and the Class
21 members in their copyrighted works. These exclusive rights include the right to (1)
22 reproduce the copyrighted work in copies, (2) to prepare derivative works based
23 upon the copyrighted work, (3) to distribute copies of the copyrighted work to the
24 public by sale or other transfer of ownership, or by rental, lease or lending, and (4)
25 to display the copyrighted work publicly. 17 U.S.C. § 106.
26
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1 22. The Plaintiffs and the Class are entitled to these exclusive rights for all
2 of the photographs at issue in this lawsuit.

3 23. All of the photographs at issue in this lawsuit created by Plaintiffs and
4 the Class contained “copyright management information” (sometimes referred to as
5 “CMI”) as that term is defined in 17 U.S.C. §1202(c).
6

7 24. 17 U.S.C. §1202 was first considered by Congress in 1998 as part of
8 legislation designed to implement the World Intellectual Property Organization
9 (WIPO) Copyright Treaty (CT) and Performances and Phonograms Treaty (WPPT).
10

11 25. The text of Article 12 of the CT and Article 19 of the WPPT are
12 similar. Both require contracting parties to provide “adequate and effective legal
13 remedies against any person performing any of the following acts ... having
14 reasonable grounds to know that it will induce, enable, facilitate or conceal an
15 infringement ... (i) to remove or alter any electronic rights management information
16 without authority.”
17
18

19 26. Article 12 of the CT also requires adoption of “legal remedies against
20 any person performing any of the following acts ... having reasonable grounds to
21 know, that it will induce, enable, facilitate or conceal an infringement ... (ii) to
22 distribute, import for distribution, broadcast or communicate to the public, without
23 authority, works or copies of works knowing that electronic rights management
24 information has been removed or altered without authority.”
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1 27. Both the WPPT and CT define “rights management information” as
2 “information which identifies the work, the author of the work, the owner of any
3 right in the work, or information about the terms and conditions of use of the work,
4 and any numbers or codes that represent such information, when any of these items
5 of information is attached to a copy of a work or appears in connection with the
6 communication of a work to the public.”
7

8
9 28. Several bills with different names were introduced in the House of
10 Representatives and the Senate in 1997 to implement WPPT and CT. Reports were
11 issued and hearings were held in both houses of Congress in 1998. The different
12 bills were consolidated and renamed the “Digital Millennium Copyright Act of
13 1998” (“DMCA”). On May 11, 1998, the Senate Judiciary Committee issued a
14 Report on the DMCA (Sen. Rpt. 105-190), which further described the intent of the
15 prohibitions being adopted in Section 1202 of the DMCA.
16
17

18 Copyright Management Information (CMI) is an important element in
19 establishing an efficient Internet marketplace in copyrighted works free from
20 governmental regulation. Such information will assist in tracking and
21 monitoring uses of copyrighted works, as well as licensing of rights and
22 indicating attribution, creation and ownership.

23 Under the bill, CMI includes such items as the title of the work, the author,
24 the copyright owner, and in some instances, the writer, performer, and
25 director. CMI need not be in digital form, but CMI in digital form is
26 expressly included. It is important to note that the DMCA does not require
27 CMI, but if CMI is provided, the bill protects it from falsification, removal or
28 alteration. Information that is not defined as CMI under the bill would not be
protected by these provisions, although its removal or falsification might be
protected under other laws, such as unfair trade. The definition of CMI may
be expanded by regulation prescribed by the Register of Copyrights.

1 29. The intentions of the Senate regarding copyright management
2 information were expressed further in the Report's discussion of the language
3 proposed for Section 1202.
4

5 This section does not mandate the use of CMI, nor does it prescribe the
6 choice of any particular type of CMI for those who do use it. It merely
7 protects the integrity of CMI if a party chooses to use it in connection with a
8 copyrighted work by prohibiting its deliberate deletion or alteration.
9 Furthermore, this section imposes liability for specified acts. It does not
10 address the question of liability for persons who manufacture devices or
11 provide services.

12 30. The DMCA was debated on the Senate floor on May 14, 1998. During
13 debate, Sen. Thompson noted:

14 New technology creates exciting opportunities for intellectual property, but
15 the digital environment also poses threats to this form of property.
16 Unscrupulous copyright violators can use the Internet to more widely
17 distribute copyrighted material without permission. To maintain fair
18 compensation to the owners of intellectual property, a regime for copyright
19 protection in the digital age must be created. Technology to protect access to
20 copyrighted work must be safeguarded. Copyright management information
21 that identifies the copyright owner and the terms and conditions of use of the
22 copyrighted material must be secured.

23 Senate Floor Debate, Cong. Rec., S.4892 (May 14, 1998).

24 31. A recurring theme throughout the debates of the DMCA is the
25 protection the law provides against piracy. In statements and remarks before both
26 House and Senate, members of Congress repeatedly extolled the benefits of the
27 DMCA for the protections against piracy it would provide. The protection of
28 copyright management information integrity, and the prohibition against alteration,

1 removal or falsification of copyright management information, implements
2 Congress' goal of preventing piracy.

3
4 32. As adopted, 17 U.S.C. §1202(c) provides:

5 Definition. As used in this section, the term "copyright management
6 information" means any of the following information conveyed in connection
7 with copies or phonorecords of a work or performances or displays of a
8 work, including in digital form, except that such term does not include any
9 personally identifying information about a user of a work or of a copy,
10 phonorecord, performance, or display of a work:

11 (1) The title and other information identifying the work, including the
12 information set forth on a notice of copyright.

13 (2) The name of, and other identifying information about, the author of a
14 work.

15 (3) The name of, and other identifying information about, the copyright
16 owner of the work, including the information set forth in a notice of
17 copyright.

18 (4) With the exception of public performances of works by radio and
19 television broadcast stations, the name of, and other identifying information
20 about, a performer whose performance is fixed in a work other than an
21 audiovisual work.

22 (5) With the exception of public performances of works by radio and
23 television broadcast stations, in the case of an audiovisual work, the name of,
24 and other identifying information about, a writer, performer, or director who
25 is credited in the audiovisual work.

26 (6) Terms and conditions for use of the work.

27 (7) Identifying numbers or symbols referring to such information or links to
28 such information.

(8) Such other information as the Register of Copyrights may prescribe by
regulation, except that the Register of Copyrights may not require the
provision of any information concerning the user of a copyrighted work.

1 **C. Copyright Management Information Metadata Used by Plaintiffs**
2 **and Class Members**

3 33. Each of the photographs created by Plaintiffs and Class members was
4 under copyright protection the moment the photograph was created, and copyright
5 management information (such as the name of the author or copyright owner) was
6 added to help maintain control of the photos and prevent copyright infringement.

7
8 34. One important purpose of copyright management information is to
9 identify digital images as the works of Plaintiffs or Class members. The Internet has
10 made it possible for images to be copied and distributed worldwide without
11 detection. As a result, copyright infringement on the Internet has become a serious
12 problem for professional photographers. Real estate photographers are particularly
13 vulnerable to the unauthorized copying of photographs due to the wide distribution
14 of these photographs through an MLS.
15

16
17 35. When copyright management information is removed, altered or
18 falsified, Plaintiffs and the Class may find it difficult or impossible to enforce their
19 rights under the Copyright Act. For instance, Plaintiffs and Class members may
20 find it more difficult or impossible to prove that their works were copied or used
21 without permission when copyright management information has been removed,
22 altered or falsified. Additionally, subsequent infringers may claim that their
23 copyright infringement was innocent, because the copyright management
24 information on the infringing copy was removed, altered or falsified. Further, it
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1 may be difficult or impossible for a copyright owner to trace an infringer's profits
2 from an infringing copy that has copyright management information removed,
3 altered or falsified.

