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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SISYPHUS TOURING, INC.,	)	CV No. 15-09512-RSWL-PJW
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER Re: DEFENDANTS'</b>
	)	<b>MOTION FOR SUMMARY</b>
	)	<b>JUDGMENT [47];</b>
TMZ PRODUCTIONS, INC., et	)	<b>PLAINTIFF'S MOTION FOR</b>
al.,	)	<b>PARTIAL SUMMARY JUDGMENT</b>
	)	<b>[42]; DEFENDANTS' MOTION</b>
Defendants.	)	<b>PURSUANT TO RULE 56(d)</b>
	)	<b>TO DEFER CONSIDERATION</b>
	)	<b>OF PLAINTIFF'S MOTION</b>
	)	<b>FOR PARTIAL SUMMARY</b>
	)	<b>JUDGMENT [59];</b>
	)	<b>DEFENDANTS' MOTION FOR</b>
	)	<b>DEFAULT JUDGMENT [72]</b>
	)	

**I. INTRODUCTION**

Currently before the Court is Defendant MBLC Productions Inc. (formerly known as TMZ Productions, Inc.), TMZ.com, EHM Productions, Inc., and Warner Bros. Entertainment Inc.'s ("Defendants") Motion for Summary Judgment ("Mot. Summ. J."), Plaintiff Sisyphus Touring, Inc.'s ("Plaintiff") Motion for Partial Summary Judgment ("Mot. Partial Summ. J."), Defendants' Motion

1 Pursuant to Rule 56(d) to Defer Consideration of  
2 Plaintiff's Motion for Partial Summary Judgment  
3 ("Mot."), and Defendants' Motion for Default Judgment  
4 Against Third-Party Defendant Naeem Munaf. The Court,  
5 having reviewed all papers and arguments submitted  
6 pertaining to this Motion, **NOW FINDS AND RULES AS**  
7 **FOLLOWS:** Defendants' Motion for Summary Judgment [42]  
8 is **GRANTED**, Plaintiff's Motion for Partial Summary  
9 Judgment [42] is **DENIED** as moot, Defendants' Motion  
10 Pursuant to Rule 56(d) to Defer Consideration of  
11 Plaintiff's Motion for Partial Summary Judgment [59] is  
12 **DENIED** as moot, and Defendants' Motion for Default  
13 Judgment against Third-Party Defendant Naeem Munaf [72]  
14 is **DENIED** as moot.

## 15 **II. BACKGROUND**

### 16 **A. Findings of Fact**

17 Plaintiff is a for-profit corporation co-owned by  
18 Jared Leto ("Leto"). Stipulated Facts 2:14-17. Leto  
19 is an actor, recording artist, and a member of the band  
20 Thirty Seconds to Mars. Id. at 2:18-19. MBLC  
21 Productions Inc. and EHM Productions, Inc. operate  
22 TMZ.com and are for-profit companies. Id. at 3:13-20.  
23 Warner Bros. Entertainment Inc. is the "indirect parent  
24 company" of MBLC Productions Inc. and EHM Productions,  
25 Inc. Id. at 3:15-16. TMZ.com reports on celebrity  
26 news through their website and earns revenue from  
27 advertisements on the website. Id. at 3:21-22.

28 Plaintiff's representative, Jared Rosenberg

1 ("Rosenberg"), contacted Naeem Munaf ("Munaf") about  
2 shooting a video of Leto on September 8, 2015. Id. at  
3 2:20-22. Munaf had no relationship with Plaintiff  
4 prior to September 8, 2015. Id. at 2:23-25. Munaf has  
5 never been an employee of Plaintiff. Id. at 3:1-2.  
6 Munaf went to Leto's home on September 8, 2015 and shot  
7 footage of him. Id. at 3:3-5. Munaf used his own  
8 equipment and no one but Munaf operated his equipment  
9 during the video shoot. Id. at 3:6-7.

