

No. 20-55401

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MARCUS GRAY, ET AL.

Plaintiffs-Appellants,

V.

KATHRYN ELIZABETH HUDSON, ET AL.

Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
CASE No. 2:15-cv-05642 CAS (JCX)

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND *AMICUS
CURIAE* BRIEF OF MOTION PICTURE ASSOCIATION, INC. IN
SUPPORT OF DEFENDANTS-APPELLEES**

MANDAVIA EPHRAIM + BURG LLP

ANJANI MANDAVIA
DAVID L. BURG
1801 Century Park East, Suite 2400
Los Angeles, California 90067
Telephone: (310) 556-9694
email: amandavia@mandaviallp.com
dburg@mandaviallp.com

Attorneys for *Amicus Curiae* Motion Picture Association, Inc.

Date: April 5, 2021

CORPORATE DISCLOSURE STATEMENT

The Motion Picture Association, Inc. (“MPA”) is a non-profit trade association, whose member companies are Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc. MPA does not have any parent companies, and no publicly-held company owns 10 percent or more of MPA.

Respectfully submitted,

Dated: April 5, 2021

Mandavia Ephraim & Burg LLP

By: /s/ Anjani Mandavia
Attorneys for *Amicus Curiae* Motion Picture Association, Inc.

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Pursuant to Federal Rule of Appellate Procedure 29(a)(3), the Motion Picture Association, Inc. (“MPA”) hereby requests leave to file the accompanying *amicus curiae* brief in support of Defendants/Appellees in this action.¹

MPA is a not-for-profit trade association established in 1922 to address issues of concern to the motion picture industry. Since its founding, MPA has served as the voice and advocate of the film and television industry around the world, advancing the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide.

MPA’s member companies are Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc. These companies and their affiliates are leading producers and disseminators of filmed entertainment, and frequently are both plaintiffs and defendants in copyright litigation. Accordingly, it is in their interest that the evidentiary standards applied

¹ MPA endeavored to obtain the consent of all parties to the filing of this brief prior to moving the Court for permission to do so. Cir. R. 29-3. No counsel for a party authored this brief in whole or in part and no person other than MPA and its counsel made a monetary contribution to its preparation or submission. F.R.A.P. 29(a)(4)(E).

in infringement cases are clear and consistent. MPA has appeared as *amicus curiae* in a large number of copyright cases, and it is well-positioned to provide a balanced view on these issues.

MPA seeks to submit this *amicus* brief to ensure that settled precedent in this Circuit on the evidentiary threshold required to establish “access” in a copyright infringement case is not inadvertently altered by misapplication of language in an opinion of this Court that was intended to serve an entirely different purpose. Specifically, MPA urges this Court to clarify that the comment in its recent *en banc* opinion in *Skidmore as Trustee for Randy Craig Wolfe Trust v. Led Zeppelin*, 952 F.3d 1051, 1068 (9th Cir. 2020) (“*Skidmore*”), that “[g]iven the ubiquity of ways to access media online . . . access may be established by a trivial showing that the work is available on demand,” does not alter this Circuit’s longstanding requirement that, “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.” *Loomis v. Cornish*, 836 F.3d 991, 995 (9th Cir. 2016). *See also Art Attacks Ink, LLC v. MGA Entertainment, Inc.*, 581 F.3d 1138, 1143 (9th Cir. 2009).

The quoted language from *Skidmore* – which the District Court cited in support of its holding in this case that the evidence at trial was sufficient to support the jury’s finding of access – is from this Court’s in-depth analysis (and ultimate

rejection) of the “inverse ratio rule,” a legal principle that permitted lower levels of “substantial similarity” to establish unlawful copying where higher levels of “access” could be shown. In the context of the *Skidmore* opinion, it is clear that the Court’s quoted comment was meant solely to underline the logical fallacy of the inverse ratio rule, which conferred an unwarranted advantage to the owners of popular works that were readily accessible online by reducing the level of similarity that would otherwise be required to sustain a claim of copying. The Court was not addressing – much less seeking to change – the baseline level of proof required to establish access in the first place.

