

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-12004

D.C. Docket No. 9:16-cv-81942-RLR

COMPULIFE SOFTWARE INC.,

Plaintiff - Appellant,

versus

MOSES NEWMAN,
AARON LEVY,
DAVID RUTSTEIN,
a.k.a. David Anthony Gordon,
a.k.a. Bob Gordon,
a.k.a. Nate Golden,
BINYOMIN RUTSTEIN,
a.k.a. Ben Rutstein,

Defendants - Appellees.

No. 18-12007

D.C. Docket No. 9:16-cv-80808-RLR

COMPULIFE SOFTWARE INC.,

Plaintiff - Appellant,

versus

BINYOMIN RUTSTEIN,
a.k.a. Ben Rutstein,
JOHN DOES 1 - 10,
DAVID RUTSTEIN,

Defendants - Appellees.

Appeals from the United States District Court
for the Southern District of Florida

(May 20, 2020)

Before JORDAN and NEWSOM, Circuit Judges, and HALL,* District Judge.

NEWSOM, Circuit Judge:

There's nothing easy about this case. The facts are complicated, and the governing law is tangled. At its essence, it's a case about high-tech corporate espionage. The very short story: Compulife Software, Inc., which has developed and markets a computerized mechanism for calculating, organizing, and comparing life-insurance quotes, alleges that one of its competitors lied and hacked its way

* Honorable James Randal Hall, United States District Chief Judge for the Southern District of Georgia, sitting by designation.

into Compulife’s system and stole its proprietary data. The question for us is whether the defendants crossed any legal lines—and, in particular, whether they infringed Compulife’s copyright or misappropriated its trade secrets, engaged in false advertising, or violated an anti-hacking statute.

With the parties’ consent, a magistrate judge was tasked with tackling these thorny issues in a bench trial. He determined that Compulife had failed to prove any legal violation. We conclude, however, that in finding that Compulife hadn’t demonstrated either copyright infringement or trade-secret misappropriation, the magistrate judge made several discrete legal errors and, more generally, failed to adequately explain his conclusions. Accordingly, we vacate the judgment in part and remand with instructions to make new findings of fact and conclusions of law.

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Warning: This gets pretty dense (and difficult) pretty quickly.

Compulife and the defendants are direct competitors in a niche industry: generating life-insurance quotes. Compulife maintains a database of insurance-premium information—called the “Transformative Database”—to which it sells access. The Transformative Database is valuable because it contains up-to-date information on many life insurers’ premium-rate tables and thus allows for simultaneous comparison of rates from dozens of providers. Most of Compulife’s

customers are insurance agents who buy access to the database so that they can more easily provide reliable cost estimates to prospective policy purchasers.

Although the Transformative Database is based on publicly available information—namely, individual insurers’ rate tables—it can’t be replicated without a specialized method and formula known only within Compulife.

Compulife sells two different kinds of access to the Transformative Database—a “PC version” and an “internet-engine version”—each run by its own piece of software and each accompanied by its own type of license. Both pieces of software contain an encrypted copy of the database. The PC-version software—called the “PC quoter”—is sold along with a PC license that allows licensees to install copies of the quoter on their personal computers and other devices for (depending on the number of devices) a cost of either \$180 or \$300 per year. The PC quoter uses its local copy of the Transformative Database to generate insurance-rate estimates corresponding to demographic information entered by the end user.

A PC licensee can purchase an add-on called the “web quoter” for an extra \$96 per year. The web-quoter feature allows the PC licensee to put a quoter on its own website, which it can then use as a marketing tool to attract customers. Once a licensee’s website is equipped with the web quoter, prospective life-insurance purchasers can enter demographic information into fields on the licensee’s site and

receive quotes directly from the licensee. Unlike the PC quoter—which contains its own local copy of the Transformative Database—the web quoter generates quotes by communicating with an internet-quote engine hosted on Compulife’s server. The HTML source code of the web quoter is protected by a registered copyright.

A second kind of license—the “internet-engine” license—permits a licensee to host Compulife’s internet-quote engine, which includes the Transformative Database, on its own server and to integrate it with additional features of its own creation. (Naturally, it’s more expensive—it costs \$1200 per year.) An internet-engine licensee can then sell access to “its” product—which is an amalgamation of Compulife’s internet-quote engine with any accoutrements that the licensee has seen fit to add. Importantly, though, internet-engine licensees can sell access only to Compulife’s PC licensees. This arrangement allows an internet-engine licensee to include Compulife’s internet-quote engine—again, with the Transformative Database—as a part of its own product, while simultaneously ensuring that it doesn’t compete with Compulife for potential insurance-agent customers. Compulife also permits an internet-engine licensee to provide its web-quoter HTML code to the licensee’s customers so that the customers’ websites can retrieve quotes from the licensee’s server. This is the same copyrighted HTML code that Compulife provides to PC licensees with the web quoter add-on.

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