10 Plaintiff did not give Munaf any documents prior to  
11 the shoot indicating that the work would be a work made  
12 for hire. Id. at 3:8-12. Munaf did not sign any  
13 agreements prior to the shoot indicating that the work  
14 would be a work made for hire. Id.

15 Munaf, using a pseudonym, "Jake Miller" sent  
16 Defendants a message through "TMZ Ideas" on December 4,  
17 2015 at 12:12 a.m. advising he had a clip of Leto  
18 talking about singer Taylor Swift. Id. at 3:23-27. A  
19 representative of Defendants, Anthony Dominic  
20 ("Dominic"), contacted Munaf about the excerpt. Id. at  
21 4:3-4. A second representative of Defendants, Nikki  
22 Hendry ("Hendry"), contacted Munaf on December 4, 2015  
23 at 1:17 p.m. stating, "[P]er our conversation, both  
24 parties have agreed that TMZ will pay you \$2,000.00 USD  
25 for the outright purchase of 1 video of Jared Leto  
26 talking about Taylor Swift. When you have a moment:  
27 can you please send me an email back stating 'I agree'  
28 to the terms of the agreement. I have also attached

1 the contract and W-9 forms. Please print and fill them  
2 out and either fax, or scan and email back to me OR  
3 take a good clear cell phone photo of the docs and  
4 email them back to me. A check will be sent to you in  
5 the next 2-3 weeks." Id. at 4:5-14. Munaf responded  
6 to the email on December 4, 2015 at 1:20 p.m., stating  
7 "I agree. Sending video to Anthony. I will send these  
8 forms back soon." Id. at 4:18-20.

9 Munaf provided Defendants the weblink to the  
10 excerpt on December 4, 2015 showing Leto talking about  
11 Taylor Swift. Id. at 5:1-3. Hendry sent an email to  
12 TMZ's news desk on December 4, 2015, with the subject  
13 line, "[w]e now OWN and can distribute video of Jared  
14 Leto talking about Taylor Swift." Id. at 5:4-8.  
15 Defendants advised Leto's representatives on December  
16 6, 2015 approximately at 4:00 p.m. that Defendants were  
17 going to publish an excerpt of Leto talking about  
18 Taylor Swift. Id. at 5:9-11. Leto and his  
19 representatives told Defendants on December 6, 2015  
20 that the video was stolen. Id. at 5:15-16. Rosenberg  
21 contacted Munaf on December 6, 2015 at or after 10:47  
22 p.m. asking he sign a non-disclosure agreement. Id. at  
23 5:17-18. Leto's representative sent Defendants an  
24 email on December 7, 2015 at 12:12 a.m. stating that  
25 Leto owned the copyright to the video. Id. at 5:23-25.  
26 Munaf sent Plaintiff a scanned copy of the non-  
27 disclosure agreement on December 7, 2015 at 12:15 a.m.  
28 Id. at 5:27-28. Defendants published one minute and

1 ten seconds of the video on TMZ.com on December 7, 2015  
2 at 1:00 a.m. along with an article written by TMZ  
3 staff. Id. at 5:5-7.

4 Munaf sent Dominic an email on December 7, 2015 at  
5 1:14 a.m. stating, "do not post the footage. I do not  
6 own it. I do not have permission. I will not be  
7 signing any w-9 or agree to get paid forms." Id. at  
8 6:19-21. Munaf sent Defendants a message on December  
9 7, 2015 at 4:20 a.m. stating, "REMOVE JARED LETO POST  
10 NOW. MY CONTACT AT TMZ IS ANTHONY DOMINIC. I DID NOT  
11 OWN THAT FOOTAGE NOR HAVE PERMISSION. REMOVE NOW. I AM  
12 NOT FILLING OUT ANY W-9 AGREE TO GET PAID FORMS." Id.  
13 at 6:27-28; 7:1-3. Munaf did not return the contract  
14 or W-9 form to Defendants and Defendants have not paid  
15 Munaf any of the \$2,000. Id. at 7:6-9.

