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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MINDEN PICTURES, INC.,

No. C-12-4601 EMC

Plaintiff,

v.

**ORDER RE NOTICE RE MOTION TO
DISMISS**

JOHN WILEY & SONS, INC.,

(Docket No. 31)

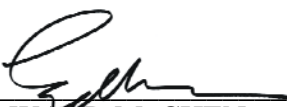
Defendant.

_____/

Currently pending before the Court is Defendant’s motion to dismiss for lack of subject matter jurisdiction, in which Defendant argues that Plaintiff lacks standing to bring this suit under the Copyright Act. Docket No. 31. Generally, a court considering evidence on a motion to dismiss for lack of subject matter jurisdiction may resolve disputed facts relevant to the question of jurisdiction. *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983). Where, however, the jurisdictional issue is intertwined with factual issues going to the merits, any factual disputes must be resolved under the standard governing motions for summary judgment. *Id.* As the factual issues on this motion appear to be connected to issues going to the merits of Plaintiff’s claims, this Court hereby gives notice that the motion to dismiss shall be treated as a motion for summary judgment. Any party wishing to submit supplementary evidence must do so by 5:00 p.m. on Tuesday, May 7, 2013.

IT IS SO ORDERED.

Dated: May 6, 2013



EDWARD M. CHEN
United States District Judge

United States District Court
For the Northern District of California