

# THE ECONOMIC TIMES

## **How some Indian BPOs are caught in a crossfire between two US realty listers**

CoStar Group has been engaged in legal battles with rival CREXi for alleged stealing of over 10,000 photographs from its portals and using them in violation of copyrights. At least three Indian BPOs and their employees are now facing court proceedings for participating in the 'global scheme'.

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Last week, a team of officials appointed by Delhi High Court landed at the residence of Ajit Saxena, a BPO employee in Rohini, a bustling suburb in north-west Delhi. The team, which comprised a local commissioner and technical experts appointed by the court, explained to the surprised family members of Saxena about the order passed by the court on November 9. The order, passed by the high court, asked two Delhi-based entities, 247 Web Support and Yansh Technologies, to stop infringing upon CoStar's copyright in its photographs related to properties till January 13, the next date of hearing. CoStar is a Washington DC-based commercial-property information provider. Justice Jyoti Singh asked the court-appointed local commissioner to seize into its custody all the infringing photographs and contents, including those stored electronically, in the possession of the Delhi-based BPOs and its employees. The court also asked the technical expert accompanying the local commissioner to conduct a forensic analysis of the handheld devices and tablets for the purpose of identifying any material, data, record pertaining to work done by these BPOs for CREXi, an online commercial real-estate marketplace and CoStar's rival. These BPOs have been directed to cooperate with the local commissioner and also give passwords and passcodes to execute the work.

Saxena, a small cog in a cross-country operation to steal and misuse copyrighted photographs and documents, has been named as a defendant in a suit filed by CoStar Group. Nasdaq-listed CoStar provides information, analytics and marketing services to the commercial property industry in the United States, Canada, the United Kingdom, France, Germany, and Spain. It operates websites such as CoStar.com, LoopNet.com, CityFeet.com, Showcase.com, Ten-X.com, Apartments.com, Apartmentfinder.com, and ApartmentHomeLiving.com. Saxena's former employer Yansh Technologies and its promoters Ritesh Jaiswal and Sapna Jaiswal have been dragged to court by CoStar for

allegedly downloading thousands of photographs from its websites and uploading these on to third-party websites. Saxena, who was the team lead and business-development executive for Yansh Technologies, told the court-appointed team that he worked with the company for around three years and left the employment in September 2020. Saxena was working under the guidance and instructions of Ritesh Jaiswal, the promoter of Yansh Technologies. Saxena, along with his team of 15-20 people that operated from the basement of a building in Delhi's Rohini, used to download the PDF brochures that were received at the e-mail address of Jaiswal (the access to which was given to the Yansh team). They removed any logos and/or watermarks from the said PDFs, and uploaded the photographs from the said brochures along with details of listings on third-party websites. Apart from CoStar, they were also instructed to visit other third-party websites online (which dealt in real estate) and copy images and details from those websites, remove the logos and watermarks, get the images and details reviewed from Jaiswal, and upload the said images and details on websites like CREXi and other sites dealing in real estate. On checking Saxena's mobile phone, the technical expert team found various chats which revealed that Saxena got instructions to access websites like LoopNet, CoStar, and Catalyst Properties and download photographs and other details from those websites, remove the logos and watermarks from the said downloaded images and upload the same on different websites, including CREXi.

### **Why the photos are a big deal**

For CoStar, the database is the backbone on which the entire business is built. It says it spends enormous time and resources to populate and maintain its database, including averaging 24,000 phone calls per day to brokers, owners, developers, and other real estate professionals, canvassing a half million properties per year, and taking nearly 1 million photographs annually. Taking original photographs can be an expensive affair in the US. CoStar told the court that it has obtained judgments and injunctions that value its copyrighted images and real-estate listings most recently at USD50,000 per photograph per day, and USD50,000 per real estate listing. While the combined worth of these photographs runs into billions of dollars at this rate, the BPOs lift them for monthly fees of about INR1 crore, according to people in the know. Businesses, who do not want to spend much on creating original content, find this an easy, quick, and cheap shortcut. CoStar feels that this content is critical to supporting USD1 trillion worth of commercial real estate transactions each year. The company attributes significant commercial value to its content in general, and to its copyrighted photographs in particular. "CoStar has spent billions building this business and, if CoStar is not able to protect that investment, CoStar will be disincentivised to continue investing and innovating which, in turn, will hurt consumers and negatively impact the entire commercial real-estate industry that CoStar helps support," it told the court.

