JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 22-00841-DOC-ADS Date: June 24, 2022

Title: ROKIT SPONSORSHIPS, INC. V. SKOTI COLLINS PRODS., INC.

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Karlen Dubon	Not Present
Courtroom Clerk	Court Reporter
ATTORNEYS PRESENT FOR PLAINTIFF: None Present	ATTORNEYS PRESENT FOR DEFENDANT: None Present

PROCEEDINGS (IN CHAMBERS): ORDER GRANTING MOTION TO DISMISS [14]

Before the Court is a Motion to Dismiss ("Motion" or "Mot.") (Dkt. 14) brought by Defendants Gary Skoti Collins ("Collins") and Skoti Collins Productions, Inc. ("SCP") (collectively, "Defendants"). The Court finds this matter appropriate for resolution without oral argument. *See* Fed. R. Civ. P. 78; C.D. Cal. R. 7-15. Having reviewed the moving papers submitted by the parties, the Court **GRANTS** Defendants' Motion and **VACATES** the hearing and Scheduling Conference set for June 27, 2022.

I. Background

A. Facts

This case arises out of a dispute over film footage related to the forthcoming documentary of IndyCar driver Tatiana Calderón ("Calderón"). Complaint ("Compl.") (Dkt. 1) ¶ 1. Before commencing the documentary's production, Plaintiff entered into a sponsorship agreement with Calderón that gave Plaintiff ownership of all rights relating to the documentary. *Id.* ¶¶ 3, 8. This included the use of Calderón's name, life story, lifestyle, voice, biography, image, likeness, slogan, logo, and signature within Plaintiff's documentary. *Id.* ¶ 4. Plaintiff thereafter allegedly approached and then enlisted the

services of Defendants for film production. *Id.* ¶ 6. There was no written agreement between the parties. *See id.* ¶ 12.

Plaintiff paid $150,000 to begin work conducting interviews and capturing footage in connection with events in Miami, Florida around February 9, 2022. *Id.* ¶ 6. Plaintiff alleges that "it was clearly understood between the parties" that Plaintiff was the "exclusive author and owner of the documentary production" and that Defendants' access to Calderón was only allowed because of Plaintiff's earlier sponsorship agreement. *Id.* ¶ 7, 9. Plaintiff alleges that the issue between the parties arose when Defendants demanded money beyond the agreed upon $150,000. *Id.* ¶ 11. Plaintiff alleges that Defendants refused to sign a formal written agreement documenting the additional money that Defendant asked Plaintiff to subsequently pay. *Id.* ¶ 12. Plaintiff then alleges that Defendants are unlawfully withholding the filmed footage despite having accepted the initial $150,000 payment. *Id.* Plaintiff thus seeks from the Court a judicial declaration that they are the sole author of the Calderón documentary and sole owner of all of Defendants' accordingly filmed materials. *Id.* ¶ 16.

B. Procedural History

On April 20, 2022, Plaintiff filed its motion in this Court. Defendants filed the present Motion to Dismiss on May 13, 2022. Plaintiff opposed the Motion ("Opp'n") on June 6, 2022 (Dkt. 17), and Defendants filed their Reply ("Reply") on June 13 (Dkt. 18).

II. Legal Standard

Dismissal is appropriate under Federal Rule of Civil Procedure 12(b)(1) when a court lacks subject matter jurisdiction due to a plaintiff's lack of Article III standing. *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000); *see also Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011) (noting that Article III standing bears on the court's subject matter jurisdiction, and is therefore subject to challenge under Federal Rule of Civil Procedure 12(b)(1)).

The "irreducible constitutional minimum" of Article III standing contains three elements. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992). First, the plaintiff must have suffered an "injury in fact"—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or

imminent, not conjectural or hypothetical. *Id.*; *see also Spokeo v. Robins*, 578 U.S. 330, 136 S. Ct. 1540, 1548-49, 194 L. Ed. 2d 635 (2016). Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court. *Lujan*, 504 U.S. at 560. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Id.* Ultimately, the plaintiff, as the party invoking federal jurisdiction, has the burden of establishing these elements. *See id.* at 561. Under Rule 12(b)(1), a defendant may also move to dismiss a case for a lack of subject matter jurisdiction when it is not clear that the proper jurisdictional requirements have been met. *See* Fed. R. Civ. P. 12(b)(1). Once subject matter jurisdiction is challenged, the burden of proof is placed on the party asserting that jurisdiction exists. *Scott v. Breeland*, 792 F.2d 925, 927 (9th Cir. 1986) (holding that "the party seeking to invoke the Court's jurisdiction bears the burden of establishing that jurisdiction exists"). Accordingly, courts presume lack of subject matter jurisdiction until the plaintiff proves otherwise in response to the motion to dismiss. *Kokkonen*, 511 U.S. at 377.

When a motion to dismiss is granted, the court must decide whether to grant leave to amend. The Ninth Circuit has a liberal policy favoring amendments, and thus leave to amend should be freely granted. *See, e.g.*, *DeSoto v. Yellow Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992). However, a court need not grant leave to amend when permitting a plaintiff to amend would be an exercise in futility. *See, e.g.*, *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987) ("Denial of leave to amend is not an abuse of discretion where the pleadings before the court demonstrate that further amendment would be futile.").

III. Discussion

Defendants move to dismiss Plaintiff's Complaint, noting that the Court lacks subject matter jurisdiction because (1) questions of ownership of a purportedly copyrighted material are governed by state law; (2) because the *Brillhart* factors counsel against federal jurisdiction over a copyright ownership dispute; and (3) because Plaintiff fails to state a plausible claim for declaratory relief under the Copyright Act. Reply at 1-2. Plaintiff opposes and argues that (1) an actual controversy exists between the parties; (2) Plaintiff's complaint arises under federal Copyright law; (3) the *Brillhart* factors do not warrant dismissal; and (4) the complaint states a claim for relief. Opp'n at 8, 11, 15,

17. The Court finds this matter to be dispositive on the issue of federal jurisdiction under the Copyright Act to seek a declaratory judgment.

