

No. 21-___

IN THE
Supreme Court of the United States

COLUMBIA HOUSE OF BROKERS REALTY, INC., D/B/A
HOUSE OF BROKERS, INC., D/B/A JACKIE BULGIN &
ASSOCIATES, ET AL.,

Petitioners,

v.

DESIGNWORKS HOMES, INC. &
CHARLES LAWRENCE JAMES,

Respondents.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Eighth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In 1990, Congress extended copyright protection to “architectural works.” *See* 17 U.S.C. §§ 101, 102(a)(8). At the same time, however, Congress provided that the copyright in an architectural work does not preclude others from making “pictures, paintings, photographs, or other pictorial representations of the work,” so long as the building is visible from a public place. *Id.* § 120(a).

In this case, petitioner real estate companies and agents created and distributed basic floor plans of family homes as part of their marketing materials. After the materials were distributed, respondent Charles James, who had built the houses approximately 20 years earlier, registered copyrights in the homes’ designs. He then sued petitioners, alleging that the floor plans infringed his copyright in the houses. The district court dismissed the case as precluded by Section 120(a). But the Eighth Circuit reversed, holding that floor plans are not a “picture” or “other pictorial representation” within the meaning of the exception. That decision draws into question the lawfulness of one of the most ubiquitous marketing practices in the real estate industry as well as the use of floor plans in other industries as diverse as insurance and home improvement.

The question presented is:

Whether floor plans constitute “pictures, paintings, photographs, or other pictorial representations” of an architectural work within the meaning of 17 U.S.C. § 120(a).

PARTIES TO THE PROCEEDING

Petitioners are: Columbia House of Brokers Realty, Inc., d/b/a House of Brokers, Inc., d/b/a Jackie Bulgin & Associates; Shannon L. O'Brien; Nicole Waldschlager; Deborah Ann Fisher; Jacqueline Bulgin, d/b/a Jackie Bulgin; Carol S. Denninghoff; Susan Horak, d/b/a The Susan Horak Group Re/Max Boone Realty; and Boone Group, Ltd., d/b/a Re/Max Boone Realty.

Respondents are: Designworks Homes, Inc. and Charles Lawrence James.

RULE 29.6 STATEMENT

Pursuant to this Court's Rule 29.6, petitioners declare as follows: (i) Columbia House of Brokers Realty, Inc. and Boone Group, Ltd. are corporate entities; and (ii) no publicly held corporation owns 10 percent or more interest in Columbia House of Brokers Realty, Inc. or Boone Group, Ltd., and neither Columbia House of Brokers Realty, Inc. nor Boone Group, Ltd. have parent corporations.

RELATED PROCEEDINGS

Designworks Homes, Inc. v. Columbia House of Brokers Realty, Inc., No. 19-3608 (8th Cir. Aug. 16, 2021)

Designworks Homes, Inc. v. Columbia House of Brokers Realty, Inc., No. 20-3104 (8th Cir. Aug. 16, 2021)

Designworks Homes, Inc. v. Horak, No. 20-1099 (8th Cir. Aug. 16, 2021)

Designworks Homes, Inc. v. Horak, No. 20-3107 (8th Cir. Aug. 16, 2021)

Designworks Homes, Inc. v. Columbia House of Brokers Realty, Inc., No. 2:18-cv-04090-BCW (W.D. Mo. Dec. 4, 2019)

Designworks Homes, Inc. v. Horak, No. 2:18-cv-04093-BCW (W.D. Mo. Dec. 17, 2019)

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