4
5 36. At the time photographs are uploaded to a CoreLogic MLS product,
6 the metadata of the digital files contains identifying information, such as
7 information set forth in a notice of copyright. This metadata may include the name
8 of the photographer, the name of the copyright owner (who might be different from
9 the photographer who created the photograph if the photographer took the photo as
10 a work for hire while employed by another photographer or photography studio, *see*
11 17 U.S.C. § 201), the terms and conditions for use, or other information related to
12 the work such as geo-location information showing where the photograph was
13 originally created.
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17 37. The individual items of metadata information are called "tags." A wide
18 variety of tags can be included in metadata. Digital cameras record the current date
19 and time a photograph is created and save this data in metadata. Camera settings,
20 the model and make of camera, image orientation (rotation), aperture, shutter speed,
21 focal length, metering mode, and ISO speed information are also stored in
22 metadata, as is a thumbnail for previewing the picture on the camera's LCD screen,
23 in file managers, or in photo manipulation software. Such information can be used
24 to identify the author or copyright owner of a photograph.
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1 38. Metadata also stores copyright information, such as the name of
2 photographer and copyright owner, and permissions, if any, granted for use or
3 reserved to the owner. For example, the permissions tag might contain the words
4 “all rights reserved” to indicate to anyone who might encounter that image file that
5 all rights for the use of the image were reserved by the copyright owner and any
6 further use requires the owner’s permission.
7

8
9 39. Embedding metadata in image files is a standard technical measure
10 used by Plaintiffs and the Class members to identify and protect their copyrighted
11 works.
12

13 40. Image metadata was developed pursuant to a broad consensus of
14 copyright owners and service providers in an open, fair, voluntary, multi-industry
15 standards process. The metadata does not impose substantial costs on Internet
16 service providers or substantial burdens on their systems or networks.
17

18
19 41. Metadata for each digital image metadata (typically 64kB or less) is
20 extremely small when compared to the size of the digital image of the photograph
21 which may be a hundred times (e.g. 6.4 MB) larger or more.
22

23 **D. CoreLogic’s Removal, Alteration or Falsification of Metadata**
24 **Used by Plaintiffs and Class Members**

25 42. Real estate photographers across the nation have embedded copyright
26 management information in the metadata of their images.
27
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1 43. All digital images uploaded to a CoreLogic MLS product by Plaintiffs
2 and the Class members contained copyright management information metadata.

3 44. Copyright management information metadata was present at the time it
4 was uploaded to an MLS operated or maintained by CoreLogic.
5

6 45. CoreLogic removed, altered and/or falsified this copyright
7 management information after it was uploaded to an MLS operated or maintained
8 by CoreLogic.
9

10 46. CoreLogic came into possession of the photographs uploaded to an
11 MLS with copyright management information attached and CoreLogic intentionally
12 and improperly removed it. Alternatively, the photographs uploaded to an MLS
13 came into CoreLogic's possession without copyright management information
14 attached, but CoreLogic knew that copyright management information had been
15 improperly removed, and CoreLogic used the photographs anyway.
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18 47. CoreLogic knew that it did not own the copyrights for the photographs
19 uploaded to an MLS via a product that CoreLogic had custody or control of.
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22 48. CoreLogic knew that it did not have any written authorization from the
23 copyright owner to remove or alter copyright management information for the
24 photographs uploaded to an MLS via a product that CoreLogic had custody or
25 control of.
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1 49. CoreLogic made no attempt to contact the photographers for
2 authorization to remove or alter the copyright management information for the
3 photographs uploaded to a CoreLogic MLS product.
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5 **E. CoreLogic’s Knowledge that its Removal, Alteration or**
6 **Falsification of Metadata Used by Plaintiffs and Class Members Enables,**
7 **Facilitates or Conceals Infringement**

8 50. CoreLogic’s use of the digital images of Plaintiffs and the Class is
9 important to the desirability of its products by its paying users.

10 51. CoreLogic has a business practice of removing or altering copyright
11 management information from digital images that are owned by Plaintiffs and the
12 Class. On information and belief, CoreLogic created, owns and/or uses software
13 that strips the copyright management information from the digital images of
14 Plaintiff and the Class that were uploaded to an MLS operated or maintained by
15 CoreLogic.
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18 52. There is no legitimate business reason for CoreLogic to remove or
19 alter copyright management information from digital images that are owned by
20 Plaintiffs and the Class. Digital images with copyright management information
21 intact can be used by CoreLogic’s software products just as easily as digital images
22 with copyright management information removed.
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25 53. The copyright management information removed from the digital
26 images does not materially reduce the file size of the digital images or materially
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1 reduce storage costs for the digital images. The removal of copyright management
2 information from the digital images does not materially slow down loading of the
3 digital images.

4
5 54. CoreLogic knows, or has reasonable grounds to know, that removal or
6 alteration of copyright management information will induce, enable, facilitate or
7 conceal infringement of copyrights owned by Plaintiff and the Class. Without the
8 copyright management information intact on the digital images, infringers are
9 induced or enabled to copy the images of Plaintiffs and the Class, because
10 copyright management information (*e.g.* name of author or copyright owner) have
11 been removed. Without the copyright management information, an MLS user may
12 mistakenly believe that the digital images of Plaintiffs and the Class can be
13 downloaded or used freely. Without the copyright management information,
14 copyright infringement is facilitated or concealed, because Plaintiffs and the Class
15 have the difficult or impossible task of proving that a digital image belongs to them.
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20 55. CoreLogic has a business practice of placing its own copyright notice
21 on the same webpage or report as the digital images that are owned by Plaintiffs
22 and the Class. This false copyright management information on CoreLogic
23 webpages or reports induces or enables CoreLogic or its users to copy the images of
24 Plaintiffs and the Class, because copyright management information (*e.g.* name of
25 author or copyright owner) have been removed.
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1 56. CoreLogic's false copyright management information can
2 affirmatively mislead a CoreLogic product user to believe that the digital image can
3 be downloaded and used without the consent of Plaintiff and the Class. If
4 CoreLogic disclosed to its users that it did not have the rights to reproduce,
5 distribute or display the images of Plaintiffs and the Class, then CoreLogic's
6 products are no longer appealing or less appealing to CoreLogic's users.
7
8 CoreLogic's false copyright management information induces, enables or facilitates
9 its paying users to use the infringing digital images in connection with an opinion
10 or service (*e.g.* appraisal, insurability, etc.) by its users based upon the infringing
11 images.
12
13

14 57. CoreLogic's false copyright information on CoreLogic webpages or
15 reports also facilitates or conceals infringement by CoreLogic and its users, because
16 Plaintiffs and the Class will have the difficult or impossible task of proving that a
17 digital image belongs to them when CoreLogic's copyright notice is associated with
18 it. Falsified copyright management information makes it harder for Plaintiffs and
19 the Class to identify and prove infringement than simply removed copyright
20 management information. In fact, falsified copyright management information can
21 affirmatively mislead Plaintiffs and the Class that the digital images are not owned
22 by them. With real estate photography, two different photographers of the same
23 property would likely have at least some very similar photographs, but each would
24 have separate copyrights in the similar photographs.
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1 58. CoreLogic has been notified by at least one Class Member that
2 infringing images have been uploaded to CoreLogic MLS products without
3 permission. When CoreLogic was notified of infringing images residing on a
4 CoreLogic MLS product, CoreLogic responded to the Class Member that the
5 photographs had been removed.
6

7 **F. Examples of Removal, Alteration or Falsification By CoreLogic of**
8 **Stevens' Copyright Management Information**

9 59. Robert Stevens is an accomplished real estate and architectural
10 photographer who works in South Florida.
11

