

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WILL LOOMIS, an individual,
Plaintiff-Appellant,

v.

JESSICA CORNISH, PKA Jessie J.,
an individual; UNIVERSAL MUSIC
GROUP, INC., Delaware corporation
Erroneously Sued As UMG
Recordings, Inc.; UNIVERSAL
REPUBLIC RECORDS, a division of
UMG Recordings, Inc.,
Defendants-Appellees.

No. 13-57093

D.C. No.
2:12-cv-05525-
RSWL-JEM

OPINION

Appeal from the United States District Court
for the Central District of California
Ronald S.W. Lew, District Judge, Presiding

Argued and Submitted March 8, 2016
Pasadena, California

Filed September 2, 2016

Before: Richard R. Clifton, and Sandra S. Ikuta, Circuit
Judges, and Frederic Block,* District Judge.

Opinion by Judge Clifton

* The Honorable Frederic Block, United States District Judge for the Eastern District of New York, sitting by designation.

SUMMARY**

Copyright

The panel affirmed the district court’s summary judgment in favor of the defendants in a copyright infringement case.

Will Loomis, composer of the song “Bright Red Chords,” alleged that the defendants stole a two-measure vocal melody and used it as the theme for the verse melody in their hit song “Domino.” The panel held that Loomis did not put forth any potentially admissible evidence to establish that the Domino songwriters had access to Bright Red Chords, either on a chain-of-events theory or a widespread-dissemination theory. Accordingly, he failed to establish copyright infringement.

COUNSEL

Michael Gross (argued), Michael Gross Law Office, St. Louis, Missouri, for Plaintiff-Appellant.

Jeffrey M. Movit (argued) and Christine Lepera, Mitchell Silberberg & Knupp LLP, New York, New York; Elaine K. Kim, Mitchell Silberberg & Knupp LLP, Los Angeles, California; for Defendants-Appellees.

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

OPINION

CLIFTON, Circuit Judge:

Plaintiff Will Loomis is the composer of a song called “Bright Red Chords.” He brought this lawsuit alleging that Defendant Jessica Cornish (publicly known as Jessie J) and a team of high-profile songwriters led by Lukasz Gottwald (publicly known as Dr. Luke) stole a two-measure vocal melody from Bright Red Chords and used it as the theme for the verse melody in their hit song “Domino.” The district court granted the Defendants’ motion for summary judgment, concluding that Loomis did not put forth any potentially admissible evidence to establish that the Domino songwriters had access to Bright Red Chords. We affirm.

I. Background

Loomis composed and recorded Bright Red Chords with his band, Loomis and the Lust, in Santa Barbara, California, in 2008, and thereafter obtained a copyright registration for the song by depositing a copy with the U.S. Copyright Office. Loomis then released Bright Red Chords on a 2009 album, Nagasha, and a 2010 album, Space Camp. He also created a music video for the song.

Bright Red Chords was Nagasha’s feature track and it garnered some attention in 2009 and 2010. For example, the Bright Red Chords video won the MTVU “Best Freshman” video award and was featured in Billboard Magazine. In addition, there was evidence presented that Bright Red Chords was distributed by Urban Outfitters as part of a corporate sampler CD and was played in a variety of name-brand clothing stores. MTV selected Loomis and the Lust as

one of its best new bands of 2010, and the band won an industry-sponsored “Artist on the Verge” award, which included a \$25,000 prize.

Despite these achievements, Bright Red Chords was not commercially successful. Although the band hired a radio promotions company to promote the song on a variety of radio stations and a video promotions company to disseminate the music video through multiple media platforms, Bright Red Chords did not achieve an appreciable level of national saturation. Loomis was able to provide to the district court documentation of only 46 sales of the recording.

Domino was written in June of 2011 by a five-person songwriting team. Dr. Luke and his collaborator Henry Walter created the instrumental track that became the musical bed for the song. The melody and lyrics were added in a later session at Conway Studios in Los Angeles. Jessie J created the melody in collaboration with Dr. Luke and Claude Kelly. Karl Martin Sandberg (publicly known as Max Martin) also participated in this session, and he and Dr. Luke provided additional creative contributions to the song. Defendant Universal Republic Records released Domino, and it achieved substantial commercial success.

After hearing Domino, Loomis brought suit against Jessie J and her record label alleging copyright infringement. The district court granted summary judgment in favor of the Defendants. This appeal followed.

II. Discussion

We review a grant of summary judgment de novo. *Mitchell v. Washington*, 818 F.3d 436, 441 (9th Cir. 2016). Viewing the evidence in the light most favorable to the nonmoving party, we must determine whether “there are any genuine issues of material fact and whether the district court correctly applied the relevant substantive law.” *Id.* (quoting *Lopez v. Smith*, 203 F.3d 1122, 1131 (9th Cir. 2000) (en banc)).

To establish copyright infringement, a plaintiff must prove two elements: “(1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original.” *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*, 499 U.S. 340, 361 (1991). Copyright ownership by Loomis is not in dispute in this case. The only issue is whether a reasonable jury could conclude that the Domino songwriters copied protectable elements of Bright Red Chords.