16 Munaf sent Rosenberg an email on December 7, 2015  
17 at 8:47 p.m. stating, "[a]fter agreeing to give TMZ the  
18 footage for a financial gain of \$2,000, I don't begin  
19 to describe how guilty I felt and stressed from that  
20 moment and that no amount of money would be worth the  
21 humiliation that I know I have caused for Jared and  
22 you, JR...Whatever I thought my intent was, I did not  
23 sign the agreement that TMZ provided nor fill out the  
24 W-9, because after my decision I felt I could not agree  
25 to take the money." Id. at 7:11-17.

26 Munaf signed a second non-disclosure agreement  
27 provided by Rosenberg on December 7, 2015 at 11:16 a.m.  
28 The agreement was "acknowledged and agreed as of this

1 date: 9/8/15, 2015." Id. at 7:21-24. Munaf sent the  
2 entire video he shot to Plaintiff on December 7, 2015.  
3 Id. at 8:3-4. On December 7, 2015, Plaintiff  
4 registered four excerpts of the video with the United  
5 States Copyright Office totaling twelve minutes and  
6 eight seconds. Id. at 8:5-8. The excerpts contain the  
7 footage that was published by Defendants. Id. at 8:13-  
8 14. Besides being published by Defendants, no other  
9 excerpts of the footage given to the Copyright Office  
10 have been published. Id. at 8:27.

11 The excerpt published by Defendants lasts one  
12 minute and fourteen seconds. Id. at 9:1-2. There is  
13 also an article and a caption in the upper left hand  
14 corner of the excerpt image stating "Jared Leto: Screw  
15 Taylor Swift But I'd Love One of Her Songs: TMZ.com."  
16 Id. at 9:7-9. The TMZ logo is in the upper right hand  
17 corner of the excerpt image, and the excerpt begins and  
18 ends with a two second animation of a TMZ logo with  
19 music. Id. at 9:11-14. The excerpt and article were  
20 published on December 7, 2015, and are still published  
21 as of today. Id. at 9:15-17.

## 22 **B. Procedural Background**

23 On December 9, 2015, Plaintiff filed a Complaint  
24 [1] alleging a claim of copyright infringement seeking  
25 injunctive relief and damages in violation of 17 U.S.C.  
26 § 101. On January 8, 2016, Defendants filed an answer  
27 [21] to Plaintiff's Complaint alleging six affirmative  
28

1 defenses. On January 29, 2016, Defendants filed a  
2 First Amended Answer [21].

3 On January 8, 2016, Defendants ("Third-Party  
4 Plaintiffs") filed a Third-Party Complaint against  
5 Third-Party Defendant "Jake Guy Miller" (Naeem Munaf)  
6 [17]. On January 29, 2016, Third-Party Plaintiffs  
7 filed a First Amended Third-Party Complaint against  
8 Third-Party Defendant "Jake Guy Miller" [22]. On March  
9 30, 2016, Third-Party Plaintiffs filed a Second Amended  
10 Third-Party Complaint against Third-Party Defendant  
11 Naeem Munaf [29]. On June 21, 2016, Third-Party  
12 Plaintiffs filed an Application for the Clerk of the  
13 Court to enter Default against Third-Party Defendant  
14 Naeem Munaf [35]. On June 22, 2016, Default by the  
15 Clerk was issued against Third-Party Defendant Naeem  
16 Munaf [37]. On September 2, 2016, Third-Party  
17 Plaintiffs filed a Motion for Default Judgment against  
18 Third-Party Defendant Naeem Munaf [72].

19 On July 11, 2016, Defendants filed a Statement of  
20 Stipulated Facts for Summary Judgment Motions [40]. On  
21 July 12, 2016, Defendants filed the instant Motion for  
22 Summary Judgment [47]. On July 26, 2016, Plaintiff  
23 filed an Opposition [60]. On July 26, 2016, Plaintiff  
24 filed a Statement of Genuine Disputes [61]. On August  
25 9, 2016, Defendants filed a Reply [67].