MPA supports Defendants/Appellees’ position that the appropriate evidentiary standard for determining access in an infringement case remains the “reasonable possibility” standard long established in this Circuit, and it respectfully requests that the Court take this opportunity to reaffirm that precedent. Allowing future courts or litigants to rely on *Skidmore*’s “trivial showing” comment to assess the sufficiency of a copyright plaintiff’s proof of access, as the District Court did here, would upend existing precedent and inject needless uncertainty into litigation of this important issue.

MPA’s interest as *amicus* is solely in clarifying the applicable law on this issue. Given the centrality of access in infringement litigation, this clarification is warranted no matter how the Court rules in this appeal on the disputed issues of the

“substantial similarity” between the parties’ respective works, and of the sufficiency of the specific evidence of access presented to the jury in this case.

MPA takes no position on these disputed matters.

For the foregoing reasons, MPA respectfully requests that the Court grant its motion to file the accompanying *amicus* brief.

Respectfully submitted,

Dated: April 5, 2021

Mandavia Ephraim & Burg LLP

By: /s/ Anjani Mandavia
Attorneys for *Amicus Curiae* Motion Picture
Association, Inc.

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The Motion Picture Association, Inc. (“MPA”) respectfully submits this *amicus* brief in support of Defendants/Appellees Katherine Elizabeth Hudson *et al.* (“Defendants”) with respect to the appeal of Plaintiffs/Appellants Marcus Gray *et al.* (“Plaintiffs”) from the District Court’s March 16, 2020 Amended Order granting Defendants’ Motion for Judgment as a Matter of Law (“Order”) [1-ER-1-32].

SUMMARY OF ARGUMENT

In its well-reasoned opinion in *Skidmore as Trustee for Randy Craig Wolfe Trust v. Led Zeppelin*, 952 F.3d 1051 (9th Cir. 2020) (“*Skidmore*”), an *en banc* panel of this Court abrogated the long-criticized “inverse ratio rule,” noting the logical fallacy of a rule permitting a decreasing amount of similarity to establish copying as greater levels of access are shown. The *Skidmore* Court found that the inverse ratio rule made little sense, because “it does not follow that ‘more’ access increases the likelihood of copying. Yet that is what the rule compels.” 952 F.3d at 1068 (internal quotes and citation omitted). The Court observed that the rule was particularly problematic “in our digitally interconnected world” where, “[g]iven the ubiquity of ways to access media online, from YouTube to subscription services like Netflix and Spotify, access may be established by a trivial showing that the work is available on demand.” *Skidmore*, 952 F.3d at 1068.

Elimination of the inverse ratio rule was welcome news to MPA's member companies and other frequent copyright litigants who long had struggled to bring rational coherence to this flawed doctrine. However, MPA is concerned that the Court's observation that "access may be established by a trivial showing that the work is available on demand" – if disconnected from the Court's discussion of the inverse ratio rule – has the potential to undermine longstanding precedent in this Circuit that a copyright plaintiff must prove access by demonstrating that the defendant had a "reasonable possibility, not merely a bare possibility," of viewing (or hearing) the plaintiff's protected work. *See, e.g., Loomis v. Cornish*, 836 F.3d 991, 995 (9th Cir. 2016) ("*Loomis*"); *Art Attacks Ink, LLC v. MGA Entertainment, Inc.*, 581 F.3d 1138, 1143 (9th Cir. 2009). Indeed, that is precisely what occurred in this case just days after the *Skidmore* decision was published.

It is clear from a close reading of the *Skidmore* opinion that this Court's comment regarding ease of access to works on the internet was intended simply to illustrate that the inverse ratio rule was inherently irrational and unfairly advantaged popular and readily-available works by reducing the level of similarity owners of those works were required to show to prove copying. Indeed, it is clear from this context that the *Skidmore* Court was not holding that a mere "trivial showing" a work is available online is sufficient to prove access in the first instance. Unfortunately, this is how the District Court here apparently read this

language when it cited *Skidmore* in support of its ruling that Plaintiffs' evidence at trial was sufficient to support the jury's finding of access.

In reality, "a trivial showing that the work is available on demand" is the functional equivalent of "a bare possibility" that a defendant had a chance to view the work – which this Court repeatedly has held is insufficient as a matter of law to establish access. Indeed, given the huge number of works available on the internet in one way or another, applying a "trivial showing" standard to establish access to online works would effectively erase the access requirement altogether in most cases.