“Proof of copyright infringement is often highly circumstantial, particularly in cases involving music.” *Three Boys Music Corp. v. Bolton*, 212 F.3d 477, 481 (9th Cir. 2000). “Absent direct evidence of copying, proof of infringement involves fact-based showings that the defendant had ‘access’ to the plaintiff’s work and that the two works are ‘substantially similar.’” *Id.* (quoting *Smith v. Jackson*, 84 F.3d 1213, 1218 (9th Cir. 1996)); *see also Funky Films, Inc. v. Time Warner Entm’t Co.*, 462 F.3d 1072, 1076 (9th Cir. 2006). In this case there was no direct evidence of copying. The summary judgment entered by the district court relied entirely on the issue of access. Specifically, the district court concluded that Loomis failed to present sufficient

evidence to support a finding that Defendants had access to Loomis's work. Although Defendants also disputed the claim that the works were substantially similar, the district court's order did not address that issue.¹

Proof of access requires "an opportunity to view or to copy plaintiff's work." *Sid and Marty Krofft Television Prods., Inc. v. McDonald's Corp.*, 562 F.2d 1157, 1172 (9th Cir. 1977), *superseded on other grounds by* 17 U.S.C. § 504(b). "To prove access, a plaintiff must show a reasonable possibility, not merely a bare possibility, that an alleged infringer had the chance to view the protected work." *Art Attacks Ink, LLC v. MGA Entm't Inc.*, 581 F.3d 1138, 1143 (9th Cir. 2009). "Where there is no direct evidence of access, circumstantial evidence can be used to prove access either by (1) establishing a chain of events linking the plaintiff's work and the defendant's access, or (2) showing that the plaintiff's work has been widely disseminated." *Id.*

Loomis relies on both theories to challenge the summary judgment. His chain of events theory is that multiple intermediaries could have provided a copy of Bright Red Chords to the Domino songwriters. His widespread dissemination theory is that Bright Red Chords had saturated the market in Santa Barbara so thoroughly that the presence of certain Domino songwriters at a recording studio in Santa Barbara during the period of saturation created a reasonable possibility of access. We take up each in turn.

¹ "Absent evidence of access, a 'striking similarity' between the works may give rise to a permissible inference of copying." *Baxter v. MCA, Inc.*, 812 F.2d 421, 423 (9th Cir. 1987). The district court noted that Loomis had not presented any evidence or argument regarding striking similarity, and Loomis has not advanced that theory on appeal.

A. Access Through Intermediaries

“[E]vidence that a third party with whom both the plaintiff and defendant were dealing had possession of plaintiff’s work is sufficient to establish access by the defendant.” 4 Meville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 13.02[A] (2015); *Kamar Int’l, Inc. v. Russ Berrie & Co.*, 657 F.2d 1059, 1062 (9th Cir. 1981). “[T]he dealings between the plaintiff and the intermediary and between the intermediary and the alleged copier must involve some overlap in subject matter to permit an inference of access.” *Meta-Film Assocs., Inc. v. MCA, Inc.*, 586 F. Supp. 1346, 1358 (C.D. Cal. 1984); *id.* at 1355–58 (citing cases where the intermediary “either was a supervisor with responsibility for the defendant’s project, was part of the same work unit as the copier, or contributed creative ideas or material to the defendant’s work,” *id.* at 1355–56). For example, in *Kamar*, we held that access was established by the fact that the defendant purchased stuffed animals from a manufacturer that had previously made stuffed animals for the plaintiff based on the plaintiff’s copyrighted designs. 657 F.2d at 1060–62; *see also De Acosta v. Brown*, 146 F.2d 408, 410 (2d Cir. 1944) (sufficient evidence of access where plaintiff submitted her work to a literary agent who thereafter was consulted by the defendant for input on the infringing work).

By contrast, multiple courts have held that a plaintiff “cannot create a triable issue of access merely by showing ‘bare corporate receipt’ of her work by an individual who shares a common employer with the alleged copier.” *Bernal v. Paradigm Talent & Literary Agency*, 788 F. Supp. 2d 1043, 1056 (C.D. Cal. 2010); *see, e.g., Jorgensen v. Epic/Sony Records*, 351 F.3d 46, 48 (2d Cir. 2003). “Rather, it must be

reasonably possible that the paths of the infringer and the infringed work crossed.” *Towler v. Sayles*, 76 F.3d 579, 582–83 (4th Cir. 1996) (requiring a “close relationship” for the corporate receipt doctrine to apply); *see also Jones v. Blige*, 558 F.3d 485, 491–92 (6th Cir. 2009) (affirming summary judgment for the defendant where plaintiff submitted her work to a senior vice president at Universal because there was no evidence that the vice president had any contact with anyone involved in the creation of the allegedly infringing work).

Loomis identified several potential intermediaries through whom he alleged Defendants might have gotten access to his song.

Sunny Elle Lee worked for UMG Recordings as an Artists and Repertoire Representative. In May of 2010, Lee emailed Loomis’s mother, Kristin Loomis, who acted as administrative coordinator for the band, to request a copy of Bright Red Chords. The band furnished Lee a copy of the song. Loomis argues that this chain of events created a triable issue of access because Lee’s responsibility as an A&R representative was to “find” and “share” music. Loomis posits that because Lee was successful in her job and received a promotion, a reasonable juror could extrapolate that she provided Bright Red Chords to the Domino songwriters. He further argues that Lee’s solicitation of Bright Red Chords makes this case distinguishable from the “bare corporate receipt” cases.

We disagree. On the record before us, there is no evidence of a nexus between Lee and the Domino songwriters that would be sufficient to raise a triable issue of access. *See Jorgensen*, 351 F.3d at 53 (“Bare corporate receipt . . . ,

without any allegation of a nexus between the recipients and the alleged infringers, is insufficient to raise a triable issue of access.”). In fact, the evidence shows the opposite. Loomis did not dispute Defendants’ statement that “[t]he five Domino Writers do not know, have never met, and have never received anything from Sunny Elle Lee.” He also did not dispute that “Lee was not part of the work unit that created Domino.” There was no evidence presented beyond mere speculation from Loomis himself to show that Lee had any role or input on any of Jessie J’s music or recordings. Therefore, it is not “reasonably possible that the paths of the infringer and the infringed work crossed.” *Towler*, 76 F.3d at 582.