The Declaratory Judgment Act gives district courts discretion to issue declaratory relief. 28 U.S.C. § 2201; *see Wilton v. Seven Falls Company*, 515 U.S. 277, 288–90 (1995); *see also Government Employees Insurance Company v. Dizol*, 133 F.3d 1220, 1223 (9th Cir. 1998). The purpose of the Declaratory Judgment Act is to "relieve potential defendants from the threat of impending litigation." *Spokane Indian Tribe v. United States*, 972 F.2d 1090, 1091–92 (9th Cir. 1992) (quoting *Hal Roach Studios, Inc. v. Richard Feiner and Co.*, 896 F.2d 1542, 1555 (9th Cir. 1990)). Although the Declaratory Judgment Act expanded the range of remedies available in federal court, it did not extend federal jurisdiction. 28 U.S.C. § 2201 (2006); *Skelly Oil Co. v. Phillips Petroleum Co.,* 339 U.S. 667, 671 (1950). Therefore, a declaratory relief action must involve an actual "case or controversy" so the court does not render an impermissible advisory opinion. *See Flast v. Cohen,* 392 U.S. 83, 95–96 (1968); *Coalition for a Healthy Cal. v. F.C.C.,* 87 F.3d 383, 386 (9th Cir. 1996) (recognizing that "federal courts have never been empowered to render advisory opinions"). Moreover, declaratory relief is only appropriate when the court has subject matter jurisdiction over the matter. 28 U.S.C. § 2201; *Skelly Oil Co.,* 339 U.S. at 671.

Here, Plaintiff asserts that the Copyright Act provides federal jurisdiction to support its pursuit of Declaratory Judgment. Compl. ¶¶ 29-30. Federal courts have exclusive jurisdiction over "any civil action arising under any Act of Congress relating to . . . copyrights." 28 U.S.C. § 1338. However, "[a]t the same time, it is well established that just because a case involves a copyright does not mean that federal subject matter jurisdiction exists. *Scholastic Ent., Inc. v. Fox Ent. Grp., Inc.*, 336 F.3d 982, 985 (9th Cir. 2003).

To determine if copyright subject matter jurisdiction exists, the Ninth Circuit follows the majority rule outlined in *T.B. Harms Co. v. Eliscu,* 339 F.2d 823 (2d Cir. 1964). *Id.* at 986. In that case, the parties sought a judicial determination of ownership, but the court noted that "[t]he relevant statutes create no explicit right of action to enforce or rescind assignments of copyrights, nor does any copyright statute specify a cause of action to fix the locus of *ownership*." *T.B. Harms*, 339 F.2d at 827 (emphasis added). Accordingly, the Court must only exercise jurisdiction under the Copyright Act if: "(1) the complaint asks for a remedy expressly granted by the Copyright Act; (2) the

complaint requires an interpretation of the Copyright Act; or (3) federal principles should control the claims. *Id.* (citing *Bassett v. Mashantucket Pequot Tribe,* 204 F.3d 343, 349 (2d Cir. 2000)).

Plaintiff has not sufficiently pled its Complaint such that it can seek Declaratory Judgment under the Copyright Act. First, Plaintiff does not ask for a remedy *expressly provided* under the Copyright Act, but one provided via the Declaratory Judgment Act.

Second, as was the case in *T.B. Harms*, Plaintiff's claims are tethered to *which* party owns the copyright at this stage of the Documentary's production. While Plaintiff claims that it was to be the "exclusive author and owner of the Documentary Production" and all film material in exchange for their initial payment of $150,000, Defendants claim that Plaintiff would only own all rights to the documentary once paid for in full. Compl. ¶ 7; *see also* Mot. at 4. By Plaintiff's own admission, "this is not an action for copyright infringement." Opp'n at 2, 18. Thus, Plaintiff does not ask the Court for a statement regarding copyright infringement; instead, Plaintiff seeks is a statement regarding ownership of the copyright, a question more appropriate for contract law. "Where a suit is for a naked declaration of copyright ownership without a bona fide infringement claim, federal courts decline jurisdiction." *Vestron*, 839 F.2d at 1381 (citing *Topolos v. Caldewey*, 698 F.2d 991, 994 (9th Cir. 1983)).

Finally, federal principals need not control the claims here: (1) this is not a bona fide copyright infringement claim; (2) this claim was not based on diversity jurisdiction; (3) copyright ownership disputes are ripe for state court; and (4) the "purpose of copyright law [is] to prevent the free flow of information without the author's permission," and that is not at issue here. *Cincom Sys., Inc. v. Novelis Corp.*, 581 F.3d 431, 439 (6th Cir. 2009). In fact, "[f]ederal courts have consistently dismissed complaints in copyright cases presenting only questions of contract law. *Scholastic Ent.*, 336 F.3d 982 at 985.

For the reasons noted above, the Court declines to exercise subject matter jurisdiction. This is a dispute over ownership, not infringement under the Copyright Act. Accordingly, the Court DISMISSES Plaintiff's Complaint without leave to amend, as an amendment would be an exercise in futility. *Rutman Wine Co.*, 829 F.2d 729, 738.

IV. Disposition

For the reasons set forth above, the Court **DISMISSES** Plaintiff's Complaint without leave to amend based on Plaintiff's lack of subject matter jurisdiction. The Court **VACATES** the hearing and Scheduling Conference set for June 27, 2022.

The Clerk shall serve this minute order on the parties.