## **More operators across India**

According to CoStar's suit before Delhi High Court, 247 Web Support and Yansh Technologies have been allegedly hired by CREXi "to secretly access CoStar's websites, and to collect, use, and copy content from those websites, without authorisation and in violation of binding terms of use, and upload that content directly into CREXi's system, including to generate property listings on CoStar's rival website". CoStar is engaged in litigation in multiple courts against CREXi and its alleged agents like Yansh. The company has sued CREXi in the Central District of California in the US and in India to protect its rights and intellectual property. Saxena, Jaiswal and Yansh Technologies are only the latest in the list of 'photoshoppers' that have been dragged to court by the Washington DC-based company. In March 2021, CoStar filed a suit against CREXi's Udaipur-based BPO, Arcgate. After months of litigation, and the appointment of a court-commissioner to seize and preserve evidence, CoStar and Arcgate entered into a settlement and agreed to consent terms before Rajasthan High Court, wherein Arcgate submitted to a decree. This decree included the consent terms and permanent injunction. The high court passed this decree on January 10, 2022. CoStar also recently filed a suit against another BPO, Neptune Business Solutions Pvt. Ltd., in Madras High Court, for infringing upon its copyrights and accessing its websites without authorisation to benefit CREXi.

As part of that action, the company requested a stay on the activities and appointment of a court commissioner, on an ex-parte basis, to seize and preserve evidence. Madras High Court found "prima facie evidence of large-scale infringement and piracy" and appointed two commissioners to seize and preserve evidence. The commissioners discovered evidence of copyright infringement and misappropriation, including copies of images and reports, links to websites, and a draft e-mail from Neptune's director confirming that Neptune had uploaded into CREXi's system at least 200 property brochures featuring CoStar's logo. The commissioners discovered, similar to Arcgate, that CREXi did not inform Neptune of the risks of copyright infringement inherent in Neptune's work or instruct Neptune how to avoid copyright infringement until March 2022.

Moreover, the commissioners uncovered "mass deletion" by Neptune of evidence relating to CoStar and Neptune's work for CREXi. CoStar claimed that its private probe has shown that Yansh Technologies and the Jaiswals play a significant role in CREXi's infringement scheme, perhaps even greater than either Arcgate or Neptune. "Like both of those other BPOs, Yansh and 247 Web Support have accessed CoStar's websites for years — as early as 2018 — and that access, in breach of the sites' terms of use, has continued till September 2022." Ritesh Jaiswal did not respond to an e-mail seeking comments. Yansh accessed CoStar's websites from google.com, google.co.in, and CREXi's internal systems, which include admin.crex.com, admin-lease.crex.com, and crexi.atlassian.net. While accessing CoStar's websites, Yansh rotates their IP address

to evade detection. Rotating IP addresses allows the user to avoid anti-piracy measures, and its use is a hallmark of data theft and illicit online activity. By rotating their IP addresses, the BPO employees can evade CoStar's abuse monitor by switching their IP address before the abuse monitor identifies the abusive conduct. Once on CoStar's websites, the BPO staff copy its content on CREXi's behalf to create listings for CREXi.

### **Multiple battles between CREXi and CoStar**

CoStar claims that its review of CREXi's websites has found thousands of copyrighted images. CREXi has received 'error and abuse' notices from CoStar containing a conspicuous hyperlink to LoopNet's terms and conditions, and a warning that use of LoopNet that does not comply with the terms is prohibited. Yet CREXi continues to lift these images and upload, CoStar has alleged. An illustrative compilation of 100 photographs which are owned by CoStar Realty, and which have appeared on CREXi's website, along with a summary chart of the said photographs containing a URL link to the page on CREXi's website where each CoStar copyrighted photograph was found (has been submitted to the court). This compilation of 100 photographs is a small subset of the more than 10,000 CoStar-copyrighted photographs that CoStar has found so far on CREXi's website," CoStar told the court.

On September 25, 2020, CoStar filed a lawsuit against CREXi in the district court for the Central District of California. On December 14, 2020, the company filed its First Amended Complaint against CREXi, contending, among other things, copyright infringement, misappropriation, unfair competition, false advertising, and breach of contract charges. CREXi, on its part, filed a motion asking the district court to dismiss the claims of misappropriation, unfair competition, false advertising, and breach of contract. The district court ruled against CREXi, and those claims, along with the copyright claim, are proceeding against CREXi, CoStar told Delhi High Court. In response to CoStar's lawsuit, CREXi has filed 14 counterclaims. CREXi's primary allegation was that CoStar's refusal to allow CREXi access to its websites for purposes of copying and using its content violated American (federal) and Californian antitrust laws.

In June 2022, the district court rejected those antitrust claims. The district court observed that CREXi sought "assistance in the form of free access to valuable information" on CoStar's websites but that "the information CREXi seeks from CoStar [for free, no less] constitutes a form of assistance under the antitrust laws that CoStar is not obligated to provide." Thus, the court held that "CoStar is under no obligation to provide information or photographs to CREXi at all". The court further observed that CoStar has the right to "block its competitors [CREXi] from accessing [commercial real estate] listing information hosted on [CoStar's] own websites". In addition, the court dismissed CREXi's claims that CoStar engages in false advertising under American and

Californian law. CREXi has filed amended counterclaims, and CoStar has moved to dismiss these claims. ET Prime reached out to CREXi and Saxena through e-mails and social media messages. They have not responded till press time.