Casey Hooper played lead guitar for Loomis and the Lust from September of 2009 to April of 2010. Hooper did not perform on the recording of Bright Red Chords, but he did perform the song live on MTV and at various shows. He left the band in April of 2010 to join Katy Perry’s band.

Loomis argues that Hooper could have provided the Domino songwriters with access to Bright Red Chords in two ways. First, Loomis asserts that Hooper worked with Dr. Luke and Max Martin in early 2010 on a ten-day recording session for Katy Perry’s album Teenage Dream. Loomis did not testify that he had personal knowledge of Hooper’s involvement in the project. Rather, he claimed that Tucker Bodine, an owner of the studio and an assistant engineer on Teenage Dream, told him that Hooper was involved in the project.

Loomis’s argument fails because he did not submit any potentially admissible evidence that would show that Hooper was involved in the Teenage Dream sessions. *See Fed. R.*

Civ. P. 56(c)(2) (“A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.”). The only evidence that Loomis provided was his hearsay report of alleged statements by Bodine. *See Kim v. United States*, 121 F.3d 1269, 1276–77 (9th Cir. 1997) (“Because the affidavit was not based on personal knowledge and because it relied on inadmissible hearsay testimony, the district court properly rejected it.”). That is not enough to survive summary judgment.

Loomis’s second argument is that a triable issue of access was established by evidence that Hooper was involved in Katy Perry’s movie “Part of Me.” Loomis testified that the packaging from the film shows that Hooper appeared as a cast member and that he received songwriting credits on two tracks. He further testified that Dr. Luke and Max Martin are listed as co-producers of the movie. This theory is deficient because there is no evidence detailing the responsibilities of Hooper, Dr. Luke, or Max Martin with respect to the film, let alone evidence that demonstrated that they actually worked together and were in personal contact.² Nothing in the record shows the requisite nexus between Hooper and the Domino songwriters except for Loomis’s own speculation. “[M]ere allegation and speculation do not create a factual dispute for purposes of summary judgment.” *Nelson v. Pima Community College*, 83 F.3d 1075, 1081–82 (9th Cir. 1996).

² We do not have the packaging from Part of Me in the appellate record, but the Internet Movie Database indicates that at least 59 individuals appeared in the movie, that at least 34 individuals received production credit, and that many others worked on the project. *See* http://www.imdb.com/title/tt2215719/fullcredits?ref_=tt_cl_sm#cast (last checked August 25, 2016).

Loomis also argues that Sean Walsh, Bonnie McKee, Sam Hollander, and Tucker Bodine could have served as conduits between Bright Red Chords and the Domino songwriters. But Loomis did not raise these arguments before the district court in his opposition to summary judgment, so they were waived. *See Alaska Airlines, Inc. v. United Airlines, Inc.*, 948 F.2d 536, 546 n. 15 (9th Cir. 1991) (“It is well established that an appellate court will not reverse a district court on the basis of a theory that was not raised below.”). Loomis conceded, in any event, that he did not have any admissible evidence to support these access theories.

B. Widespread Dissemination

A copyright plaintiff, alternatively, may establish a reasonable possibility of access by “showing that the plaintiff’s work has been widely disseminated.” *Art Attacks Ink*, 581 F.3d at 1143. “The evidence required to show widespread dissemination will vary from case to case.” *L.A. Printex Indus., Inc. v. Aeropostale, Inc.*, 676 F.3d 841, 847 (9th Cir. 2012). In most cases, the evidence of widespread dissemination centers on the degree of a work’s commercial success and on its distribution through radio, television, and other relevant mediums. *See, e.g., Rice v. Fox Broadcasting Co.*, 330 F.3d 1170, 1178 (9th Cir. 2003); *Art Attacks Ink*, 581 F.3d at 1144–45; *Three Boys Music*, 212 F.3d at 483.

We have also recognized a doctrinal variant that focuses on saturation in a relevant market in which both the plaintiff and the defendant participate. In *L.A. Printex*, we held that a triable issue of access existed where (1) the plaintiff’s fabric design had saturated the fabric market for apparel vendors in Los Angeles over a four-year period, and (2) the defendant routinely participated in the Los Angeles fabric market during

that period. 676 F.3d at 848. This, we held, created “a ‘reasonable possibility’ that Defendants had an opportunity to view and copy L.A. Printex’s design.” *Id.*; *see also Peel & Co., Inc. v. Rug Market*, 238 F.3d 391, 397 (5th Cir. 2001) (holding that plaintiff raised a triable issue of access as to whether its rug design “was widely disseminated among those involved in the United States rug trade”).

Loomis submits that this case is similar. He argues that Domino songwriters Dr. Luke and Max Martin were in Santa Barbara for the Teenage Dream sessions at a time when Santa Barbara was saturated with Bright Red Chords. Loomis testified that the band was receiving “tons of airplay” on local radio stations at that time, and that Mix Magazine, Billboard, and the Santa Barbara Independent newspaper had carried stories about the band’s achievements. Loomis also testified that he had deposited promotional copies of Bright Red Chords at Playback Studios in the weeks leading up to the Teenage Dream sessions, and that the studio kept copies of Mix Magazine and the Santa Barbara Independent in the break room.

