



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: S58/2022
File Title: RP Data Pty Limited v. Hardingham & Ors
Registry: Sydney
Document filed: Form 27B - Appellant's chronology
Filing party: Appellant
Date filed: 31 May 2022

Important Information

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IN THE HIGH COURT OF AUSTRALIA
 SYDNEY REGISTRY

BETWEEN:

RP DATA LIMITED

Appellant

and

JAMES KELLAND HARDINGHAM

First Respondent

REAL ESTATE MARKETING AUSTRALIA PTY LTD

10 Second Respondent

REALESTATE.COM.AU PTY LTD

Third Respondent

APPELLANT'S CHRONOLOGY

Part I: Certification

1. This chronology is in a form suitable for publication on the internet.

Part II: Events

2. **Since 1999**: The appellant (**RPD**) has conducted an internet subscriber-based website service that provides property data to real estate professionals and investors for the purpose of marketing for sale or lease real property in Australia.¹
- 20 3. **Since 2003**: The third respondent (**REA**) has operated the website 'www.realestate.com.au', which is used by real estate agencies to market properties for sale or lease.²
4. **17 November 2009**: The second respondent (**REMA**) was incorporated.³

¹ JCAB, 13, PJ [15].

² JCAB, 11, PJ [11]; JCAB, 25, PJ [61].

³ JCAB, 9, PJ [1].

5. **Since 17 November 2009**: REMA was commissioned by various real estate agents to produce photographs and floor plans for use in marketing campaigns for the sale or lease of properties.⁴
6. **Since 17 November 2009**: REMA was authorised by the first respondent (**Hardingham**) to use photographs and floor plans he produced.⁵
7. **28 January 2014**: REMA/Hardingham wrote (by their solicitors) to RPD asserting that RPD had infringed copyright by reproducing photographs on the RPD platform (and manipulating certain images to superimpose a logo).⁶
- 10 8. **9 April 2014**: RPD responded (by its solicitors) to the 28 January 2014 letter; denied infringement; put them on notice that RPD obtained the photographs and floor plans from the third respondent (**REA**) under licence.⁷
9. **After 9 April 2014**: The 20 transaction the subject of the separate question occurred.⁸
10. **After 9 April 2014**: REA provided the photographs and floor plans to RPD under licence.⁹
11. **1 March 2018**: REMA/Hardingham sought (by their solicitors) a written acknowledgement that copyright in the photographs and floor plans vests in Hardingham; an admission of infringement of copyright; a statutory declaration as to how RPD obtained the works; an agreement to pay damages.¹⁰
- 20 12. **26 March 2018**: RPD responded (by its solicitors) denying any infringement of copyright.¹¹
13. **24 April 2018**: By deed of licence, Hardingham granted REMA an exclusive licence in the photographs and floor plans he had produced.¹²
14. **16 July 2018**: The Federal Court of Australia proceeding was commenced.¹³

4 JCAB, 9, PJ [1].
5 JCAB, 17, PJ [22].
6 JCAB, 15, PJ [18].
7 JCAB, 15, PJ [19].
8 JCAB, 29, PJ [78].
9 JCAB, 14, PJ [17].
10 JCAB 16, PJ [20].
11 JCAB, 16, PJ [21].
12 JCAB, 17, PJ [22].
13 JCAB, 17, PJ [23].

15. **11 October 2018**: By consent, the Federal Court of Australia ordered that liability for infringement of copyright for 20 properties be heard and determined separately from the hearing of questions of infringement of other works and pecuniary relief.¹⁴
16. **4-5 December 2019**: Trial in the Federal Court of Australia (Thawley J) on the separate question.¹⁵
17. **9 December 2019**: Thawley J delivered judgment on the separate question.¹⁶
18. **17 December 2019**: Thawley J made orders (dismissing the application).¹⁷
19. **6 February 2020**: Hardingham/REMA filed a notice of appeal.¹⁸
20. **27 February 2020**: REA filed a cross-appeal.¹⁹
- 10 21. **2 November 2020**: Hearing of appeal before Full Court Federal Court of Australia (Greenwood, Rares, and Jackson JJ).²⁰
22. **18 August 2021**: Full Court delivered judgment.²¹
23. **8 September 2021**: Full Court made orders (allowing the appeal).²²
24. **13 September 2021**: Full Court made orders (revoking ordered of 8 September 2021 and making substituted orders).²³
25. **1 October 2021**: Full Court made ordered (on costs).²⁴
26. **12 April 2022**: RPD/REA granted special leave to appeal to the High Court of Australia.²⁵
27. **22 April 2022**: RPD/REA filed notice of appeal.²⁶
- 20 Dated: 31 May 2022

¹⁴ JCAB, 9, PJ [1].

¹⁵ JCAB, 6.

¹⁶ JCAB, 5.

¹⁷ JCAB, 32.

¹⁸ JCAB, 35.

¹⁹ JCAB, 41.

²⁰ JCAB 50.

²¹ JCAB, 48.

²² JCAB, 117.

²³ JCAB, 120.

²⁴ JCAB, 123.

²⁵ JCAB, 139.

²⁶ JCAB, 141, 144.



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