12 60. On August 9, 2009, Stevens created an aerial photograph of a
13 residential condominium building located at 3800 N. Ocean Drive, Singer Island,
14 Florida known as Resort at Singer Island. Stevens processed the image and, since
15 he created it, he has licensed it for a fee to several real estate agents and brokers
16 who have marketed condominium units for sale at 3800 N. Ocean Drive.
17
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19 61. The image in .jpg format that Stevens created and Stevens licensed to
20 real estate agents and brokers contained copyright management information
21 embedded in the metadata of the image. The metadata included information
22 identifying Stevens as the author and claimed a copyright in the image. The photo
23 of 3800 N. Ocean Drive showing a portion of the metadata is shown in Figure 1
24 (and **Exhibit 1**).
25
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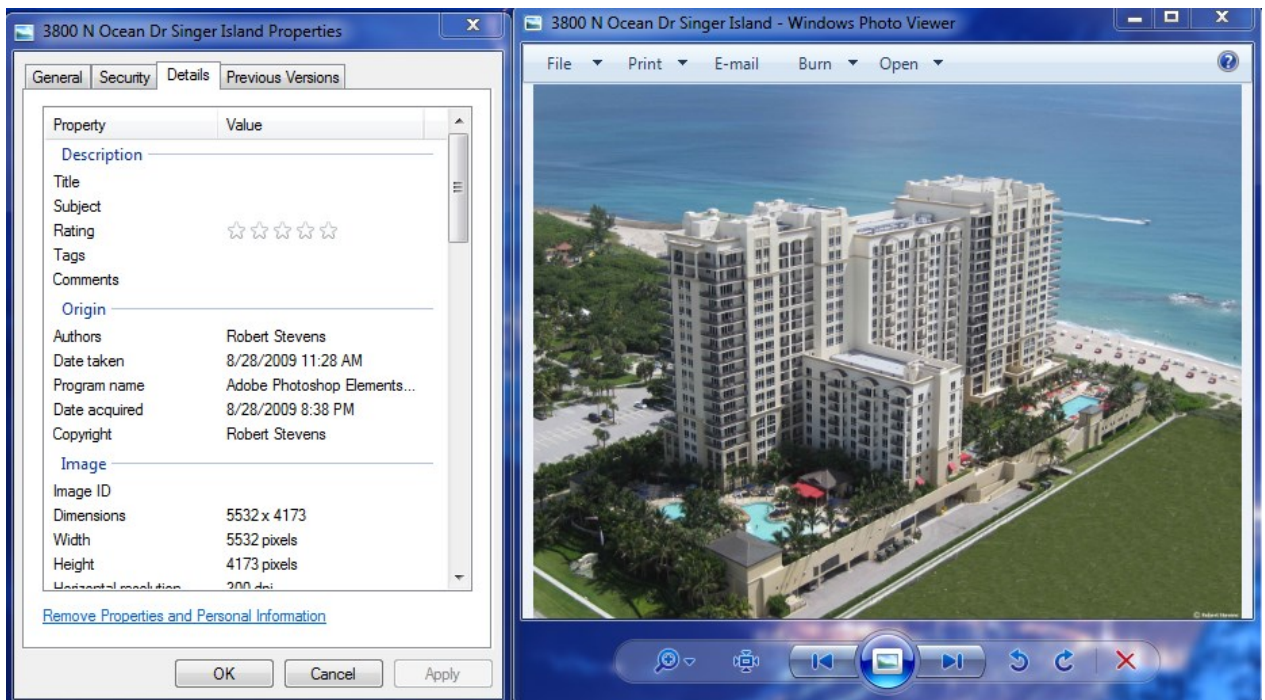


Figure 1 - Image of 3800 N. Ocean Drive Created by Stevens Showing Metadata

62. Stevens licensed this image to Real Estate Agent Dermot C. O'Brien for his use in connection with marketing properties at 3800 N. Ocean Drive. Mr. O'Brien uploaded the image, with all metadata intact, to his listings with the Realtors' Association of the Palm Beaches ("RAPB"), a South Florida MLS.

63. RAPB is a client of CoreLogic and uses a CoreLogic MLS product to operate its MLS business.

64. Stevens is not a member of RAPB or any other multiple listing service. Stevens has no contractual relationship with RAPB concerning his image of 3800 N. Ocean Drive. Stevens never gave authority to RAPB or CoreLogic to remove or

1 alter the copyright management information metadata on the images he provided to
2 his Client.

3
4 65. After Dermot C. O'Brien uploaded the photograph Stevens created of
5 3800 N. Ocean Dr. to the CoreLogic MLS product used by RAPB, CoreLogic
6 copied Stevens' image into its RealQuest® database and sold access to the database
7 and reports produced by the database without Stevens' permission, authority or
8 compensation. Figure 2 (and **Exhibit 2**) is a portion of a CoreLogic RealQuest®
9 report for 3800 N. Ocean Dr. displaying Stevens' copyrighted image. On
10 information and belief, the report falsely attributes copyright ownership of Stevens'
11 photograph to CoreLogic on the same webpage as Stevens' image with the stripped
12 metadata.
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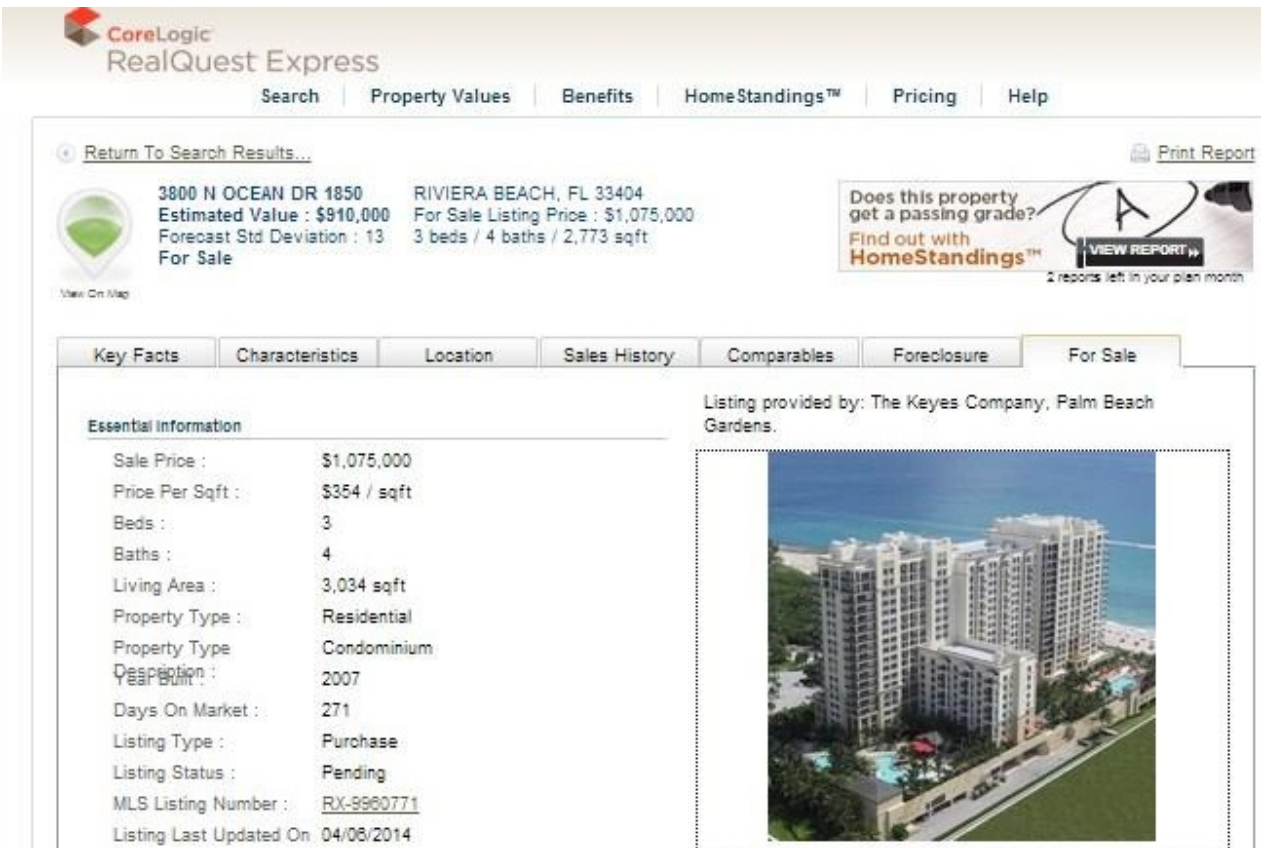


Figure 2 - CoreLogic RealQuest Report with Stevens' Photograph

66. Before CoreLogic copied Stevens' image, it stripped out the copyright management information metadata Stevens had embedded in his images. Figure 3 (and **Exhibit 3**) shows a screenshot of 3800 N. Ocean Dr. downloaded from RealQuest® stripped of all copyright management information metadata.