The fact that Dr. Luke and Max Martin spent ten days recording an album for a major national recording artist in Santa Barbara during a period when the local music scene was saturated with Bright Red Chords does not raise a triable issue of access. Unlike the defendants in *L.A. Printex*, Dr. Luke and Max Martin were not participating in the relevant market – the Santa Barbara local music scene – during their brief stay in Santa Barbara. Their production responsibilities had nothing to do with listening to local radio, reading local press, or scouting local bands, and there was no evidence that they undertook any other activity in that market that created a reasonable possibility of access to Bright Red Chords.

Although there was a bare possibility that they heard Bright Red Chords on the radio, or that they read about Loomis and the Lust in a magazine in the break room of Playback Studios, or that they picked up one of Loomis's promotional CDs while at Playback, that is not enough to raise a triable issue of access. *See, e.g.,* Nimmer, *supra* at § 13.02[A] (explaining that “evidence showing that Gloria Estefan was present in a room with 15,000 records, including one containing plaintiff's song” was insufficient to demonstrate access (discussing *Palmieri v. Estefan*, 35 U.S.P.Q.2d 1382, 1383 (S.D.N.Y. 1995))).³

III. Conclusion

Plaintiff's arguments in this case tell a story that, if adequately substantiated, might have survived summary judgment. The problem is that it was not supported by potentially admissible evidence. At bottom, the record consists primarily of Loomis's speculations of access unsupported by personal knowledge. The other evidence did not fill the breach. The district court did not err in granting summary judgment.

AFFIRMED.

³ In his reply brief, Loomis argued that evidence of Bright Red Chords's dissemination in retail chains and evidence of its multi-media publicity campaign raised a triable issue of access. Loomis waived this argument by failing to make it in his opening brief. *See Cruz v. Int'l Collection Corp.*, 673 F.3d 991, 998 (9th Cir. 2012). Even if it were otherwise, Loomis's argument is belied by the fact that he was only able to document 46 sales of Bright Red Chords. *See Rice*, 330 F.3d at 1178 (holding that because the plaintiff's video “only sold approximately 17,000 copies between 1986 and 1999,” it could not be considered “widely disseminated” despite some evidence of national publicity).



Katy Perry: Part of Me (2012)

Full Cast & Crew

[Edit](#)

Directed by

Dan Cutforth
Jane Lipsitz

Cast (in credits order)



Katy Perry

... Herself / [Kathy Beth Terry](#)



Adam Marcelllo

... Himself - Band Leader / Drums



Casey Hooper

... Himself - Guitars



Patrick Matera

... Himself - Guitars



Max Hart

... Himself - Keys



Joshua Moreau

... Himself - Bass



Lauren Allison Ball

... Herself - Background Vocals



Tasha Layton

... Herself - Background Vocals



Leah Adler

... Herself - Dancer



Lockhart Brownlie

... Himself - Dancer



Anthony Burrell

... Himself - Dancer



Lexie Contursi

... Herself - Dancer



Ashley Ashida Dixon

... Herself - Dancer



Brandee Evans

... Herself - Dancer



Bryan Gaw

... Himself - Dancer



Malik Le Nost

... Himself - Dancer (as Malik LeNost)

Rachael Markarian

... Herself - Dancer

Katy Perry: Part of Me

Details

[Full Cast and Crew](#)

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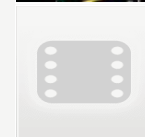
My Favorite Films

a list of 22 titles
created 07 May 2013



Fall 2013

a list of 30 titles
created 21 Sep 2013



Agos-Sep15

a list of 47 titles
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	Scott Myrick	... Himself - Dancer
	Cassidy Noblett	... Himself - Dancer
	Bradford Cobb	... Himself - Manager
	Johnny Wujek	... Himself - Stylist
	Steven Jensen	... Himself - Manager (as Steve Jensen)
	Todd Delano	... Himself - Makeup Artist
	Tamra Natisin	... Herself - Assistant
	Angela Hudson	... Herself - Katy's Sister / Kathy Beth Terry
	David Daniel Hudson	... Himself - Katy's Brother (as David Hudson)
	Keith Hudson	... Himself - Katy's Parent
	Mary Hudson	... Herself - Katy's Parent
	Mark 'The Cobra Snake' Hunter	... Himself - Photographer (as Mark Hunter aka 'The Cobra Snake')
	Shannon Woodward	... Herself - Best Friend, Actress
	Mia Moretti	... Herself - Friend, International DJ
	Glen Ballard	... Himself - Record Producer (Alanis Morissette, Michael Jackson)
	Angelica Cob-Baehler	... Herself - Former Columbia Publicist
	Jason Flom	... Himself - Former CEO: Capitol Records
	Adele	... Herself
	Lady Gaga	... Herself
	Jessie J	... Herself
	Rihanna	... Herself

Rest of cast listed alphabetically:

	Justin Bieber	... Himself (uncredited)
	Rebecca Black	... Herself (archive footage) (uncredited)
	Russell Brand	H Himself (uncredited)

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	Alan Carr	... Himself (archive footage) (uncredited)
	Lauren Christy	... Herself (uncredited)
	Darren Criss	... Aaron Christopherson (archive footage) (uncredited)
	Ellen DeGeneres	... Herself (archive footage) (uncredited)
	Judy Garland	... Dorothy Gale (archive footage) (uncredited)
	Whoopi Goldberg	... Herself (uncredited)
	Baz Halpin	... Himself (uncredited)
	Erica Hill	... Herself (archive footage) (uncredited)
	Ann Hudson	... Herself (uncredited)
	Lucas Kerr	... Himself (uncredited)
	Heidi Klum	... Herself (archive footage) (uncredited)
	Avril Lavigne	... Herself (uncredited)
	Bonnie McKee	... Herself (uncredited)
	Alanis Morissette	... Herself (archive footage) (uncredited)
	Dermot O'Leary	... Himself (archive footage) (uncredited)
	Britney Spears	... Herself (uncredited)
	Scott Spock	... Himself (uncredited)
	Chris Wragge	... Himself (archive footage) (uncredited)