26 On July 12, 2016, Plaintiff filed a Motion for  
27 Partial Summary Judgment [42]. On July 26, 2016,

1 Defendants filed an Opposition [56]. On August 2,  
2 2016, Plaintiff filed a Reply [64].

3 On July 26, 2016, Defendants filed a Motion  
4 Pursuant to Rule 56(d) to Defer Consideration of  
5 Plaintiff's Motion for Partial Summary Judgment  
6 pursuant to Federal Rules of Civil Procedure 56(d)  
7 [59]. On August 2, 2016, Plaintiff filed its  
8 Opposition [65]. On August 9, 2016, Defendants filed  
9 its Reply [67].

### 10 III. DISCUSSION

#### 11 A. Legal Standard

##### 12 1. Motion for Summary Judgment

13 Federal Rule of Civil Procedure 56 states that a  
14 "court shall grant summary judgment" when the movant  
15 "shows that there is no genuine dispute as to any  
16 material fact and the movant is entitled to judgment as  
17 a matter of law." Fed. R. Civ. P. 56(a). A fact is  
18 "material" for purposes of summary judgment if it might  
19 affect the outcome of the suit, and a "genuine issue"  
20 exists if the evidence is such that a reasonable fact-  
21 finder could return a verdict for the non-moving party.  
22 Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248  
23 (1986). The evidence, and any inferences based on  
24 underlying facts, must be viewed in the light most  
25 favorable to the opposing party. Twentieth Century-Fox  
26 Film Corp. v. MCA, Inc., 715 F.2d 1327, 1328-29 (9th  
27 Cir. 1983). In ruling on a motion for summary



1 judgment, the Court's function is not to weigh the  
2 evidence, but only to determine if a genuine issue of  
3 material fact exists. Anderson, 477 U.S. at 255.

4 Under Rule 56, the party moving for summary  
5 judgment has the initial burden to show "no genuine  
6 dispute as to any material fact." Fed. R. Civ. P.  
7 56(a); see Nissan Fire & Marine Ins. Co. v. Fritz Cos.,  
8 210 F.3d 1099, 1102-03 (9th Cir. 2000). The burden  
9 then shifts to the non-moving party to produce  
10 admissible evidence showing a triable issue of fact.  
11 Nissan Fire & Marine Ins., 210 F.3d at 1102-03; see  
12 Fed. R. Civ. P. 56(a). When a defendant moves for  
13 summary judgment, summary judgment "is appropriate when  
14 the plaintiff fails to make a showing sufficient to  
15 establish the existence of an element essential to  
16 [their] case, and on which [they] will bear the burden  
17 of proof at trial." Cleveland v. Policy Mgmt. Sys.  
18 Corp., 526 U.S. 795, 805-06 (1999); Celotex Corp. v.  
19 Catrett, 477 U.S. 317, 322 (1986).

20 The standard for a motion for summary judgment  
21 "provides that the mere existence of *some* alleged  
22 factual dispute between the parties will not defeat an  
23 otherwise properly supported motion for summary  
24 judgement; the requirement is that there be no *genuine*  
25 issues of *material* fact." Anderson, 477 U.S. at 247-  
26 48.

27 ///

1 **B. Analysis**

2 1. Plaintiff Does Not Own The Video As A Work  
3 Made For Hire

4 A copyright "vests initially in the author or  
5 authors of the work." 17 U.S.C. § 201(a). If a piece  
6 of work is a work made for hire, "the employer or other  
7 person for whom the work was prepared is considered the  
8 author..., unless the parties have expressly agreed  
9 otherwise in a written instrument signed by them, owns  
10 all of the rights comprised in the copyright." 17  
11 U.S.C. § 201(b). To qualify as a work made for hire, a  
12 work either needs to be "prepared by an employee within  
13 the scope of his or her employment; or a work specially  
14 ordered or commissioned for use as a contribution to a  
15 collective work...if the parties expressly agree in a  
16 written instrument signed by them that the work shall  
17 be considered a work made for hire." 17 U.S.C. § 101.

