

No. 21-1217

IN THE
Supreme Court of the United States

COLUMBIA HOUSE OF BROKERS REALTY, INC., et al.,
Petitioners,

v.

DESIGNWORKS HOMES, INC. & CHARLES LAWRENCE JAMES,
Respondents.

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

BRIEF IN RESPONSE

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QUESTION PRESENTED

The question presented is whether 17 U.S.C. § 120(a) applies to architectural floor plans, made from a structure built in a publicly visible place. In its implications, the question is whether the mere construction of a building in a publicly visible place, such as from a public street, radically diminishes the intellectual-property rights—and wholesale eliminates the privacy interests—in architectural floor plans for tens of millions of homes and other copyrighted architectural structures within the United States.

Section 120(a) applies only to four listed types of representations of a building—“pictures, paintings, photographs, or other pictorial representations[.]” Because Section 120(a) list of aesthetic visual representations is a statutory list, the well-worn canons of *ejusdem generis* and *noscitur a sociis* apply. Thus, the question presented is not whether an architectural floor plan is a pictorial representation, understood in isolation, but whether a floor plan shares core similarities to the ordinary meaning of a photograph of, a painting of, or a picture of a building—all aesthetic presentations of a building usually presented as through the naked eye—and far afield from the technical and graphical nature of a floor plan.

Likewise, the Copyright Act protects visual works through a defined category of “[p]ictorial, graphic, and sculptural” works, but clarifies through statutory usage that pictorial works, graphic works, and sculptural works are distinct. Thus, another way to phrase the question presented is whether an architectural floor plan is pictorial (to which Section 120(a) applies) or graphic (to which it doesn’t). Although the Act never expressly defines the difference, nearly a hundred years of statutory enactments and case law indicate that Section 120(a)’s pictorial representations means fine art, photographs, prints, art reproductions, *etc.* By contrast, Section 120(a) does not apply to graphic representations, *i.e.*, maps, globes, charts, diagrams, models, and technical drawing, including *architectural plans*.

CORPORATE DISCLOSURE STATEMENT

Respondent Charles James is a natural person. His home-design-and-build company, Respondent Designworks Homes, Inc., declares (i) that it is a corporation that has no parent corporation, and (ii) that no publicly held company owns 10% or more of its stock.

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