

Legal Update

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Broker Liability for Salesperson

Auer v. Paliath, Slip Opinion No. 2014-Ohio-3632 (OH Sup. Ct.)

- Broker liability for a salesperson requires a fact-based determination that the agent was acting within the scope of agency when the tort was committed.

Patent Infringement

Real Estate Alliance Limited v. Diane Sarkisian, et al., 2:05-cv-03573-CDJ (E.D. Penn.)

Move, Inc., et al., v. Real Estate Alliance Limited, CV 07-2185-GHK (AJWx) (C.D. Cal.) (order reinstating summary judgment, Jun. 23, 2014)

Patent at issue: Process for locating properties on a map via a computer. (U.S. Patent No. 4,870,576 (1989))

Patent Infringement

Digital Distribution Technologies

Patent at issue: Online searchable real estate database where users can save favorite properties and search criteria and receive an email alert when new properties matching their criteria come on the market. (U.S. Patent No. 6,529,908 (2003))

Property Disclosure Technologies

Patents at issue: Broadly described as the process of compiling and categorizing property information, and providing a searchable property information website.

(U.S. Patent Nos. 6,529,908 (2009); 7,945,530 (2011); 8,630,974 (2014))

RESPA Reminder

- RESPA Section 8(a) generally prohibits referral fees.
- RESPA Section 8(c)(4) permits affiliated business arrangements (ABA) as long as relationship is disclosed and use of ABA is not required.
- RESPA's implementing regulation (12 C.F.R. § 1024) provides ABA Disclosure Statement in Appendix D.

RESPA Reminder: DISCLOSE ABA

ABA Disclosure Statement Format

(12 CFR Part 1024, Appendix D)

- Identify consumer, property, date, and entity making referral
- Notice and description of the business relationship including potential financial benefit
- Estimated charges or range of charges for the settlement service
- Acknowledgement by the consumer

RESPA Reminder: FMV

Fair market value for goods or services is based only on the value of the goods or services in and of themselves and cannot include any consideration of the value of any referrals or business incident to or part of real estate settlement services.

Drones

- General rule: only permitted use is for hobbyists; research; public safety. Commercial use requires FAA approval on case-by-case basis.
- By late 2015, FAA to issue regulations governing permitted commercial uses of unmanned aircraft systems.

Misappropriation of Trade Secrets

**Move, Inc., NAR, RIN, et al. v. Zillow, Inc.,
Errol Samuelson and Does 1-20,
14-2-07669-0 SEA (Sup. Ct. Wash.).**

- Preliminary injunction granted June 30, 2014.

Insurance

- Typical year: 30 lawsuits, 60 threats, \$1.5m in claims paid
- 2012: 19 lawsuits, 40 threats, \$1.5m (projected)
- 2013: 12 lawsuits, 36 threats, \$600K (projected)
- 2014 (as of Sept): 10 lawsuits, 17 threats

THANK YOU