

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Southern Division

COSTAR REALTY INFORMATION,  
INC., et al.

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Plaintiffs,

v.

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Case No.: 8:06-CV-00655-PJM

ATKINSON HUNT, et al.

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Defendants.

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**MOTION TO DISMISS COMPLAINT**

Defendant Atkinson Hunt (“Atkinson”), by its counsel, pursuant to Rule 12(b)(2) and (6), Federal Rules of Civil Procedure, move to dismiss the Complaint brought by Plaintiffs CoStar Realty Information, Inc. and CoStar Groups, Inc. (collectively “CoStar”) in its entirety because this Court lacks personal jurisdiction over Atkinson, and in support says as follows:

1. CoStar’s Complaint alleges that it is a leading national commercial real estate information services provider, incorporated in Delaware corporation, with its principal place of business in Bethesda, Maryland.

2. “Atkinson Hunt” is the tradename of Laser Marketing, Inc., a New Jersey corporation with its principal place of business in Cherry Hill, New Jersey. Atkinson’s principal business involves the generation of leads for businesses. Atkinson does not license or sell data, business information, or lists of information.

3. Co-Defendant Resource Realty and Personal Property Evaluations, Inc., incorrectly named in the Complaint as Resource Realty of Southern New Jersey (hereinafter “Resource Realty”)

is, upon information and belief, a commercial real estate brokerage firm.

4. In or around August 2004, Atkinson entered into discussions with Mr. James Davis, principal of Resource Realty, about a joint venture between Atkinson and Resource Realty. Subsequent to those discussions, Resource Realty entered into a license agreement with CoStar for use of CoStar's informational databases by the prospective joint venture. By virtue of its involvement in the joint venture, Atkinson was designated as an authorized user under the license agreement, though Atkinson was not itself party to that agreement.

5. The Complaint consists of five counts against Atkinson (breach of contract, fraud, tortious interference, violation of federal law in connection with alleged unauthorized access to a computer, violation of New Jersey law with respect to unauthorized access to a computer), with two of those counts also brought against Resource Realty (breach of contract, fraud). Each of the counts is premised upon the license agreement between CoStar and Resource Realty and the use of CoStar informational databases by Resource Realty and Atkinson.

6. CoStar fails to mention in its Complaint that all events relevant to the license CoStar-Resource Realty license agreement, including but not limited to all sales inquiries, salespersons, authorized users under the agreement, and witnesses, are all located in the State of New Jersey. Instead, CoStar focuses on the fact that it is based in Maryland and that, it claims, much of the electronic evidence in the case is located in Maryland. On the basis of its general allegations, CoStar concludes that jurisdiction and venue are appropriate in Maryland.

7. Specifically, CoStar claims jurisdiction over Atkinson by virtue of alleged "tortious and other actionable acts . . . with foreseeable consequences" in Maryland, by Atkinson's claimed assent to CoStar's Terms of Use, and by Atkinson's alleged repeated electronic activity and interaction with CoStar's computer servers in Bethesda, Maryland. Complaint at 9. CoStar fails to

