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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DARRIN DEAN McCORMICK,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SONY PICTURES ENTERTAINMENT,</p> <p>Defendant - Appellee.</p>
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No. 09-56146

D.C. No. 2:07-cv-05697-MMM-RC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Darrin Dean McCormick appeals pro se from the district court’s summary judgment for Sony Pictures Entertainment (“Sony”) in his action alleging copyright infringement. We have jurisdiction under 28 U.S.C. § 1291. We review

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

de novo. *Funky Films, Inc. v. Time Warner Entm't Co., L.P.*, 462 F.3d 1072, 1076 (9th Cir. 2006). We affirm.

The district court properly granted summary judgment because McCormick failed to establish a triable issue as to whether his work, *Outzone (the Future is Here)*, was substantially similar to Sony's film, *Final Fantasy: The Spirits Within*. *See id.* ("Absent evidence of direct copying, proof of infringement involves . . . showing[] that . . . the two works are substantially similar." (internal quotation marks omitted)). Accordingly, we do not reach the issue of whether Sony had access to McCormick's work.

McCormick's remaining contentions are unpersuasive.

McCormick's pending motion for notice of lodging is granted.

McCormick's pending requests for a status update are denied as moot.

McCormick's pending motion for a correction of the docket is granted. The Clerk of the Court is directed to change the docket to reflect the proper date of judgment in the district court as July 20, 2009, with the date of entry of judgment being July 22, 2009.

AFFIRMED.