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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARGARET MORRIS, an individual	)	CV 08-5321-RSWL (JCx)
	)	
Plaintiff,	)	<b>ORDER</b> Re: Defendants' Motion for Attorney's Fees [191]
vs.	)	
	)	
KENNETH ATCHITY, et al.,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

On September 14, 2011, Defendants Kenneth Atchity, Atchity Entertainment International, John Reid, Sonic Age, Ltd., and The Writer's Lifeline's ("Defendants") Motion for Attorney's Fees [191] came on for regular calendar before the Court. The Court having reviewed all papers submitted pertaining to this Motion and having considered all arguments presented to the Court, **NOW FINDS AND RULES AS FOLLOWS:**

1 Defendants' Motion for Attorney's Fees is **DENIED**.

2 On April 12, 2011, a six-day trial commenced in  
3 this Action. On April 20, 2011, the jury returned its  
4 verdict [181]. The jury found that Defendants did not  
5 infringe on Plaintiff Margaret Morris's copyright; that  
6 Defendant Sonic Age had breached an implied contract  
7 with Plaintiff, awarding Plaintiff \$70,000.00 in  
8 damages arising from this breach; that Defendant The  
9 Writer's Lifeline had not breached an implied contract  
10 with Plaintiff; and that Plaintiff had defamed  
11 Defendant Kenneth Atchity, awarding Defendant Atchity  
12 \$1.00 in damages arising from this defamation.

13 On July 6, 2011, Defendants filed this present  
14 Motion for Attorney's Fees [191], seeking \$185,780.70  
15 in attorney's fees.

16 First, as a threshold issue, the Court finds that  
17 Defendants are the prevailing party under the Copyright  
18 Act. The jury returned its verdict of non-  
19 infringement, and as such Defendants prevailed on this  
20 copyright infringement claim.

21 However, the Court has broad discretion in awarding  
22 attorney's fees and finds that Defendants have not  
23 established that the factors set forth by the Supreme  
24 Court in Fogerty v. Fantasy, Inc., 510 U.S. 517 (1994),  
25 weigh in favor of an award of attorney's fees here.  
26 Namely, the Court finds that there is not a sufficient  
27 showing of Plaintiff's unreasonableness, frivolousness,  
28 and improper motivation in pursuing a case against

1 Defendants. Also, the Court finds that the possible  
2 chilling effect on potential plaintiffs seeking to  
3 protect their copyrighted material weighs against  
4 awarding attorney's fees here. Therefore, Defendants'  
5 Motion for Attorney's Fees is **DENIED**.

6  
7 **IT IS SO ORDERED.**

8 DATED: September 20, 2011

9  
10 RONALD S.W. LEW  
11 **HONORABLE RONALD S.W. LEW**  
12 Senior, U.S. District Court Judge  
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