



attorney fees are recoverable in declaratory relief action for copyright abandonment, ninth circuit holds

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MSK Client Alert

May 19, 2020

On May 13, 2020, the Ninth Circuit opened the door for courts to award attorney's fees to parties seeking or defending against equitable relief actions that may implicate the Copyright Act. In *Doc's Dream v. Dolores Press, Inc.*, No. 18-56073 (9th Cir. May 13, 2020), the Circuit held broadly that "any action that turns on the existence of a valid copyright and whether that copyright has been infringed" is properly within the scope of attorney's fees recoverable pursuant to the fee-shifting provision of the Copyright Act. And it applied that holding to the particular claim for declaratory relief before it, namely whether a party had abandoned a copyright.

Section 505 of the Copyright Act, 17 U.S.C. § 505, provides a court with discretion to "award a reasonable attorney's fee to the prevailing party" as a part of the recoverable cost incurred "in any civil action under" the Copyright Act. *Doc's Dream* presented a "first impression" issue: whether a declaratory relief claim concerning the judicially-created "copyright abandonment" doctrine qualifies as an action *under* the Copyright Act. To address this question, the Circuit had to decide whether a determination of copyright abandonment required a "construction" of the Copyright Act, and it answered in the affirmative.

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