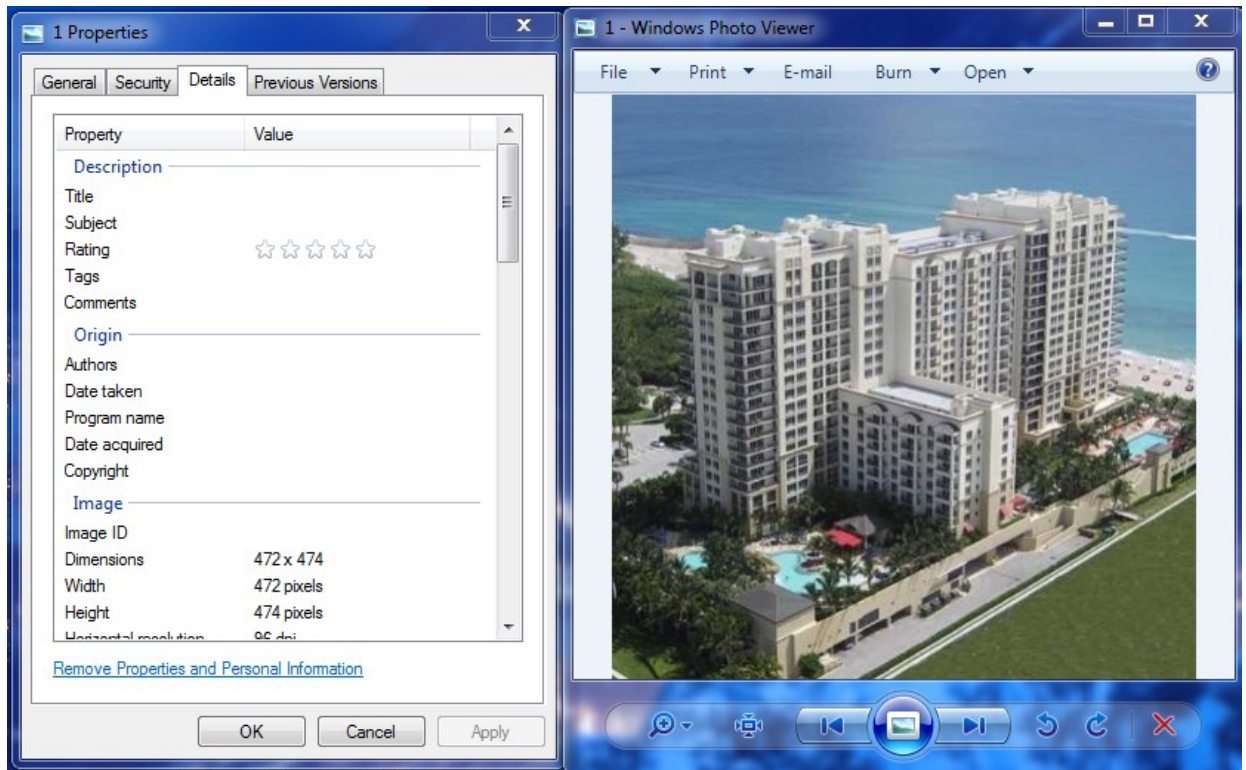


Figure 3 - Stevens' Photograph Stripped of Metadata

67. CoreLogic knew or had reasonable grounds to know that removal or alteration of Stevens' copyright management information would induce, enable, facilitate or conceal copyright infringement, and that any use of Stevens' copyrighted images without his permission would constitute copyright infringement.

68. In fact, CoreLogic's removal of Stevens' copyright management information **did in fact enable, facilitate or conceal copyright infringement in this instance**. Since Stevens first licensed his image of 3800 N. Ocean to Dermot C. O'Brien who used it to market properties at that address, other real estate agents have copied Stevens' copyrighted image without his permission and used it,

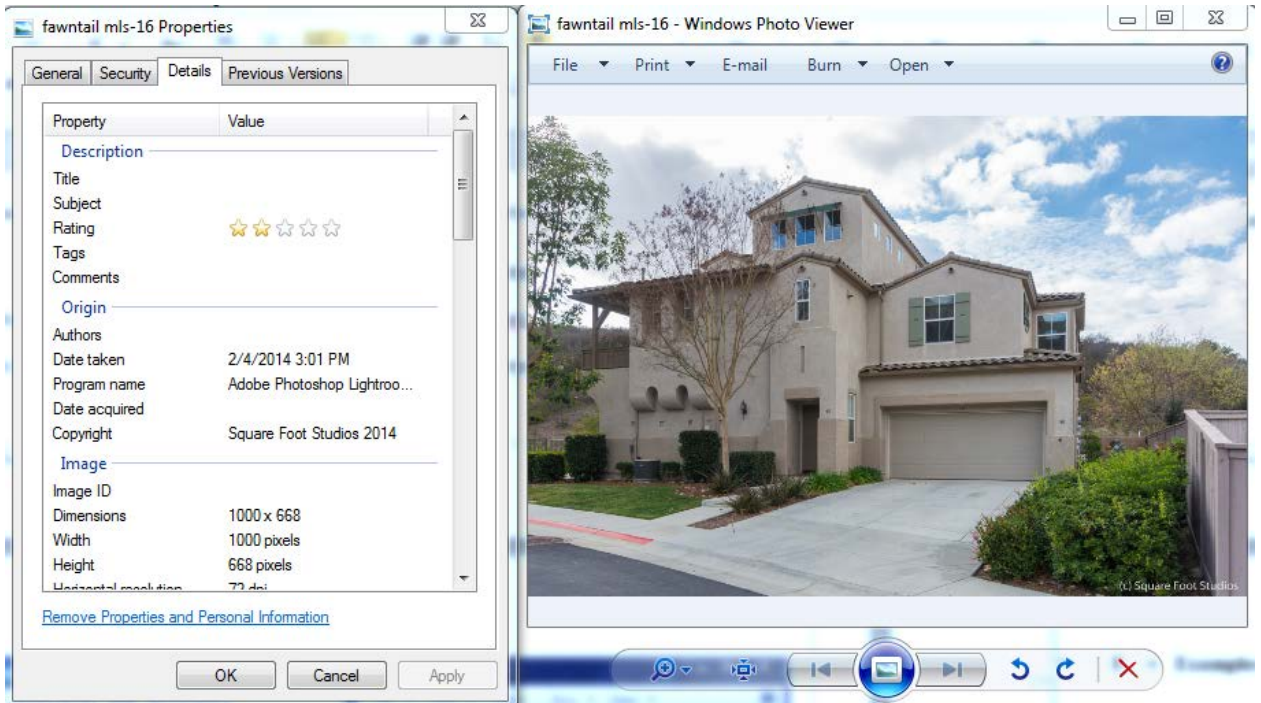
1 without license or authority, to promote the sale of properties at 3800 N. Ocean. In
2 fact, **the real estate agent who listed Apt. 1850 at 3800 N. Ocean shown in**
3 **Figure 2 above is an infringer of Stevens' image.** Upon information and belief,
4 the infringer obtained Stevens' copyrighted image stripped of Stevens' metadata
5 from the multiple listing service that both the infringer and O'Brien belong to and
6 then used that image, without Stevens' authorization, in connection with the sale of
7 the agent's listing for Apt. 1850.
8
9

10 **G. Examples of Removal, Alteration or Falsification by CoreLogic of**
11 **Vandel's Copyright Management Information**

12 69. Steven Vandel is a photographer and an architect specializing in
13 photography of buildings and interior spaces. Vandel does business as Square Foot
14 Studios and resides in San Diego, California.
15

16 70. On February 4, 2014, Vandel created 25 images of a single family
17 residence located at 915 Fawntail St., San Marcos, California. Vandel processed
18 the image and, since he created it, he licensed it to a real estate agent brokers who
19 marketed the residence for sale.
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1 71. The 25 images in .jpg format that Vandel created and licensed
 2 contained copyright management information embedded in the metadata of the
 3 images. The metadata included information identifying the copyright as belonging
 4



17 **Figure 4 - Image of 915 Fawntail St. Created by Vandel Showing Metadata**

18 to “Square Foot Studios 2014.” One of Vandel’s 25 photographs showing a portion
 19 of the metadata is shown in Figure 4 (and **Exhibit 4**).