MPA believes it was not this Court's intent in doing away with the inverse ratio rule also to fundamentally change the standard of proof required to establish access. Clarifying that the evidentiary threshold for proving access remains as long established in this Circuit, as requested by MPA, would help forestall any further confusion on the matter.

ARGUMENT

I. The District Court Erroneously Relied on *Skidmore* in Ruling on Plaintiffs' Proof of Access.

Following a jury verdict in favor of Plaintiffs, Defendants moved for judgment as a matter of law on the grounds that the evidence at trial was insufficient to support a finding that Defendants had access to Plaintiffs' copyrighted song before creating their allegedly infringing work, and because the

two works are not “substantially similar” as a matter of law. The District Court granted Defendant’s motion and issued a 32-page Order setting forth its reasoning in support of its various rulings.

The District Court agreed with Defendants regarding the lack of substantial similarity, and the majority of its decision is devoted to this analysis. *See* Order at pp. 8-24 [1-ER-8-24]. In contrast, the District Court dispensed with Defendants’ “access” argument in two paragraphs, holding that Plaintiffs’ evidence on that issue – based on the theory that their song had been “widely disseminated” – was sufficient to allow the jury to conclude that Defendants had a reasonable opportunity to hear Plaintiffs’ work before composing their own. Order at p. 25 [1-ER-25].

In support of its ruling on access, the District Court cited *Loomis, supra*, and *Three Boys Music v. Bolton*, 212 F.3d 477 (9th Cir. 2000) (overruled by *Skidmore* regarding the inverse ratio rule) – both of which hold that proving a defendant had a “reasonable opportunity” to view or hear the plaintiff’s work requires more than a “bare possibility” that the defendant viewed or heard the work² – and the District Court acknowledged the need to distinguish a “reasonable possibility” from a “bare possibility.” Order at p. 25 (citing 4 *Nimmer on Copyright* § 13.02[A] (2019)) [1-ER-25]. However, the District Court also supported its ruling by citing *Skidmore*

² *See Loomis*, 836 F.3d at 995; *Three Boys Music*, 212 F.3d at 482.

for the proposition that “[g]iven the ubiquity of ways to access media online ... access may be established by a trivial showing that the work is available on demand.” *Id.*³

II. Established Ninth Circuit Precedent Requires More Than a “Trivial Showing That the Work is Available on Demand” to Support an Inference of Access.

To establish copyright infringement, a plaintiff must prove (1) ownership of a valid copyright, and (2) the defendant’s copying of constituent original elements of the copyrighted work. *Feist Publ’ns Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991).⁴ “Proof of copying by the defendant is necessary because independent creation is a complete defense to copyright infringement. No matter how similar the plaintiff’s and the defendant’s works are, if the defendant created his independently, without knowledge of or exposure to the plaintiff’s work, the defendant is not liable for infringement.” *Rentmeester*, 883 F.3d at 1117 (citing *Feist*, 499 U.S. at 345-46).

³ The *Skidmore* decision was issued just seven days before the Order, and the parties apparently did not have the opportunity to address it in their briefing.

⁴ For the second element, the plaintiff must prove both that the defendant copied the plaintiff’s work, and also that the defendant copied enough of the plaintiff’s protected expression to render the two works “substantially similar.” *Rentmeester v. Nike, Inc.*, 883 F.3d 1111, 1117 (9th Cir. 2018) (overruled by *Skidmore* regarding the inverse ratio rule).

In the absence of direct evidence, copying can be established circumstantially by showing that the defendant had “access” to the plaintiff’s work, and that the two works share similarities that are probative of copying.

Rentmeester, 883 F.3d at 1117; *Loomis*, 836 F.3d at 994. Where there is no direct evidence that the defendant actually saw the plaintiff’s work before creating the allegedly infringing work, a copyright plaintiff must prove by circumstantial evidence that the defendant had “an opportunity to view or copy the plaintiff’s work.” *Loomis*, 836 F.3d at 995. In such cases, the plaintiff can raise an inference of access by showing that the defendant had a “reasonable possibility” of viewing the work. *Loomis*, 836 F.3d at 995; *Art Attacks Ink*, 581 F.3d at 1143. As a matter of law, however, a “bare possibility” that the defendant might have seen the plaintiff’s work is insufficient to raise an inference of access. *Three Boys Music*, 212 F.3d at 482 (“[R]easonable opportunity ... does not encompass any bare possibility in the sense that anything is possible. Access may not be inferred through mere speculation or conjecture.”). *See also Loomis*, 836 F.3d at 995; *Art Attacks Ink*, 581 F.3d at 1143; *Jason v. Fonda*, 698 F.2d 966, 967 (9th Cir. 1982).

