

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CERCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
CIVIL DIVISION

KLEIN & HEUCHAN, INC.,  
a Florida Corporation

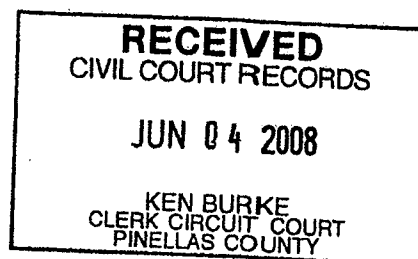
Plaintiff,

v.

Case No. 08-829DCI-15

COSTAR REALTY INFORMATION, INC.,  
a foreign Corporation and  
COSTAR GROUP, INC.,  
a foreign Corporation

Defendants.



COMPLAINT

Plaintiff KLEIN & HEUCHAN, INC., a Florida Corporation (hereinafter "K&H") hereby  
sues Defendants COSTAR REALTY INFORMATION, INC., a foreign Corporation and  
COSTAR GROUP, INC., a foreign Corporation (hereinafter collectively "COSTAR") and  
alleges as follows:

1. This is an action for a declaratory judgment pursuant to the Florida Declaratory Judgment Act, Chapter 86, Florida Statutes.
2. Plaintiff K&H is a Florida Corporation, organized and existing under the laws of the State of Florida.
3. Plaintiff K&H is authorized to and conducts business in Pinellas County, Florida as a licensed real estate broker.

**Exhibit A**

4. Defendant COSTAR REALTY INFORMATION, INC. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business and corporate offices located in Bethesda, Maryland.

5. Defendant COSTAR REALTY INFORMATION, INC. conducts business throughout the State of Florida including Pinellas County, Florida.

6. Defendant COSTAR GROUP, INC. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business and corporate offices located in Bethesda, Maryland.

7. Defendant COSTAR GROUP, INC. conducts business throughout the State of Florida including Pinellas County, Florida.

8. COSTAR is a national commercial real estate information service provider that has created and maintains a commercial real estate information database. Access to this commercial real estate information database is obtained via the internet.<sup>1</sup>

9. COSTAR charges a fee for access to the COSTAR database and only permits access by authorized users.

10. K&H is a licensed real estate broker.

11. Scott Bell is a licensed agent and independent contractor of K&H.

12. At all times material, Scott Bell was an authorized user of the COSTAR database.

13. COSTAR claims that K&H obtained access to the COSTAR database by obtaining authorized users' user names and passwords and accessed the COSTAR database for its own commercial purpose without a valid license or any other authorization from COSTAR.

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<sup>1</sup> The internet based commercial real estate information database is hereinafter referred to as the "COSTAR database".

14. K&H did not obtain access to the COSTAR database by obtaining authorized users' user names and passwords and did not access the COSTAR database for its own commercial purpose without a valid license or any other authorization from COSTAR.

15. COSTAR claims that K&H accessed the COSTAR database and that by accessing the COSTAR database it agreed to be bound by the terms of use agreement of the website maintained by COSTAR.

16. COSTAR claims that K&H breached this phantom agreement and that COSTAR was injured as a result of this breach.

17. K&H is unsure as to what phantom agreement COSTAR alleges has been breached.

18. Plaintiff K&H is in doubt as to its rights and obligations.

19. Plaintiff K&H is in further doubt as to the existence or nonexistence of any legal relationship between COSTAR and K&H.

20. This is a bona fide, present and practical need for declaration of rights.

21. The declaration concerns a present, ascertained or ascertainable state of facts or present controversy as to a state of facts.

22. An immunity, power, privilege or right of the complaining party is dependent upon the facts or the law applicable to the facts.


23. The relief sought is not merely giving of legal advice or the answer to questions propounded for curiosity.

WHEREFORE, Plaintiff KLEIN & HEUCHAN, INC, prays that this Court declare Plaintiff KLEIN & HEUCHAN, INC.'s rights and obligations as they relate to: (1) COSTAR REALTY INFORMATION, INC., and COSTAR GROUP, INC., and that Plaintiff KLEIN &

HEUCHAN, INC. have no obligation(s) pursuant to the phantom terms of service agreement alleged by COSTAR REALTY INFORMATION, INC., and COSTAR GROUP, INC.

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