20

21 72. Vandel licensed his 25 images to a local San Diego real estate agent
 22 for use in connection with marketing the property at 915 Fawntail St. The agent
 23 uploaded the image, with all metadata intact, to a listing with the San Diego County
 24 Regional Multiple Listing Service known as Sandicor.

25

26 73. Sandicor is a client of CoreLogic and uses a CoreLogic MLS product
 27 to operate its MLS business.
 28

1 74. Vandel is not a member of Sandicor or any other multiple listing
2 service. Vandel has no contractual relationship with Sandicor concerning his image
3 of 915 Fawntail St. Vandel never gave authority to Sandicor or CoreLogic to
4 remove or alter the copyright management information metadata on the images he
5 provided to his real estate agent client.
6

7 75. After Vandel's real estate agent client uploaded the photographs
8 Vandel created of 915 Fawntail St. to the CoreLogic MLS product used by
9 Sandicor, CoreLogic copied Vandel's images into its RealQuest® database and sold
10 access to the database and reports produced by the database without Vandel's
11 permission, authority or compensation. Figure 5 (and **Exhibit 5**) is a portion of a
12 CoreLogic RealQuest® report for 915 Fawntail St. displaying one of Vandel's
13 copyrighted images. On information and belief, the report falsely attributes
14 copyright ownership of Vandel's photograph to CoreLogic on the same webpage as
15 as Vandel's image with the stripped metadata.
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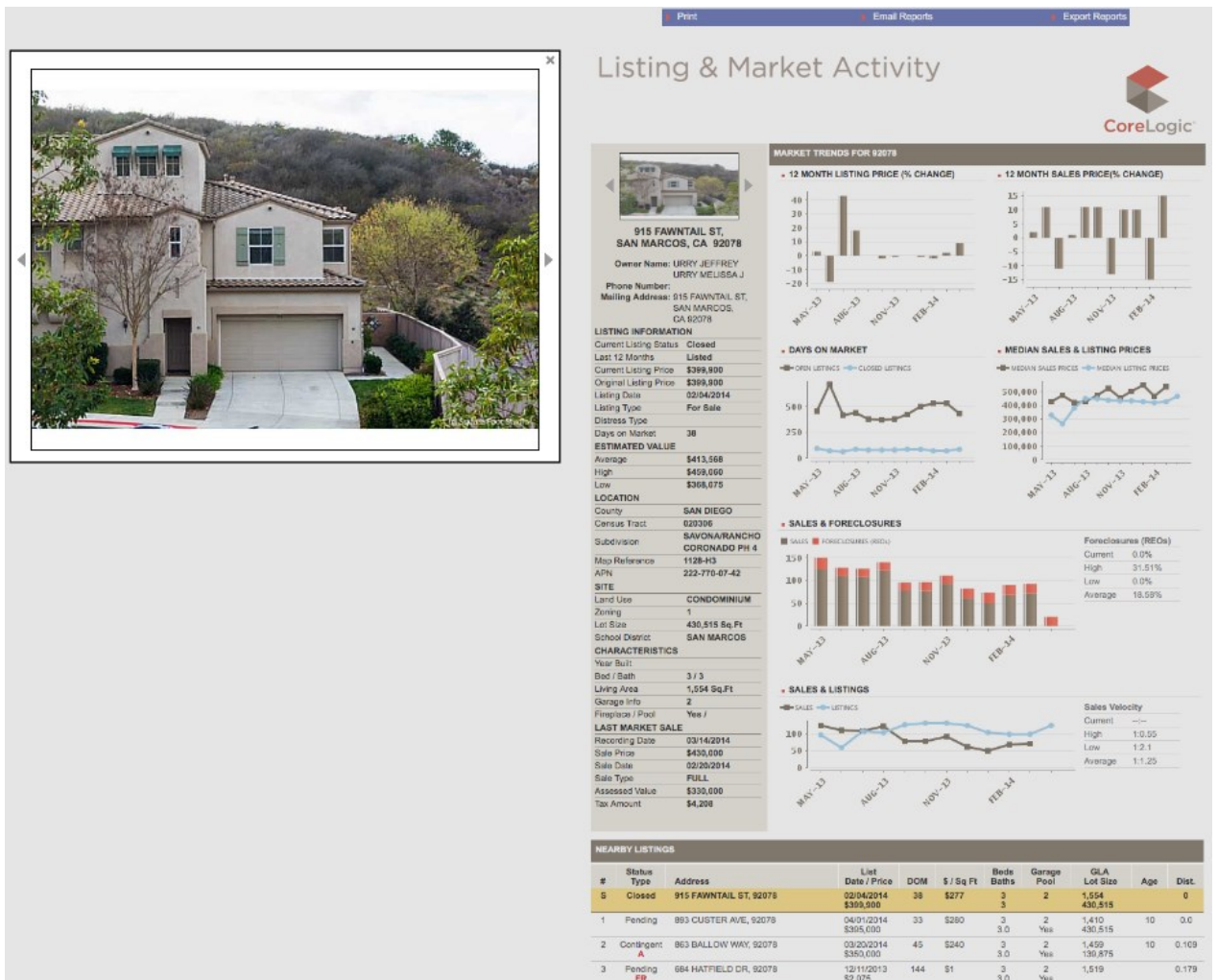


Figure 5 - CoreLogic RealQuest Report with one of Vandel's Photographs

76. Before CoreLogic copied Vandel's 25 images, it stripped out the copyright management information metadata Vandel had embedded in his images. Figure 6 (and **Exhibit 6**) shows a screenshot of 915 Fawntail St. downloaded from RealQuest® stripped of all copyright management information metadata.

