

DEC 27 2010

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CECELIA ROSE SANSONE,

Plaintiff - Appellant,

v.

REALNETWORKS, INC.,

Defendant - Appellee.

No. 09-35927

D.C. No. 2:09-cv-00119-MJP

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Marsha J. Pechman, District Judge, Presiding

Submitted December 14, 2010\*\*

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Cecelia Rose Sansone appeals pro se from the district court's summary judgment in her copyright infringement action. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the grant of summary judgment, *Benay v. Warner Bros. Entm't, Inc.*, 607 F.3d 620, 624 (9th Cir. 2010), and review for an

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

abuse of discretion the denial of a request for a continuance under Federal Rule of Civil Procedure 56(f), *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). We affirm.

The district court properly granted summary judgment to defendant because Sansone failed to raise a genuine issue of material fact as to whether defendant copied protected elements of her works. *See Benay*, 607 F.3d at 624-25 (discussing requirements for copyright infringement claim).

The district court did not abuse its discretion by denying Sansone's request for a continuance under Rule 56(f) because Sansone failed to demonstrate that the facts sought actually existed. *See Family Home & Fin. Ctr., Inc. v. Fed. Home Loan Mortgage Corp.*, 525 F.3d 822, 827 (9th Cir. 2008) (to obtain a continuance under Rule 56(f), a party must show, *inter alia*, that "the facts sought exist"); *see also Terrell*, 935 F.2d at 1018 ("Denial of a Rule 56(f) application is proper where it is clear that the evidence sought is almost certainly nonexistent or is the object of pure speculation.").

Sansone's remaining contentions are unpersuasive.

Sansone's motion to expedite and request to file supplemental excerpts of record are denied.

Defendant's request for sanctions is denied.

**AFFIRMED.**