Create a character page for:

Produced by

Thomas Benski	... co-producer
Cassidy Bernhard	... segment producer
Dan Bowen	... co-producer
David Brandon	... segment producer
Craig Brewer	... executive producer
Nanette Burstein	... co-producer
Bradford Cobb	... producer
Domenic J. Cotter	... supervising producer
Anna Culp	... co-producer
Nicole K.L.N. Ebeo	... line producer: concert

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Lukasz Gottwald	...	co-producer (as Lukasz 'Dr. Luke' Gottwald)
Brian Grazer	...	producer
James Hall	...	executive producer
Ngoc Hoang	...	associate producer
Ron Howard	...	producer
Erica Huggins	...	executive producer
Steven Jensen	...	producer
Ted Kenney	...	producer
Martin Kirkup	...	producer
Ari Kolber	...	segment producer
Alexandra Lipsitz	...	segment producer
Edward Lovelace	...	executive producer
Benjamin Mack	...	segment producer
Max Martin	...	co-producer
Brian Murphy	...	associate producer
Emer Patten	...	producer
Katy Perry	...	producer
Randy Phillips	...	executive producer
Helen Pollak	...	associate producer
Joy Rillo	...	segment producer
Michael Rosenberg	...	executive producer
John Rubey	...	associate producer
Lauren D. Weber	...	segment producer (as Lauren Weber)
Jennifer Lynn Vidas	...	line producer (uncredited)

Music by

Deborah Lurie

Film Editing by

Scott Evans

Brian David Lazarte ... (as Brian Lazarte)

Scott Richter

Casting By

Barbara Harris

Production Design by

Baz Halpin ... creative production designer

Costume Design by

Johnny Wujek ... (uncredited)

Makeup Department

Nina Davis ... makeup artist

Todd Delano ... makeup artist: California Dreams Live Tour: Ms. Perry

Kim Guedner ... hair stylist: California Dreams Live Tour: Ms. Perry

Rick Henry ... hair stylist: California Dreams Live Tour: Ms. Perry

Matthew Holman ... hair stylist

Paige Padgett ... makeup department head

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Production Management

Antek Graczyk	...	additional assistant unit manager
Helen Pollak	...	production manager
Jamie Silk	...	production manager: concert footage
Valerie Flueger Veras	...	post-production supervisor
Betsy Megel	...	executive in charge of production (uncredited)

Second Unit Director or Assistant Director

Stephanie Tull	...	second assistant director
Basti Van Der Woude	...	first assistant director
Nick Wickham	...	director: concert footage

Sound Department

Randle Akerson	...	sound editor
Petra Bach	...	adr/dial supervisor
Tim Chau	...	re-recording mixer / sound designer / supervising sound editor
Andy D'Addario	...	re-recording mixer
Giovanni Di Simone	...	boom operator
Kaspar Hugentobler	...	sound recordist
Martin Kelly	...	sound mixer: New York
Jared Marshack	...	sound mix technician
James Moriana	...	foley artist
Chris Navarro	...	adr mixer
Jordan O'Neill	...	Datasat Sound Mastering Engineer
Thomas Orozco	...	sound mixer
Matthew E. Taylor	...	dialogue editor
Brett Voss	...	foley mixer
Clayton Weber	...	sound editor
Jeffrey Wilhoit	...	foley artist

Visual Effects by

Hunny Agarwal	...	stereo roto artist
Schuyler Anderson	...	stereoscopic depth artist
Jonathan Angelo	...	senior pipeline developer
Creighton Ashton	...	digital compositor
Paul A. Baccam	...	stereoscopic artist
Maggie Balaco	...	roto artist: stereoscopic conversion
Jarret Ballard	...	stereoscopic depth artist
K.C. Barnes	...	stereoscopic lead: Stereo D
Jeannie Ben-Hain	...	stereoscopic compositor
Brian N. Bentley	...	stereo compositor / stereo paint artist
Maxime Besner	...	stereo compositor
Aaron D. Beyer	...	visual effects
David Blemur	...	stereo compositor
Mike Bodkin	...	stereo executive producer: Stereo D
Jason Bowers	...	stereoscopic compositor
Michael Brako	...	stereoscopic artist
Milady Bridges	...	visual effects artist
Kyle Patrick Brown	...	compositor (stereoscopic conversion)
Tasha Carlson	...	stereo depth artist
Jeremy P. Carroll	...	junior lead stereoscopic compositor: StereoD
Monica L. Castro	...	stereoscopic compositor