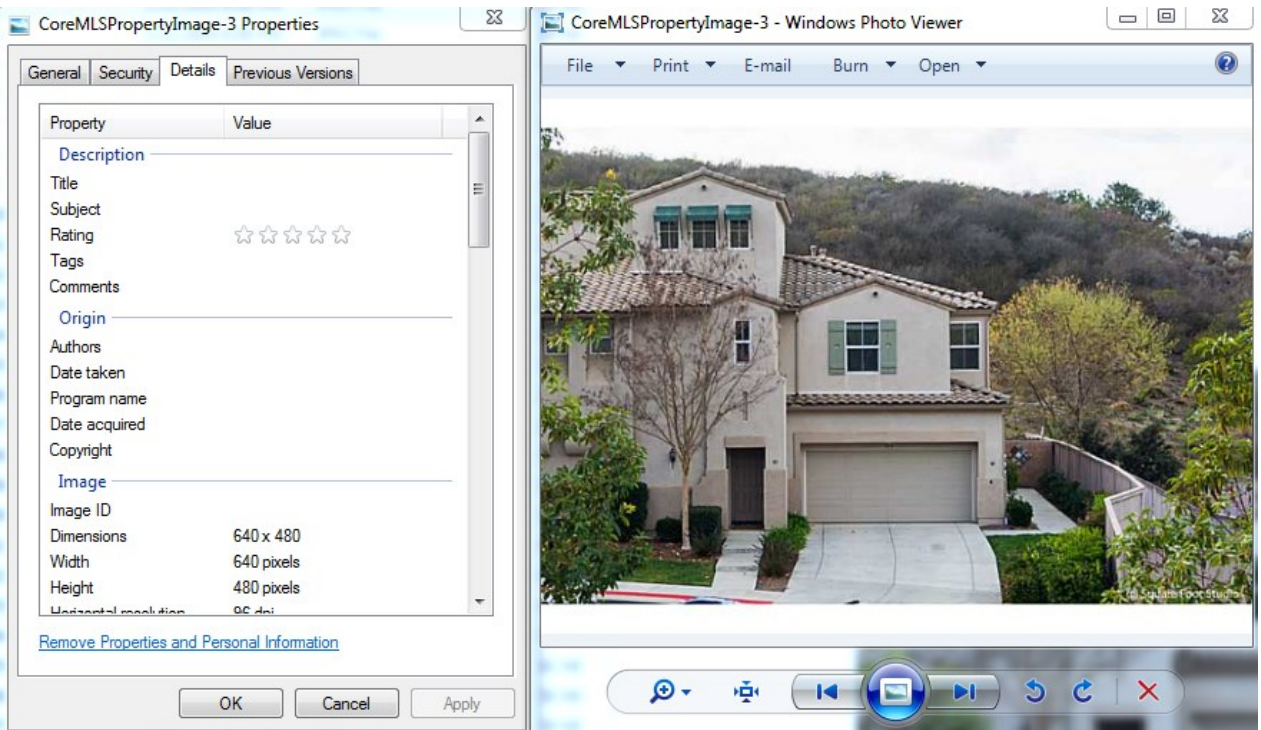


Figure 6 - Vandel's Photograph Stripped of Metadata

H. Other Examples of Removal, Alteration or Falsification of Copyright Management Information by CoreLogic

77. Copyright management information in metadata was present in photographs of 4502 Lake Forrest Drive, Atlanta, Georgia 30327 taken by a professional real estate photographer. After the photographs were uploaded to an MLS operated or maintained by CoreLogic, the copyright management information metadata embedded in those images was stripped out. Upon information and belief, CoreLogic stripped out the copyright management information metadata. CoreLogic then copied one or more of these images into its RealQuest® database and sold access to the database and reports produced by the database without the photographer's permission or authority and without compensation to the photographer.

V. CLASS ALLEGATIONS

1
2 78. Plaintiffs and the Class have brought this case against CoreLogic
3 because CoreLogic violated 17 U.S.C. §1202 by removing, altering and/or
4 falsifying copyright management information of Plaintiffs and Class for the
5 photographs uploaded to a CoreLogic MLS product.
6

7 79. The Class is defined as all persons or entities that hold the copyright in
8 one or more images stored in a digital file with metadata containing copyright
9 management information that was uploaded to a multiple listing service via a
10 product in the custody or control of CoreLogic. Excluded from the Class are (a)
11 defendant and any entity in which any defendant has a controlling interest; (b) the
12 employees, officers and directors of those identified in subparagraph (a); (c) the
13 heirs, successors, assigns and legal representatives of the persons identified in
14 subparagraph (b) above; and (d) a multiple listing service.
15
16
17

18 80. Plaintiffs reserve the right to request creation of subclasses. Plaintiffs
19 also reserve the right to expand the Class or any subclass to include a multiple
20 listing service.
21

22 81. This action has been brought and may properly be maintained as a
23 class action pursuant to Rules 23(b)(2) and (b)(3) of the Federal Rules of Civil
24 Procedure.
25
26
27
28

1 82. Numerosity of the Class--Fed. R. Civ. Proc. 23(a)(1): The persons
2 and/or entities in the Class are so numerous that their joinder is impractical.
3 Defendant represents over 2 million active MLS listings with photographs uploaded
4 via a product in the custody or control of CoreLogic.
5

6 83. Existence and Predominance of Common Question of Law and Fact--
7 Fed. R. Civ. Proc. 23(a)(2) & 23(b)(3): There is a well-defined community of
8 interest in the questions of law and fact involved affecting the Class. Questions of
9 law and fact common to the Class include, but are not limited to, the following:
10

- 11
- 12 a. Whether CoreLogic contacted Plaintiffs and the Class to obtain
13 “authority” to remove or alter copyright management information from
14 digital images uploaded to a multiple listing service via a product in
15 the custody or control of CoreLogic within the meaning of 17 U.S.C.
16 §1202(b);
17
 - 18 b. Whether CoreLogic “intentionally remove[d] or alter[ed] copyright
19 management information” from digital images that are owned by
20 Plaintiffs and the Class after the images were uploaded to a multiple
21 listing service via a product in the custody or control of CoreLogic
22 within the meaning of 17 U.S.C. §1202(b)(1);
23
 - 24 c. Whether CoreLogic “distribute[d] . . . copyright management
25 information knowing that the copyright management information has
26 information knowing that the copyright management information has
27
28

1 been removed or altered without authority of the copyright owner or
2 the law” with respect to digital images that are owned by Plaintiffs and
3 the Class that were uploaded to a multiple listing service via a product
4 in the custody or control of CoreLogic within the meaning of 17
5 U.S.C. §1202(b)(2);

6
7
8 d. Whether CoreLogic “distribute[d] . . . copies of works . . . knowing
9 that the copyright management information has been removed or
10 altered without authority of the copyright owner or the law” with
11 respect to digital images that are owned by Plaintiffs and the Class that
12 were uploaded to a multiple listing service via a product in the custody
13 or control of CoreLogic within the meaning of 17 U.S.C. §1202(b)(3);

14
15
16 e. Whether CoreLogic removed or altered copyright management
17 information from digital images that are owned by Plaintiffs and the
18 Class knowing “that it will induce, enable, facilitate or conceal
19 infringement of copyright” within the meaning of 17 U.S.C. §1202(b).

20
21 f. Whether CoreLogic removed or altered copyright management
22 information from digital images that are owned by Plaintiffs and the
23 Class after “having reasonable grounds to know, that it will induce,
24 enable, facilitate or conceal infringement of copyright” within the
25 meaning of 17 U.S.C. §1202(b).
26
27
28

- 1 g. Whether CoreLogic knowingly “provide[d] copyright management
2 information that is false” with respect to digital images that are owned
3 by Plaintiffs and the Class that were uploaded to a multiple listing
4 service via a product in the custody or control of CoreLogic within the
5 meaning of 17 U.S.C. §1202(a)(1);
- 6
7 h. Whether CoreLogic knowingly “distribute[d] . . . copyright
8 management information that is false” with respect to digital images
9 that are owned by Plaintiffs and the Class that were uploaded to a
10 multiple listing service via a product in the custody or control of
11 CoreLogic within the meaning of 17 U.S.C. §1202(a)(2);
- 12
13 i. Whether CoreLogic provided or distributed false copyright
14 management information from digital images with respect to digital
15 images that are owned by Plaintiffs and the Class that were uploaded
16 to a multiple listing service via a product in the custody or control of
17 CoreLogic “with the intent to induce, enable, facilitate, or conceal
18 infringement” within the meaning of 17 U.S.C. §1202(a);
- 19
20
21
22 j. Whether the Court should “grant temporary and permanent injunctions
23 on such terms as it deems reasonable to prevent or restrain a violation”
24 of 17 U.S.C. §1202 pursuant to 17 U.S.C. §1203(b)(1);
25
26
27
28