18 The video and excerpt is not a work made for hire  
19 under the first prong because Munaf has never been an  
20 employee of Plaintiff. Stipulated Facts 2:23-25; 3:1-  
21 2. For the video and excerpt to qualify as a work made  
22 for hire under the second prong, Plaintiff and Munaf  
23 would have needed to execute an express agreement  
24 signed in writing stating that the work is a work made  
25 for hire. 17 U.S.C. § 101.

26 The work must be specially commissioned "for use as  
27 a contribution to a collective work, as a part of a

1 motion picture or other audiovisual work, as a  
2 translation, as a supplementary work, as a compilation,  
3 as an instructional text, as a test, as answer material  
4 for a test, or as an atlas." Id. The video was  
5 specially commissioned as an audiovisual work by  
6 Plaintiff to be used as promotion of new songs by the  
7 group Thirty Seconds to Mars. Mot. Summ. J. Opp'n  
8 7:16-18.

9 The determination of whether the video was a work  
10 made for hire turns on the written instrument  
11 requirement. Plaintiff argues that Plaintiff and Munaf  
12 orally agreed prior to the video shooting that  
13 Plaintiff would own the copyright to the video. Id. at  
14 7:19-21. The non-disclosure agreement confirmed their  
15 prior oral agreement and satisfies the requirements of  
16 17 U.S.C. § 101. Id. at 10:2-6. Defendants argue that  
17 the written instrument must be created prior to the  
18 creation of the work. Mot. Summ. J. 2:3-5. As the  
19 non-disclosure agreements were signed nearly three  
20 months after the video was shot, Defendants argue that  
21 the video was not a work made for hire. Id. at 2:11-  
22 13. The Ninth Circuit has yet to address in a  
23 published opinion whether the written instrument needs  
24 to be signed before the work is created or if a written  
25 instrument memorializing a prior oral agreement is  
26 satisfactory for purposes of 17 U.S.C. § 101.



1 executed after the work is created, it is clear based  
2 on the statute, the Seventh Circuit's decision in  
3 Schiller, and this district's ruling in Andreas  
4 Acarlsson, the intention is to have the written  
5 instrument executed before the work is made to clearly  
6 identify copyright ownership. Allowing the writing  
7 instrument to be executed after the work is created  
8 would defeat the purpose of the statute in requiring a  
9 written instrument altogether. There is no genuine  
10 dispute as to any material fact because the parties  
11 stipulated that Munaf was not an employee of Plaintiff,  
12 and Munaf did not sign any paperwork with Plaintiff  
13 prior to shooting the video on September 8, 2015 that  
14 the work would be a work made for hire.

15 There is a dispute as to whether there was an oral  
16 agreement between Munaf and Plaintiff before the video  
17 was shot that Plaintiff would be the owner of the  
18 copyright in the video. As the written instrument for  
19 a work made for hire needs to be executed before the  
20 work is created, the issue of whether there was an oral  
21 agreement is irrelevant for purposes of this Motion for  
22 Summary Judgment.

23 2. Plaintiff Does Not Own The Video As A Transfer  
24 From Munaf Because Munaf Transferred Copyright  
25 Ownership to Defendants on December 4, 2015

26 To validly transfer copyright ownership, there must  
27 be "an instrument of conveyance, or a note or

1 memorandum of the transfer...in writing and signed by  
2 the owner of the rights conveyed or such owner's duly  
3 authorized agent." 17 U.S.C. § 204 (a). Defendants  
4 argue that Munaf transferred copyright ownership to  
5 them in their December 4, 2015 email exchange. Mot.  
6 Summ. J. 10:17-20. "Section 204's writing requirement  
7 is not unduly burdensome; it necessitates neither  
8 protracted negotiations nor substantial expense. The  
9 rule is really quite simple: If the copyright holder  
10 agrees to transfer ownership to another party, that  
11 party must get the copyright holder to sign a piece of  
12 paper saying so. It doesn't have to be the Magna  
13 Charta; a one-line pro forma statement will do."  
14 Effects Associates, Inc. v. Cohen, 908 F.2d 555, 557  
15 (9th Cir. 1990).