A “reasonable possibility” of access can be inferred from evidence that the plaintiff’s work has been “widely disseminated.” *Loomis*, 836 F.3d at 997; *Art Attacks Ink*, 581 F.3d at 1143; *Three Boys Music*, 212 F.3d at 422. However, “the public dissemination necessary to infer that a defendant might have had access to

the work is considerable.” *Loomis v. Cornish*, 2013 WL 6044345, at *12 (C.D. Cal. Nov. 13, 2013), *aff’d Loomis, supra*, 836 F.3d 991, quoting *McRae v. Smith*, 968 F. Supp. 559, 564 (D. Colo. 1997). “As a general matter, in order for a work to be widely disseminated, it must achieve a high degree of commercial success or be readily available in the market.” *Id.* at *11-12.

In practice, evidence of widespread dissemination usually centers on the work’s commercial success and distribution. *Loomis*, 836 F.3d at 997. The nature and extent of that dissemination must be substantial to support a reasonable and logical inference that the defendant actually was exposed to the plaintiff’s work. “[T]here must be established facts involving the work’s general availability as well as specific, credible evidence about defendant’s reasonable opportunity to have been exposed to the work.” 3 *Patry on Copyright* § 9:26 (2020). *See also Loomis*, 836 F.3d at 998 (evidence did not rise above a bare possibility that the defendants had heard the plaintiffs’ song on the radio during the ten days they were in Santa Barbara recording an album); *Jason v. Fonda*, 698 F.2d at 967 (evidence regarding the limited distribution of the plaintiff’s book showed no more than a “bare possibility” that the defendants had access to it).

Courts in this Circuit have consistently interpreted this requirement to mean that the mere availability of a work on the internet is not – in and of itself – sufficient to establish that the work was “widely disseminated” for purposes of

supporting an inference of access. *See, e.g., Art Attacks Ink*, 581 F.3d at 1145 (“Although we recognize the power of the internet to reach a wide and diverse audience, the evidence here [that the plaintiff’s designs were on its website] is not sufficient to demonstrate wide dissemination.”); *Loomis v. Cornish*, 2013 WL 6044345 at *12 (“The availability of a copyrighted work on the Internet, in and of itself, is insufficient to show access through widespread dissemination.”); *Batts v. Adams*, 2011 WL 13217923, *4 (C.D. Cal. Feb. 8, 2011) (“the posting of videos and/or songs on YouTube, Amazon.com, and iTunes by an unknown singer ... is hardly ‘widespread’ [dissemination] and, in fact, is quite limited, and clearly insufficient to support a finding of access”); *Hayes v. Keys*, 2015 WL 12734010, *2 (C.D. Cal. Jan. 7, 2015) (“Plaintiffs’ sole allegation with regard to access is that the work was uploaded to YouTube in 2009. However, this does not imply it was disseminated widely, and the FAC provides no facts to support such an inference.”); *Hayes v. Minaj*, 2012 WL 12887393, *3 (C.D. Cal. Dec. 18, 2012) (“The fact that the video was placed on YouTube does not imply it was disseminated widely, and the Complaint provides no other facts to support such an inference.”); *Stabile v. Paul Smith Ltd.*, 137 F. Supp.3d 1173, 1187 (C.D. Cal. 2015) (“Even if an inference can be drawn that [the plaintiff’s artwork] appeared at one time on Plaintiff’s website, simply displaying an image on a website for an

undeterminable period of time is insufficient to demonstrate that it was widely disseminated.”).⁵

The language from *Skidmore* cited by the District Court – if construed to mean that access can be established merely by a “trivial showing that the work is available on demand” – would directly contradict this longstanding and widely-accepted authority, and would effectively eliminate the need to prove the critical element of access whenever a work is available online. As discussed below, MPA does not believe this was the *Skidmore* Court’s intent.