1 k. Whether the Court should “order the impounding, on such terms as it
2 deems reasonable, of any device or product that is in the custody or
3 control of the alleged violator and that the court has reasonable cause
4 to believe was involved in a violation” of 17 U.S.C. §1202 pursuant to
5 17 U.S.C. §1203(b)(2);
6

7
8 l. Whether the Court should “as part of a final judgment or decree
9 finding a violation, order the remedial modification or the destruction
10 of any device or product involved in the violation that is in the custody
11 or control of the violator or has been impounded” pursuant to 17
12 U.S.C. §1203(b)(6);
13

14 m. The amount of statutory damages “in the sum of not less than \$ 2,500
15 or more than \$25,000” for Plaintiffs and each Class member within the
16 meaning of 17 U.S.C. §1203(c)(3)(B);
17

18
19 n. The amount of “any profits of the violator that are attributable to the
20 violation and are not taken into account in computing the actual
21 damages” pursuant to 17 U.S.C. §1203(c)(2);
22

23 o. Whether the named Plaintiffs and the members of the Class are entitled
24 to declaratory relief regarding their rights.
25

26 These questions of law and fact predominate over questions that affect only
27 individual class members.
28

1 84. Typicality--Fed. R. Civ. Proc. 23(a)(3): The claims of the named
2 Plaintiffs are typical of those of the Class. Plaintiffs are asserting the same claims
3 as the Class members. Plaintiff's claims arose from the same practice or course of
4 conduct by CoreLogic in violation of 17 U.S.C. §1202.
5

6 85. Adequacy of Representation--Fed. R. Civ. Proc. 23(a)(4): Plaintiffs are
7 adequate representatives of the Class and will fairly and adequately protect the
8 interests of the Class. The individual Plaintiffs' interests do not in any way conflict
9 with the interests of the members of the Class that they seek to represent. Plaintiffs
10 are committed to the vigorous prosecution of this action. Plaintiffs have retained
11 competent counsel experienced in complex class action litigation and experienced
12 in actions for copyright violations to represent them.
13
14

15 86. Injunctive Relief--Fed. R. Civ. Proc. 23(b)(2): CoreLogic has acted or
16 refused to act on grounds generally applicable to the Class, making appropriate
17 final injunctive relief with respect to the Class as a whole.
18
19

20 87. Common Questions Predominate--Fed. R. Civ. Proc. 23(b)(3): As set
21 forth above, the questions of law or fact common to class members predominate
22 over any questions affecting only individual members.
23

24 88. Superior Method--Fed. R. Civ. Proc. 23(b)(3): A class action is
25 superior to other available methods for fairly and efficiently adjudicating the
26 controversy. A class action is the best available method for the fair and efficient
27
28

1 adjudication of this controversy. Since the damages suffered by individual class
2 members, while not inconsequential, may be relatively small, the expense and
3 burden of individual litigation make it impractical for members of the Class to seek
4 redress individually for the wrongful conduct alleged herein. Should separate
5 actions be required to be brought by each individual member of the Class, the
6 resulting multiplicity of lawsuits would cause undue hardship and expense on the
7 Court and the litigants. A class action is therefore the best method to assure that the
8 wrongful conduct alleged herein is remedied, and that there is a fair, efficient, and
9 full adjudication of this controversy.
10
11

12
13 89. The Class members' interests in individually controlling the
14 prosecution of separate actions is not strong given the relatively small amount of
15 damages that may be recovered as compared to the costs of litigating an individual
16 lawsuit.
17

18
19 90. Plaintiffs are aware of no litigation concerning the same claims against
20 CoreLogic.
21

22 91. It is desirable to concentrate the litigation in the Southern District of
23 California. CoreLogic has an office in San Diego, and plaintiff Vandel resides in
24 San Diego. On information and belief, CoreLogic's violations of 17 U.S.C. §1202
25 arise, in part, from the removal, alteration or falsification of copyright management
26 information from images uploaded in the Southern District of California to an MLS
27
28

1 operated or maintained by CoreLogic. Additionally, CoreLogic’s headquarters in
2 Irvine, California is less than eighty miles from the courthouse in San Diego. The
3 Southern District of California has procedures in place, such as an Early Neutral
4 Evaluation Conference, that will help facilitate the efficient resolution of this
5 matter.
6

7
8 92. The likely difficulties in managing a class action are few. Plaintiff
9 anticipates no undue difficulty in the management of this litigation as a class action.
10 As set forth above, determination of the common issues set forth above can be
11 proven on a common basis and will result in a judgment in favor of the Class and
12 monetary relief that may be awarded on a common basis. Additionally, any award
13 of injunctive relief would apply to the Class as a whole.
14

15
16 **VI. COUNT I - VIOLATION OF 17 U.S.C. §1202**

17 93. Plaintiffs incorporate the allegations of paragraphs 1 through 92 of this
18 complaint as if fully set forth herein.
19

20 94. Plaintiffs and members of the Class hold the copyright in one or more
21 images stored in a digital file with metadata containing copyright management
22 information that was uploaded to a CoreLogic MLS product.
23

24 95. CoreLogic never contacted Plaintiffs and the Class to obtain
25 “authority” to remove or alter copyright management information from digital
26
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28

1 images uploaded to a CoreLogic MLS product within the meaning of 17 U.S.C.
2 §1202(b).

3
4 96. CoreLogic knew that it never contacted Plaintiffs and the Class to
5 obtain “authority” to remove or alter copyright management information from
6 digital images uploaded to a CoreLogic MLS product within the meaning of 17
7 U.S.C. §1202(b).

8
9 97. CoreLogic has never had a business practice of attempting to contact
10 Plaintiffs and the Class to obtain “authority” to remove or alter copyright
11 management information from digital images uploaded to a CoreLogic MLS
12 product within the meaning of 17 U.S.C. §1202(b). In fact, CoreLogic’s removal
13 of copyright management information made it difficult or impossible to contact
14 Plaintiffs and the Class to obtain “authority” ” to remove or alter copyright
15 management information from digital images uploaded to a CoreLogic MLS
16 product within the meaning of 17 U.S.C. §1202(b). Rather, CoreLogic has a
17 business practice of removing or altering copyright management information from
18 digital images that are owned by Plaintiffs and the Class after the images were
19 uploaded to a CoreLogic MLS product.
20
21
22
23

24 98. Without the authority of Plaintiffs and the Class, CoreLogic
25 intentionally removed or altered copyright management information from digital
26
27
28

1 images that are owned by Plaintiffs and the Class after the images were uploaded to
2 a CoreLogic MLS product in violation of 17 U.S.C. §1202(b)(1).

3
4 99. Without the authority of Plaintiffs and the Class, CoreLogic distributed
5 copyright management information knowing that the copyright management
6 information had been removed or altered without authority of the copyright owner
7 or the law with respect to digital images that are owned by Plaintiffs and the Class
8 that were uploaded to a CoreLogic MLS product in violation of 17 U.S.C.
9 §1202(b)(2).

10
11
12 100. CoreLogic distributed copies of works knowing that the copyright
13 management information had been removed or altered without authority of the
14 copyright owner or the law with respect to digital images that are owned by
15 Plaintiffs and the Class that were uploaded to a CoreLogic MLS product in
16 violation of 17 U.S.C. §1202(b)(3).

17
18
19 101. CoreLogic removed or altered copyright management information
20 from digital images that are owned by Plaintiffs and the Class knowing that it will
21 induce, enable, facilitate or conceal infringement of copyright in violation of 17
22 U.S.C. §1202(b). Without the copyright management information intact on the
23 digital images, infringers are induced or enabled to copy the images of Plaintiffs
24 and the Class, because copyright management information (*e.g.* name of author or
25 copyright owner) have been removed. Without the copyright management
26
27
28

1 information, copyright infringement is facilitated or concealed, because Plaintiffs
2 and the Class have the difficult or impossible task of proving that a digital image
3 belongs to them.