16 Munaf transferred copyright ownership to Defendants  
17 in their December 4, 2015 email exchange. Hendry,  
18 wrote that the agreement was for the "outright  
19 purchase" of the video for \$2,000 and attached the  
20 contract and W-9 form. Olasa Decl., Ex. 1 at 4-9.  
21 Munaf emailed back stating he agreed to the terms of  
22 the agreement and sent the excerpt to a different  
23 representative of Defendants. "Under § 204(a), a  
24 transfer of copyright ownership has not occurred unless  
25 and until the copyright owner unambiguously embodies  
26 its intention to a signed writing." Weinstein Co. v.  
27 Smokewood Entm't Grp., LLC, 664 F. Supp. 2d 332, 343

1 (S.D.N.Y. 2009). "No magic words must be included in a  
2 document to satisfy 204(a). Rather, the parties' intent  
3 as evidenced by the writing must demonstrate a transfer  
4 of the copyright." Radio Television Espanola S.A. v.  
5 New World Entm't, Ltd., 183 F.3d 922 (9th Cir. 1999)  
6 (quoting Valente-Kritzer Video v. Pinckney, 881 F.2d  
7 772, 775 (9th Cir. 1989)).

8 While the emails do not specifically say that  
9 Munaf is transferring copyright ownership to  
10 Defendants, it is clear from the finality of the  
11 emails, Munaf's intention was to transfer ownership to  
12 Defendants. "In Schiller & Schmidt, 969 F.2d at 413,  
13 the court held that an agreement, which did not include  
14 the word "copyright," but whose "wording leaves little  
15 doubt that [the alleged transferor] sold all the assets  
16 of Spotline Studios, tangible and intangible alike" was  
17 sufficient to constitute a transfer under Section  
18 204(a)." Bieg v. Hovnanian Enterprises, Inc., 157 F.  
19 Supp. 2d 475, 479-80 (E.D. Pa. 2001). Munaf stated  
20 that he "will send these forms back soon" evidencing he  
21 was aware of the attached contract and W-9 form and its  
22 content that Munaf was agreeing no other party had  
23 interest in the excerpt and he was selling the  
24 copyright to Defendants. The actual writing in a  
25 transfer of copyright does not have to explicitly state  
26 that copyright ownership is being transferred, and  
27 emails may be used to determine if there was a

1 transfer. See Schiller, 969 at 410; Kenbrooke Fabrics  
2 v. Soho Fashions, 690 F.Supp. 298, 301 (S.D.N.Y. 1988).

3 As Munaf transferred copyright ownership to  
4 Defendants on December 4, 2015, there was no transfer  
5 to Plaintiff on December 6, 2015 when Munaf signed the  
6 non-disclosure agreements. Munaf no longer had  
7 ownership in the excerpt. Plaintiff's argument that  
8 Munaf only transferred the actual video and not the  
9 copyright is not persuasive because Plaintiff did not  
10 put forth sufficient evidence showing that was the  
11 understanding between Munaf and Defendants.

12 Plaintiff argues that the emails between Munaf and  
13 Defendants were not a transfer because Munaf did not  
14 sign it. Mot. Summ. J. Opp'n 17:9. 15 U.S.C. § 7006  
15 states that an electronic signature "means an  
16 electronic sound, symbol, or process, attached to or  
17 logically associated with a contract or other record  
18 and executed or adopted by a person with the intent to  
19 sign the record." A signature or contract in  
20 interstate commerce "may not be denied legal effect,  
21 validity, or enforceability solely" because it is in an  
22 electronic form or has an electronic signature. Id.