III. *Skidmore* Did Not Address the Proof Necessary to Establish an Inference of Access, and the Language Cited by the District Court Does Not Purport To Articulate a New Evidentiary Standard.

Skidmore was an appeal from a jury verdict in favor of the defendants based on a finding that *Led Zeppelin*’s famous 1971 song *Stairway to Heaven* was not substantially similar to the plaintiff’s earlier musical composition *Taurus*. On the

⁵ Courts in other jurisdictions are in accord. *See, e.g., Design Basics, LLC v. Lexington Homes, Inc.*, 858 F.3d 1093, 1108 (7th Cir. 2017) (“[T]he existence of the plaintiff’s copyrighted materials on the Internet, even on a public and ‘user-friendly’ site, cannot by itself justify an inference that the defendant accessed those materials.”); *O’Keefe v. Ogilvy & Mather Worldwide, Inc.*, 590 F. Supp.2d 500, 515 (S.D.N.Y. 2008) (“[T]he mere fact that [plaintiff’s] work was posted on the internet prior to the creation of defendants’ work is insufficient by itself to demonstrate wide dissemination.”); *Arnett v. Jackson*, 2017 WL 3493606, *2 (E.D.N.C. Aug. 14, 2017) (“[T]he court does not infer Jackson’s access to *Remember Me* based on its presence on the internet.”); *Cain v. Hallmark Cards, Inc.*, 2016 WL 3189231, *5 (M.D. La. Jun. 6, 2016) (“[C]ourts have consistently refused to treat internet publication alone as sufficient to engender this requisite possibility [of access]”).

question of access, one of the writers of *Stairway to Heaven* admitted he owned a copy of the album containing *Taurus*, and the jury found that the defendants therefore had access to the plaintiff's musical composition before composing their work. *Skidmore*, 952 F.3d at 1065. The plaintiff appealed, and this Court considered and resolved a number of issues on appeal. However, because access had been established by direct evidence at trial, there was no need for this Court to address the appropriate level of circumstantial proof required to establish an inference of access – certainly not via the internet, which did not come into common use until decades after defendants were alleged to have accessed the plaintiff's song in the late 1960s or early 1970s.

A significant portion of the *Skidmore* opinion was devoted to analyzing the inverse ratio rule, which permitted a reduced showing of similarity to support an inference of copying when a higher degree of access was shown. *Skidmore*, 952 F.3d at 1066.⁶ This Court ultimately decided to abrogate the rule altogether, concluding that it “defie[d] logic” because the ease of a defendant's access to a plaintiff's copyrighted work has no bearing on whether the defendant's work is sufficiently similar to the plaintiff's work to support a finding of copying.

Skidmore , 952 F.3d at 1068.

⁶ Plaintiff had requested a jury instruction on the rule, which the trial court declined to issue. *Skidmore*, 952 F.3d at 1066.

Virtually all of *Skidmore*'s extensive discussion of the inverse ratio rule addressed the impact of the rule on the level of similarity required to establish copying, including the possibility that strict application of the rule could result in a finding of copying even where there is little or no similarity. 952 F.3d at 1068. It was in this context that the Court, referencing a newspaper article,⁷ made the following observation:

Access is often proved by the wide dissemination of the copyrighted work. *See Loomis v. Cornish*, 836 F.3d 991, 995 (9th Cir. 2016).

Given the ubiquity of ways to access media online, from YouTube to subscription services like Netflix and Spotify, access may be established by a trivial showing that the work is available on demand.

Id.

This observation underscored the Court's point that, particularly "in our digitally interconnected world," a rule that allowed a decreasing level of similarity to establish copying as greater levels of access are shown unfairly advantaged popular works that could readily be found online. *Id.* The Court was not

⁷ Brooks Barnes, *The Streaming Era Has Finally Arrived. Everything Is About to Change.*, N.Y. Times, Nov. 18, 2019, available at <https://www.nytimes.com/2019/11/18/business/media/streaming-hollywood-revolution.html>.

addressing the evidentiary threshold required to prove access in the first instance;⁸ rather, it was illustrating the need to de-couple the proof of similarity from the proof of access. Indeed, the Court – citing *Loomis* – equated ease of access via the internet with the concept of “wide dissemination,” suggesting that the prevalence of digital streaming may make it trivially easy in some cases to establish access for highly popular works: “But nothing in copyright law suggests that a work deserves stronger legal protection simply because it is more popular or owned by better-funded rights holders.” 952 F.3d at 1068.