4
5 102. CoreLogic removed or altered copyright management information
6 from digital images that are owned by Plaintiffs and the Class after having
7 reasonable grounds to know that it will induce, enable, facilitate or conceal
8 infringement of copyright in violation of 17 U.S.C. §1202(b). Without the
9 copyright management information intact on the digital images, CoreLogic has
10 reasonable grounds to know that infringers are induced or enabled to copy the
11 images of Plaintiffs and the Class, because copyright management information (*e.g.*
12 name of author or copyright owner) have been removed. Without the copyright
13 management information, CoreLogic has reasonable grounds to know copyright
14 infringement is facilitated or concealed, because Plaintiffs and the Class have the
15 difficult or impossible task of proving that a digital image belongs to them.
16
17
18

19
20 103. CoreLogic knowingly provided copyright management information
21 that is false with respect to digital images that are owned by Plaintiffs and the Class
22 that were uploaded to a CoreLogic MLS product in violation of 17 U.S.C.
23 §1202(a)(1). CoreLogic has a business practice of placing its own copyright notice
24 on the same webpage or report as the digital images that are owned by Plaintiffs
25 and the Class.
26
27
28

1 104. CoreLogic knowingly distributed copyright management information
2 that is false with respect to digital images that are owned by Plaintiffs and the Class
3 that were uploaded to a CoreLogic MLS product in violation of 17 U.S.C.
4 §1202(a)(2). CoreLogic has a business practice of placing its own copyright notice
5 on the same webpage or report as the digital images that are owned by Plaintiffs
6 and the Class.
7

8
9 105. CoreLogic provided or distributed false copyright management
10 information from digital images with respect to digital images that are owned by
11 Plaintiffs and the Class that were uploaded to a CoreLogic MLS product with the
12 intent to induce, enable, facilitate, or conceal infringement in violation of 17 U.S.C.
13 §1202(a). CoreLogic has a business practice of placing its own copyright notice on
14 the same webpage or report as the digital images that are owned by Plaintiffs and
15 the Class. This false copyright information on CoreLogic webpages or reports
16 induces or enables CoreLogic or its users to copy the images of Plaintiffs and the
17 Class, because copyright management information (*e.g.* name of author or
18 copyright owner) have been removed. This false copyright information on
19 CoreLogic webpages or reports facilitated or concealed infringement by CoreLogic
20 and its users, because Plaintiffs and the Class have the difficult or impossible task
21 of proving that a digital image belongs to them.
22
23
24
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1 106. The profits attributable to CoreLogic’s violation of 17 U.S.C. §1202
2 include the revenue from CoreLogic’s non-MLS products, such as RealQuest and
3 risk management products, that contain copies of Plaintiffs’ and the Class
4 members’ images after the copyright management information has been removed,
5 altered and/or falsified. Plaintiffs’ and the Class members’ photographs add
6 significant value to CoreLogic’s non-MLS products, because the customers and
7 users of those products use those photographs.
8
9

10 107. CoreLogic’s non-MLS products that use Plaintiffs’ and the Class
11 members’ photographs are very lucrative and generate millions in revenues each
12 year.
13

14 108. CoreLogic did not request permission of Plaintiffs and the Class to use
15 their images for CoreLogic’s non-MLS products.
16

17 109. CoreLogic’s 2013 revenues were over \$1.3 billion. CoreLogic is
18 extremely sophisticated with respect to intellectual property matters. CoreLogic
19 spent over \$7.0 million in 2012 to enforce patent and other intellectual property
20 rights. In its 2012 Annual Report, CoreLogic states: “Our success depends, in part,
21 upon our intellectual property rights. We rely primarily on a combination of
22 patents, copyrights, trade secrets, and trademark laws and nondisclosure and other
23 contractual restrictions on copying and distribution to protect our proprietary
24 technology and information.” CoreLogic acknowledged its business risk for
25
26
27
28

1 violating the Copyright laws when it states: “As we continue to develop and expand
2 our products and services, we may become increasingly subject to infringement
3 claims from third parties such as non-practicing entities, software providers or
4 suppliers of data. Likewise, if we are unable to maintain adequate controls over
5 how third-party software and data are used we may be subject to claims of
6 infringement.”
7

8
9 110. Unless enjoined from violating 17 U.S.C. §1202, Plaintiffs and the
10 Class members will suffer irreparable harm by depriving them of the right to
11 identify and control the reproduction and/or distribution of their copyrighted works,
12 to receive licensing revenue, and to pursue copyright infringement remedies. The
13 balance of hardships tips in favor of Plaintiffs and the Class because CoreLogic will
14 not be damaged if it is required to comply with 17 U.S.C. §1202. Plaintiffs and the
15 Class members are therefore entitled to an injunction barring CoreLogic from
16 violating 17 U.S.C. §1202 and impounding any device or product that is in the
17 custody or control of CoreLogic and that the court has reasonable cause to believe
18 was involved in a violation of 17 U.S.C. §1202.
19
20
21

22 111. Plaintiffs and the Class pray for relief as set forth in the Prayer below.
23

24 **VII. COUNT II - DECLARATORY RELIEF**

25 112. Plaintiffs incorporate the allegations of paragraphs 1 through 111 of
26 this complaint as if fully set forth herein.
27
28

1 113. An actual controversy exists between the Plaintiffs and the Class
2 Members on the one hand, and CoreLogic on the other hand, by reason of
3 CoreLogic’s present and continuing violations of 17 U.S.C. § 1202 alleged herein.
4

5 114. Plaintiffs and Class members are entitled to a judgment declaring that
6 CoreLogic’s actions are unlawful and, specifically, that CoreLogic violated their
7 rights under 17 U.S.C. § 1202.
8

9 115. To the extent CoreLogic argues it had authority from Plaintiffs and
10 Class to undertake any of the actions set forth in 17 U.S.C. §1202(b)(1), (2) or (3)
11 without compensation to Plaintiffs and the Class, a declaration is sought that any
12 such authority has been revoked as a result of this lawsuit or has expired.
13

14 116. A declaration is sought that CoreLogic did not request permission
15 from Plaintiffs and the Class to use their photographs in connection with any non-
16 MLS CoreLogic products.
17

18
19 **VIII. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs and the class members pray for relief and that
21 judgment be entered against defendant as follows:
22

- 23 a. For certification of a Class or subclasses, as appropriate;
- 24 b. Temporary and permanent injunctions to prevent or restrain a violation
25 of 17 U.S.C. §1202 pursuant to 17 U.S.C. §1203(b)(1);
26
27
28

- 1 c. An order impounding “any device or product that is in the custody or
2 control of the alleged violator and that the court has reasonable cause
3 to believe was involved in a violation” of 17 U.S.C. §1202 pursuant to
4 17 U.S.C. §1203(b)(2);
5
6 d. Damages pursuant to 17 U.S.C. §1203(a)(3) and (c) including actual
7 damages and defendant’s profits attributable to the violation of 17
8 U.S.C. §1202;
9
10 e. At Plaintiffs’ election, statutory damages in the sum of not less than
11 \$2,500 or more than \$25,000 for Plaintiffs and each Class member
12 pursuant to 17 U.S.C. §1203(c)(3)(B);
13
14 f. Costs pursuant to 17 U.S.C. §1203(b)(4);
15
16 g. Attorneys’ fees pursuant to 17 U.S.C. §1203(b)(5);
17
18 h. As part of a final judgment or decree finding a violation, ordering the
19 remedial modification or the destruction of any device or product
20 involved in the violation that is in the custody or control of the violator
21 or has been impounded pursuant to 17 U.S.C. §1203(b)(6);
22
23 i. Declaratory relief;
24
25 j. A trial by jury on all claims so triable; and
26
27 k. Such other and further relief as may be proper.
28

1 DATED: August 6, 2014

Respectfully submitted,

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3
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IX. JURY DEMAND

Plaintiffs demand a jury trial on all claims so triable.

DATED: August 6, 2014

Respectfully submitted,

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