23 Plaintiff's argument here is not persuasive. The  
24 intent of the statute is to allow electronic forms as  
25 valid agreements and signatures. "To invalidate  
26 copyright transfer agreements solely because they were  
27 made electronically would thwart the clear



1 congressional intent." Metropolitan Regional  
2 Information Systems, Inc. v. American Home Realty  
3 Network, Inc., 722 F.3d 591, 602 (4th Cir. 2013). "An  
4 electronic agreement may effect a valid transfer of  
5 copyright interests under Section 204 of the Copyright  
6 Act." Id. at 602. While in Metropolitan there was a  
7 click of a "yes" button, here the emails are sufficient  
8 to act as Munaf's signature. Munaf, using the  
9 pseudonym "Jake Miller," wrote via email to Hendry he  
10 agreed to the terms of the agreement and the email was  
11 signed "Jake Miller Freelance Artist". Olasa Decl., Ex.  
12 2 at 11. While Munaf did not click a "yes" button,  
13 Munaf did have to click the "send" button and the email  
14 had "Jake Miller" written at the bottom, purporting to  
15 be Munaf's signature. The court in Vergara Hermosilla  
16 v. Coca-Cola Co., No. 10-21418, 2011 WL 744098 (S.D.  
17 Fla. Feb. 23, 2011) held that emails can be signed  
18 writings and are sufficient to effect a transfer and  
19 satisfy 17 U.S.C. § 204's writing requirement. There  
20 are no genuine disputes as to material facts because  
21 Munaf transferred the excerpt to Defendants, not  
22 Plaintiffs.

23 3. It Is Moot Whether Defendants Were Granted An  
24 Irrevocable Implied License To Use The Excerpt

25 The granting of a nonexclusive copyright license  
26 does not have to be in writing. Foad Consulting Group,  
27 Inc., v. Azzalino, 270 F.3d 821 (9th Cir. 2001). "A

1 nonexclusive license copyright license may be granted  
2 orally or by implication." Id. at 826; Effects  
3 Associates, 908 F.2d at 558. State law must be used to  
4 determine if a nonexclusive copyright license has been  
5 granted. Id. at 827. Since the video was not a work  
6 made for hire and there was a valid transfer from Munaf  
7 to Defendants, the determination of whether an  
8 nonexclusive implied license was granted is moot.

9 4. Plaintiff's Motion for Partial Summary Judgment  
10 Is Moot

11 As Defendants' Motion for Summary Judgment  
12 is **GRANTED** and Plaintiff does not have any copyright  
13 ownership rights to the video and excerpt, Plaintiff's  
14 Motion for Partial Summary Judgment is **DENIED** as moot.

15 5. Defendants' Motion Pursuant to Rule 56(d) to  
16 Defer Consideration of Plaintiff's Motion for  
17 Partial Summary Judgment Is Moot

18 As Defendants' Motion for Summary Judgment is  
19 **GRANTED** and Plaintiff does not have any copyright  
20 ownership rights to the video and excerpt, Defendants'  
21 Motion Pursuant to Rule 56(d) To Defer Consideration of  
22 Plaintiff's Motion for Partial Summary Judgment is  
23 **DENIED** as moot.

24 6. Defendants' Motion for Default Judgment  
25 Against Third-Party Defendant Munaf Is Moot

26 As Defendants' Motion for Summary Judgment is  
27 **GRANTED** and Plaintiff does not have any copyright

1 ownership rights to the video and excerpt, Defendants'  
2 Motion for Default Judgment against Third-Party  
3 Defendant Munaf is **DENIED** as moot.

4 **IV. CONCLUSION**

5 Accordingly, the Court **GRANTS** Defendants' Motion  
6 for Summary Judgment. The Court **DENIES** Plaintiff's  
7 Motion for Partial Summary Judgment as moot. The Court  
8 **DENIES** Defendants' Motion Pursuant to 56(d) to Defer  
9 Consideration of Plaintiff's Motion for Partial Summary  
10 Judgment as moot. The Court **DENIES** Defendants' Motion  
11 for Default Judgment against Third-Party Defendant  
12 Munaf as moot. The Third Party Complaint is dismissed.  
13 All pending dates on the Court's calendar are VACATED.

14 The Clerk shall close this case.

15 **IT IS SO ORDERED.**

16  
17 DATED: September 23, 2016

s/ RONALD S.W. LEW

18 **HONORABLE RONALD S.W. LEW**  
19 Senior U.S. District Judge  
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