

Copyright Infringement

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Digital Millennium Copyright Act (“DMCA”)

- Federal law enacted in 1998
- Limits liability for online service providers when certain criteria are met

Safe Harbor

- Four DMCA Safe Harbor provisions
- Most applicable to our industry: 17 USC s. 512(c): Shields service providers from copyright infringement liability for content appearing “by reason of the storage at the direction of a user.”

Situational Requirements for Safe Harbor

Service Provider Cannot:

- Post the infringing content;
- Know that the content infringes a copyright, or be aware of facts that would make it obvious that the content infringes a copyright; or
- Receive any financial benefit that is directly tied to the infringing content.

DMCA for Real Estate Professionals

- Applicable to IDX Feeds
- Blogs
- Ensure conforming DMCA policy posted

Actions To Take for Safe Harbor Protection

FIRST STEPS:

- Designate a copyright agent. Failure to do so can nullify Safe Harbor.
- Fill out form:
<http://www.copyright.gov/onlinesp/agent.pdf>
 - \$105.00 filing fee
 - Consider designating MLS as Copyright Agent

Actions To Take for Safe Harbor Protection

SECOND STEP:

Post a DMCA Notice on website.

- Include policy statement that repeat infringers will be barred from further participation.
- Make sure copyright agent contact information and instructions for sending takedown notice are clear and complete.

Actions To Take for Safe Harbor Protection

THIRD STEP:

Comply promptly with any DMCA takedown notices.

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[REDACTED]
[REDACTED]
Legal Department
[REDACTED]
[REDACTED]

Re: Unauthorized Use of Getty Images' Photograph
Reference Number [REDACTED]

It has come to our attention that you are using an image (or images) represented by Getty Images for online promotional and/or editorial purposes. We have searched our records and were not able to locate a valid license for the use of the image(s) under your company's name. Attached is a copy of the image(s) in question along with the usage found on your company's website.

As the leading worldwide provider of digital media, Getty Images is deeply committed to protecting the interests, intellectual property rights and livelihood of the photographers, filmmakers and other artists who entrust Getty Images to license their work. Getty Images looks forward to amicably resolving this matter and appreciates your cooperation throughout this process.

As you may know, use of an image without a valid license is considered copyright infringement in violation of US copyright law, Title 17 of the United States Code. The purpose of this communication is to identify a previously purchased license or reach a fair settlement if no valid license exists.

If you believe you have received this letter in error or have questions, please contact us at 1-800-972-4170 or email licensecompliance@gettyimages.com. Should you wish to resolve this matter by paying the settlement fee, please follow the remittance information included on the attached demand.

Within [REDACTED] days of the date of this letter please take the following action:

If a valid license was purchased prior to the use of the image(s), please provide us the Getty Images' sales order, invoice number or other license information. If the image was licensed under an alternate company name (dba) or in the name of a third party, such as an advertising agency, please provide that company name and phone number.

If a valid license does not exist for the identified usage and you do not plan to use the image(s) moving forward, you must immediately cease and desist use of the image(s), and remove them from your website. In addition, attached is a demand representing the monetary settlement for the use of the image(s) in question. Payment of the attached demand will settle your company's unlicensed use of the referenced image(s). Please follow the remittance information on the attached demand. Payment must be received within [REDACTED] days of the date of this letter.

Please note that ceasing use of the image(s) does not absolve your company of its responsibility to pay for the image(s) already used without a license. Getty Images' Copyright Compliance Team is willing to discuss the circumstances surrounding this matter; however, absent appropriate licenses, Getty Images and its artists expect to be fairly compensated for the use of the image(s) in question.

If after settlement you would like to continue using the image(s), our Copyright Compliance Team can assist you with licensing the image(s) for future use.

If you have questions after reading this letter and the attached Frequently Asked Questions, please contact our Copyright Compliance Team. Please be sure to include your company name and reference number as they appear on the attached settlement demand in any correspondence. This information will help us to expedite our research.

This letter is without prejudice to Getty Images' rights and remedies, all of which are expressly reserved.

Sincerely,
Copyright Compliance Team, Getty Images

[REDACTED]

[REDACTED]

Complying with Notices

- Ensure allegedly infringing material is removed or disabled as quickly as possible.
- Notify the source of the allegedly infringing material of the claim. They may elect to file a counter-notice.
- If a counter-notice is provided, this must be passed on to the alleged copyright holder.
- If the alleged copyright holder does not file suit within 10 days after being provided a proper counter-notice, the material can be restored.

Recent Litigation

Metropolitan Regional Information Systems, Inc. v.
American Home Realty Network, Inc. 12-CV-00954-
DKC (D. Md. Mar. 13. 2014)