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Snata Chakraborty	... stereo roto artist
Bradley Chowning	... stereoscopic depth artist
Graham D. Clark	... head of stereography: Stereo D
Jimi Clark	... senior stereoscopic artist
Ryan Cleveland	... stereoscopic artist: Stereo D
Mary-Margaret Conley	... data i/o administrator: Stereo D
Matt Cordero	... stereoscopic compositor
Maurice Cox	... stereoscopic compositor
Thomas Crow	... 3D Artist: Stereo D
Jason Cutler	... lead stereoscopic compositor
Brad Darrow	... stereoscopic depth artist
James Davis Jr.	... stereo conversion artist
Josh Deason	... stereoscopic compositor: stereoscopic conversion
Rachel Decker	... data i/o manager: StereoD
Val Dela Rosa	... systems architect: StereoD
Levon Shant Demirjian	... visual effects
Gus Djuro	... senior stereoscopic artist
Rene Dominguez	... stereoscopic compositor
Corey Drake	... r&d programmer: Stereo D
Aubrey Dukes	... stereoscopic artist: Stereo D
Jackson Edmilao	... desktop administrator: StereoD
Bryan T. Evans	... matchmover
Brian Fanska	... stereoscopic compositor
Robin Pierce Ferber	... stereoscopic conversion artist
Gabriele Filippelli	... visual effects
Jerod Finn	... stereoscopic artist: Stereo D
Les Foor	... lead stereoscopic artist
Adam Garnier	... stereo compositor: Stereo D
Bryan Gauna	... head of technology: StereoD
Joan Gauna	... pipeline developer
Jackson Gichuki	... stereoscopic rotoscope artist
Matthew E. Gill	... stereoscopic rotoscope artist: Stereo D
Mike Gunter	... stereoscopic executive producer
William F. Hamilton	... systems administrator
Josh Handley	... stereoscopic compositor
Aisling Harbert	... lead stereo artist
Mike F. Hedayati	... stereoscopic consultant
Alex Heffner	... stereoscopic depth artist
Jordan Heskett	... visual effects
Bryan M. Higgins	... rotoscope supervisor
Ryan Hirsh	... stereoscopic depth artist
Lucas Hull	... digital compositor: Stereo D
Katherine Hupp	... stereoscopic roto artist
Tim Johnson	... visual effects coordinator
Corey Just	... stereoscopic depth artist
Vijay Kadapatti	... stereo production coordinator
Lindsey Kaiser	... creative services manager
Ryan Keely	... digital compositor
Ian Kelly	... stereoscopic rotoscope artist
Kolby Kember	... stereoscopic artist
Simon D. Kern	... post stereoscopic lead: Stereo D
Yoonkwan Kim	... pipeline developer
Mike Knox	... systems engineer: StereoD
Gerry Kodo	... stereo compositor: Stereo D
Prasanna Kodpadi	... compositor (as Prasanna Kodapadi)
Nitesh Kumar	... stereo roto artist: Stereo D
Timothy Jay Latham	... stereoscopic artist: Stereo D (as Tim Latham)
Grant Lee	... second stereo paint lead: Stereo D
Lisardo Liriano	... visual effects artist (stereoscopic conversion)

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Angus Lyne	... Paramount vault graphics: Pixomondo
Yael Majors	... stereoscopic paint artist
Sebastian Maldonado	... digital compositor
Roy Vincent Mann	... lead stereoscopic compositor
Andrew Marquez	... stereoscopic artist: Stereo D
Kindra McCall	... stereoscopic depth artist
Megan McCollum	... stereo compositor: Stereo D
Russell McCoy	... digital paint supervisor
Rob McCurdy	... stereoscopic compositor
David McMahon	... digital compositor: Stereo D
Mark Menaker	... system administrator
Carlos Mendoza Jr.	... senior stereoscopic compositor
David Miller III	... stereoscopic compositor
Scott Mitchell	... visual effects artist
Chris Montesano	... visual effects artist
Andy Moorer	... stereoscopic visual effects supervisor
William Morrison	... visual effects artist: Stereo D
Michael Murphy	... head of quality control: Stereo D
Travis Murray	... stereoscopic compositor
Scott Musselman	... stereoscopic depth artist
Christopher Myerchin	... stereoscopic compositor lead
Emmi Nakagawa	... stereoscopic artist
Farzad 'Fuzz' Namdjoo	... stereoscopic lead
Mohan Narayanaswamy	... quality manager
Gerardo Navarro	... stereoscopic compositor
Chris O'Connell	... stereoscopic compositor
Patrick O'Riley	... rotoscope artist: Stereo D
Daniel O'Shaughnessy	... visual effects artist
Raphael Oseguera	... roto artist / stereoscopic conversion
Yogesh Pathak	... senior stereo roto annotation artist
Demetrios Patsiaris	... stereoscopic roto artist
Niki Patterson	... data io administrator: StereoD
Javier Paz	... stereo production coordinator
Mario Pece	... visual effects artist: Ingenuity Engine
Lyndsey Pendley	... stereoscopic compositor / stereoscopic paint artist
Ezra Pike	... stereo roto artist
Derek N. Prusak	... stereoscopic editorial supervisor
Juan Carlos Quintana	... senior stereoscopic compositor
Justin Ray	... stereoscopic compositor
Sarah Reese-Edwards	... finaling lead
Patrick Reilly	... digital compositor
Pedro Luis Reyes	... stereoscopic compositor
Jason Richardson	... stereoscopic compositor
Leroy Riche	... stereoscopic depth artist
Lisa Dawn Rogolsky	... rotoscope artist
Zachary J. Rose	... visual effects coordinator
Dylan Sanchez	... compositor: StereoD
German Sandoval	... stereoscopic artist
Davis Scott Porter Saunders	... stereoscopic supervisor
Adam Schardein	... stereo producer: Stereo D
Daniel Schrepf	... stereoscopic roto lead
Stanislav Shapetskiy	... stereo compositor
William Sherak	... stereo executive producer (Stereo D)
Sainath Shinde	... international production: Stereo D

