



This is the second installment of a short series intended to help you, the real estate professional, understand why and how copyrights are important to your businesses and to the real estate industry in general.

Last month we discussed whether the term “content” or “data” better describes the various types of information and materials contained in real estate listings. This month, I would like to focus on copyrights, what they are and why they are important to real estate professionals.

PART II: Data, Content & Copyrights: Let’s Talk



Erik M. Feig
VP and General
Counsel of MRIS®

Copyright rights are intellectual property rights that are created as a matter of federal law under the Copyright Act. There are no state laws governing copyrights in the United States. The real estate industry should care about copyrights because the industry uses and relies upon many types of copyrighted materials, and the copyright laws establish the rules for using copyrightable subject matter.

What is Copyrightable Subject Matter?

Some examples are:

- Literary works, such as real property descriptions and marketing materials;
- Pictorial and graphical works, such as photos of homes and illustrations;
- Motion pictures and other audiovisual works, such as virtual tours and animated listing information;
- Sound recordings, such as voice recordings played on a Web site or in an advertisement; and
- Musical works, including any accompanying lyrics.

Copyright rights are created automatically. In essence, from the moment pen is put to paper, or a writer’s finger hits the keyboard to create new text, a copyright is created in the work product. Copyrights exist whether or not they are formally registered, and whether or not a work includes a copyright notice.

The copyright laws vest copyright owners with five exclusive rights, empowering them to determine how and in what manner their copyrighted works may be reproduced, displayed, distributed, performed or adapted (e.g., modified or translated). Copyright licenses can be granted for any or all of the exclusive rights, separately or in combination.

This means that you have to pay attention to copyright rights whenever you consider using someone else’s copyrighted materials, since copyrighted materials only may be reproduced, displayed, distributed, performed or adapted with the permission of the copyright owner. (There are some exceptions to this rule, such as “fair use,” but this is a good working premise for our purposes.)

As a real estate professional, you also should assume that listing content is protected by copyright and therefore there will be someone who has an interest in any unauthorized exercise of the five exclusive rights mentioned above. 🇺🇸✍️

More next month. . .

Please send your comments about this article or suggestions for this series to me at copyrights@mrис.net. I look forward to continuing this conversation with you.

These comments are the opinion of the author only. Nothing in this article is intended as or should be considered to be legal advice. Portions of this article are adapted from the recently released MRIS Guidance Paper: Strengthening the Foundation, Part 1, The Real Estate Listing Content Copyright FAQ, available online at: www.mris.com/news/papers/index.cfm.