Given this context, it is clear that the District Court’s reliance on *Skidmore* for the sufficiency of Plaintiff’s proof of access was entirely misplaced: That issue was not before the *Skidmore* Court, it was not addressed by the *Skidmore* Court, and there is no indication anywhere in the opinion that the *Skidmore* Court intended – by its “trivial showing” comment or otherwise – to analyze, modify, or abrogate longstanding and widely-accepted precedent on the proof required to support an inference of access in a copyright case.

Simply put, the District Court erred in citing *Skidmore* for this purpose. *See, e.g., Illinois v. Lidster*, 540 U.S. 419, 424 (2004) (general language in judicial opinions must be read in context and not as “referring to quite different

⁸ The digital streaming services referenced by the Court of course did not exist at the time the *Skidmore* defendants were alleged to have accessed *Taurus*; as noted above, access via the internet simply was not at issue in that case.

circumstances that the Court was not then considering.”); *Hamad v. Gates*, 732 F.3d 990, 1000 (9th Cir. 2013) (“the logic and context of the opinion” must be considered in order to determine what particular language means, and the “language of the court must be read in the light of the facts before it.”) (quoting *United States v. Muckleshoot Indian Tribe*, 235 F.3d 429, 433 (9th Cir. 2000)). See also *Caliber Paving Co. v. Rexford Indus. Realty & Mgmt., Inc.*, 54 Cal.App.5th 175, 181 (2020) (“[W]hen interpreting an opinion, any one sentence must be viewed in the context of the entire opinion, and language must be construed in the context of the entire opinion.”) (citations omitted).

Indeed, the *Skidmore* Court was quite clear that it was dispensing with the inverse ratio rule, and it set forth a lengthy explanation of the history of that rule and why it was appropriate to eliminate it. It is unreasonable, therefore, to conclude that the Court concurrently was nullifying an entirely separate line of precedent merely by a passing reference. Accordingly, even if the quoted language from the *Skidmore* opinion is characterized as *dicta*⁹ or something even less than

⁹ See *United States v. Johnson*, 256 F.3d 895, 914 (9th Cir. 2001) (Kozinski, J., concurring) (describing *dicta*) (“Where it is clear that a statement is ... merely a prelude to another legal issue that commands the panel’s full attention, it is not binding on later panels.”); *Morales-Garcia v. Holder*, 567 F.3d 1058, 1064 (9th Cir. 2009) (“Unstated assumptions on non-litigated issues are not precedential holdings binding future decisions.”).

dicta,¹⁰ it cannot properly be considered authority as to what constitutes sufficient threshold proof to establish access.

IV. Conclusion

Proof of copying lies at the heart of any infringement claim, and establishing that the defendant had access to the plaintiff's copyrighted work is a necessary element of that proof. Allowing future courts or litigants to rely on the "trivial showing" language in *Skidmore* to assess the sufficiency of a copyright plaintiff's proof of access – as the District Court unfortunately did here – would be directly contrary to longstanding precedent in this Circuit and would allow claims to proceed based on speculation rather than evidence, in many cases effectively erasing the access requirement altogether. MPA respectfully requests that the Court take the opportunity in ruling on this appeal to clarify that existing precedent on the access issue stands, and that *Skidmore* did not reduce or otherwise change the proof required to establish access in a copyright infringement case.

Dated: April 5, 2021

Mandavia Ephraim & Burg LLP

By: /s/ Anjani Mandavia

Attorneys for *Amicus Curiae* Motion Picture Association, Inc.

¹⁰ See *Holsey v. Warden, Georgia Diagnostic Prison*, 694 F.3d 1230, 1274 (11th Cir. 2012) (Edmondson, J., concurring) ("long opinions, even if correct in every detail, generally make it harder for readers to separate a *holding* from *dicta* (or less than dicta: words only of explication and nothing more)") (emphasis added).

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.

complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):

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a party or parties are filing a single brief in response to multiple briefs; or

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Signature /s/ Anjani Mandavia Date April 5, 2021

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