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Adnan Siddique	... stereoscopic roto lead
Stacey Simmons	... technology coordinator: StereoD
Pankaj Kumar Singh	... technical operations lead: StereoD
Corey Smith	... stereoscopic compositor / stereoscopic painter
Andrea R. Stephens	... production coordinator: Deluxe 3D
Nicole Stevenson	... render wrangler: StereoD
G. Allen Stewart	... stereo conversion artist
Allison Sturdy	... stereoscopic depth artist
Brian Taber	... post stereographer: Stereo D
Brandon Taylor	... compositor / stereo paint artist
Beau Teora	... visual effects artist
Christopher Terry	... lead stereoscopic compositor: Stereo D
Eric Timm	... stereoscopic artist
Robert Tobin	... senior stereoscopic artist
Khuong Tran	... stereo compositor: Stereo D
Thomas Tran	... desktop administrator: StereoD (as Tomas Tran)
Mark Victor Trappett	... render technical assistant
Corey Turner	... executive stereographer: Paramount Pictures
Josiah Van Arsdell	... stereo compositor: Stereo D
Jeffrey Warnhoff	... depth artist
Ryan M. Wilson	... stereoscopic artist
Marvin Yanez	... stereoscopic roto lead
Lakshmi Ziskin	... 3D Producer: StereoD
Nick Haines	... visual effects artist (uncredited)
William Jackson	... digital artist (uncredited)
Brogan Ross	... pipeline technical director (uncredited)

Camera and Electrical Department

Tiffany Aug	... first assistant photographer
John H.L. Baker	... Assistant Camera: San Francisco
Thomas Bango	... first assistant camera
Taylor Beumel	... assistant camera
Matthew R. Blute	... stereographer
Jonathan Bowerbank	... Loader: San Francisco
Bob Brilliant	... digital intermediate technician: New York
Geoffrey Bund	... convergence puller
Alex Bunin	... remote head technician
Brian Burgoyne	... camera operator
Rafiel Chait	... convergence puller
Mariusz Cichon	... digital intermediate technician: New York
Brandon Cunningham	... assistant chief lighting technician
Ricardo Diaz	... second company grip
Greg Flores	... first company grip
Jonathan Goldfisher	... first assistant camera
Will Gonzalez	... grip
Lisa Guevara	... first assistant photographer: New York
Pedro Guimaraes	... Steadicam operator
Jeroen Hendriks	... red camera technician
James Henry	... camera operator
Karl Hui	... first assistant camera: Dublin
Nate Kalushner	... digital intermediate technician
Shanra J. Kehl	... cinematographer: second unit (as Shanra Kehl) / director of photography: second unit (as Shanra Kehl)
Abby Linne	... camera operator
Andrew Litt	... additional photography
Joey Maloney	... camera operator
George Maxwell	... chief lighting technician
Roland Andre Miller	... camera operator (as R. Andre Miller) (video segments)

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Bradley D. Reed	... electrician (as Bradley Reed)
Dale Robinette	... special still photographer
Jonathan Smiles	... data technician
Forrest Stangel	... camera operator
Marty Stiles	... assistant camera
Brett Turnbull	... director of photography: concert footage
Theresa Vitale	... camera operator

Casting Department

Barbara Harris	... adr voice casting
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Costume and Wardrobe Department

David Blond	... wardrobe design: California Dreams Live Tour: Katy Perry
Phillipe Blond	... wardrobe design: California Dreams Live Tour: Katy Perry
LeAnne Doescher	... wardrobe design: California Dreams Live Tour: tour wardrobe
Su Flesland-Carter	... wardrobe design: California Dreams Live Tour: tour wardrobe
Erin Lareau	... costume supervisor / wardrobe design: California Dreams Live Tour: Band/Dancers (as Erin LaReau)
Furne One	... wardrobe design: California Dreams Live Tour: Katy Perry
Jeremy Scott	... wardrobe design: California Dreams Live Tour: Katy Perry
Haik Tateossian	... fabric dyer & printer
Todd Thomas	... wardrobe design: California Dreams Live Tour: Katy Perry
Marina Toybina	... wardrobe design: California Dreams Live Tour: Band/Dancers
Johnny Wujek	... wardrobe design: California Dreams Live Tour: Katy Perry
Evelyn Martinez	... wardrobe/costumer (uncredited)

Editorial Department

Milton Adamou	... stereoscopic post executive: Stereo D
Philip Beckner	... digital intermediate editor
Michael Buck	... stereoscopic assistant editor
Gus Comegys	... digital intermediate editor
Regan Copeland	... digital intermediate artist
David Cowles	... stereoscopic on-line editor
Ben Cox	... second assistant editor
John Daro	... digital intermediate colorist
Zachary Dehm	... apprentice film editor
Greg Emerson	... senior stereoscopic on-line editor
Lane Farnham	... additional editor
Adam Ford	... segment post supervisor
Bob Fredrickson	... digital intermediate editor
Brian Gee	... nextlab operator
Mark Griffith	... digital intermediate colorist
Aimee Jennings	... assistant editor
Kevin Kearney	... additional editor
Paul Amadeus Kim	... dailies operator
Stevin Knight	... additional editor
Igor Kovalik	... additional editor
Alexandra LoRusso	... assistant editor
Timothy Llewellyn Moxey	... nextLAB operator (as Timothy Moxey)
Laura Yonker Myers	... segment post coordinator (as Laura Yonker)
John Nicolard	... digital intermediate supervisor
Thad Nurski	... assistant editor
Ronnie Raffaniello	... post-production assistant (2012)
Davis Reynolds	... first assistant editor

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Bill Schultz	...	digital intermediate executive
Amy Schwartz	...	assistant editor
Jennifer Scudder Trent	...	post-production coordinator
Daniel Sessoms	...	nextLAB operator
John St. Laurent	...	dailies operator
Hans van Riet	...	additional editor
Kyle Walczak	...	post-production assistant
Carey Williams	...	additional editor
Clinton Noel Williams	...	additional editor

