

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Viral DRM LLC v. Francisco Morante Fuentes

Viral DRM · No. 3:23-cv-05045-JSC · Decided March 14, 2025

SUMMARY

The United States District Court for the Northern District of California denied Viral DRM LLC’s motion for default judgment and dismissed the action for lack of standing. The court held that Viral DRM’s agreements with copyright holders did not grant it an exclusive right under 17 U.S.C. § 106 sufficient to establish standing under § 501(b), and that the record also failed to establish standing for claims under the DMCA and §§ 1201 and 1202. The court denied leave to amend.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jacqueline Scott Corley
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 14, 2025
DOCKET	3:23-cv-05045-JSC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved for default judgment after the Clerk entered default. The Court sua sponte questioned Plaintiff's standing, ordered Plaintiff to show cause, denied default judgment, dismissed the action for lack of standing, and denied leave to amend.
STANDARD OF REVIEW	The Court evaluated standing as a threshold issue and exercised discretion under Federal Rule of Civil Procedure 15(a)(2) in denying leave to amend.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Viral DRM LLC v. Francisco Morante Fuentes

TOPICS

- copyright infringement
- dmca
- standing
- default judgment
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Viral DRM had standing under 17 U.S.C. § 501(b) to assert copyright infringement claims based on the rights granted in its agreements with the copyright holders.
2. Whether Viral DRM had standing under 17 U.S.C. § 512(f) to seek damages for allegedly false DMCA counter notices.
3. Whether Viral DRM had standing under 17 U.S.C. § 1203 to assert claims concerning removal or alteration of copyright-management information under §§ 1201 and 1202.
4. Whether Viral DRM should be granted leave to amend to name the videographers as nominal plaintiffs.

HOLDINGS

1. An entity lacks standing to sue for copyright infringement under Section 501(b) when its agreement grants management, agency, enforcement, and related distribution rights but does not transfer an exclusive Section 106 right, such as the exclusive right to authorize third parties to reproduce, distribute, or display the copyrighted work.
2. A plaintiff seeking damages under Section 512(f) must establish that it is the copyright owner or an authorized licensee for the works and claims at issue; Viral DRM failed to do so on this record.
3. A plaintiff must establish an injury and a sufficient legal relationship to the copyrighted works and the asserted copyright-management-information rights to sue under Section 1203; Viral DRM failed to establish standing for its watermark-removal claims.
4. Leave to amend was properly denied where the plaintiff had already amended, had received multiple opportunities to clarify its claims and supporting evidence, and the proposed amendment remained unclear.

KEY QUOTATIONS

“Statutory standing cannot be willed into existence. In this case, it is a matter of contract and it exists or it does not.”

“Giving Viral DRM the rights necessary to enforce the videographer’s copyright, is not the same as the exclusive right to “authorize third parties to reproduce, distribute, and display the photographs” required to have standing to bring a copyright infringement action.” (Dkt. No. 74 at 4)

FACTUAL BACKGROUND

Viral DRM alleged that Defendant downloaded and copied its copyrighted videographic materials from YouTube and re-uploaded infringing versions to his YouTube channel. The registrations attached to the amended complaint identified John Michael Sibley and Michael Brandon Clement, rather than Viral DRM, as the copyright registrants. The agreements submitted by Viral DRM granted exclusive agency and management rights but reserved copyright ownership to the videographers and did not establish that Viral DRM held an exclusive right under Section 106 to authorize reproduction, distribution, or display. The record also failed to identify

which videographer owned each work involved in the DMCA and copyright-management-information claims or to clarify the relationships among Viral DRM, Live Storms Media, News Media Network, and the videographers.

PROCEDURAL HISTORY

Viral DRM filed an amended complaint asserting copyright infringement and related claims. After Defendant failed to respond, the Clerk entered default and Viral DRM moved for default judgment. At the hearing, the Court questioned Viral DRM's standing and directed it to submit licensing agreements; after reviewing the response, the Court issued an order to show cause. The Court concluded that Viral DRM had not established standing under the Copyright Act, the DMCA, or the provisions concerning copyright management information, denied default judgment, dismissed the action, and denied leave to amend.

DISPOSITION

dismissed

CASES CITED

- Silvers v. Sony Pictures Entertainment, Inc., 402 F.3d 881, 884, 887 (9th Cir. 2005) (en banc)
- Minden Pictures, Inc. v. John Wiley & Sons, Inc., 795 F.3d 997, 1002-1005 (9th Cir. 2015)
- DRK Photo v. McGraw-Hill Global Education Holdings, LLC, 870 F.3d 978, 983 (9th Cir. 2017)
- Stewart v. Baltimore & Ohio Railroad Co., 168 U.S. 445, 449 (1897)
- United States v. Corinthian Colleges, 655 F.3d 984, 995 (9th Cir. 2011)
- Ecological Rights Foundation v. Pacific Gas & Electric Co., 713 F.3d 502, 520 (9th Cir. 2013)
- Miller v. Yokohama Tire Corp., 358 F.3d 616, 622 (9th Cir. 2004)