Location Management

Michael J. Burmeister	...	location manager
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Music Department

Ashley Alexander	...	score coordinator
Miles Bergsma	...	additional music arranger / musician: guitar / performer: music score / score technical assistant
Deborah Lurie	...	performer: music score
Manny Marroquin	...	live music: mixer
Steve Mazur	...	performer: music score
Kevin McKeever	...	music editor
Peter Rotter	...	music contractor
Zack Ryan	...	performer: music score
Scott Michael Smith	...	score recordist
Casey Stone	...	music scoring mixer
Steve Tavaglione	...	musician: EWI / performer: music score
Eric Vetro	...	vocal coach: California Dreams Live Tour
Denise Carver	...	music clearances (uncredited)
Greg Whipple	...	playback singer (uncredited)

Transportation Department

James Waitkus	...	transportation coordinator
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Other crew

David Arnott	...	adr loop group
Caroline Axelrod	...	assistant: Mr. Cutforth / assistant: Ms. Lipsitz
Nikki Baida	...	production assistant
Andrea Baker	...	adr loop group
Darek Blackwood	...	production assistant
John A. Busenberg	...	executive producer, main title sequence: Devastudios
Lanei Chapman	...	adr loop group (as Lanai Chapman)
Rachel Chervin	...	assistant: Ms. Huggins
Will Collyer	...	adr loop group
Eben Davidson	...	production executive
Vicki Davis	...	adr loop group
Liza de Weerd	...	adr loop group
Andrew Emilio DeCesare	...	production staff
John DeMita	...	adr loop group
R.J. Durell	...	choreographer / choreographer: California Dreams Live Tour (as RJ Durell)

Aaron Fors	... adr loop group
Willow Geer	... adr loop group
Tena Golding	... field coordinator: NY pick ups
Ashley Gressen	... production assistant
Barbara Harris	... adr loop group (as Barbara Iley)
Kim Hilton	... tour production coordinator
Angela Hudson	... tour VIP coordinator: California Dreams Live Tour
David Koehler	... adr loop group
Santino S. Lamancusa	... production assistant
Arlyne Lewiston	... assistant: Mr. Phillips
Andrew Litvak	... production secretary
Frankie Mason	... assistant: Mr. Grazer (as Frankie Mazon)
Jeremy Maxwell	... adr loop group
Frankie Mazon	... assistant: Mr. Grazer (as Frankie Mazon)
David Michie	... adr loop group
Carlos Moreno Jr.	... adr loop group (as Carlos Moreno)
Sarah Morse	... production accountant
Tamra Natisin	... assistant: Ms. Perry
Jason Pace	... adr loop group
Elizabeth Palmore	... assistant: Mr. Brewer
Paige Pollack	... adr loop group
Leah Reid	... assistant: Mr. Cobb / assistant: Mr. Jensen / assistant: Mr. Kirkup
Frank Reina	... production assistant
Erin Rott	... assistant: Mr. Cutforth / assistant: Ms. Lipsitz
Dadasaheb Shaikh	... network administrator: StereoD
Rebecca Sykes	... production supervisor: UK
Jodi Tripi	... footage clearance
Nancy Truman	... adr loop group
Lindsay Webster	... segment producer
Andreana Weiner	... adr loop group
Danielle Zloto	... assistant: Mr. Grazer
Jason Zorigian	... production coordinator
Greg Ferris	... marketing canada (uncredited)

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See also

[Release Dates](#) |
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United States Court of Appeals for the Ninth Circuit

Office of the Clerk
95 Seventh Street
San Francisco, CA 94103

Information Regarding Judgment and Post-Judgment Proceedings

Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)

Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)

(1) A. Purpose (Panel Rehearing):

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- *See* Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.

- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter **in writing within 10 days** to:
 - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; St. Paul, MN 55164-0526 (Attn: Jean Green, Senior Publications Coordinator);
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

United States Court of Appeals for the Ninth Circuit

BILL OF COSTS

This form is available as a fillable version at:

<http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Form%2010%20-%20Bill%20of%20Costs.pdf>.

Note: If you wish to file a bill of costs, it MUST be submitted on this form and filed, with the clerk, with proof of service, within 14 days of the date of entry of judgment, and in accordance with 9th Circuit Rule 39-1. A late bill of costs must be accompanied by a motion showing good cause. Please refer to FRAP 39, 28 U.S.C. § 1920, and 9th Circuit Rule 39-1 when preparing your bill of costs.

<input type="text"/>	v.	<input type="text"/>	9th Cir. No.	<input type="text"/>
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The Clerk is requested to tax the following costs against:

Cost Taxable under FRAP 39, 28 U.S.C. § 1920, 9th Cir. R. 39-1	REQUESTED <i>(Each Column Must Be Completed)</i>				ALLOWED <i>(To Be Completed by the Clerk)</i>			
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* *Costs per page:* May not exceed .10 or actual cost, whichever is less. 9th Circuit Rule 39-1.

** *Other:* Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to 9th Circuit Rule 39-1. Additional items without such supporting statements will not be considered.

Attorneys' fees **cannot** be requested on this form.

I, , swear under penalty of perjury that the services for which costs are taxed were actually and necessarily performed, and that the requested costs were actually expended as listed.

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("s/" plus attorney's name if submitted electronically)

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Name of Counsel:

Attorney for:

(To Be Completed by the Clerk)

Date

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Clerk of Court

By:

, Deputy Clerk

General Information

Court	United States Court of Appeals for the Ninth Circuit; United States Court of Appeals for the Ninth Circuit
Federal Nature of Suit	Property Rights - Copyrights[3820]
Docket Number	13-57093
Status	Closed