

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER GENTILE and JUAN A.
CRAWFORD,

Plaintiffs,

-v-

No. 1:21-cv-08528-LTS

CASSI CREDEDIO and KEVIN DOYLE,

Defendants.

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MEMORANDUM OPINION AND ORDER

Plaintiffs Christopher Gentile (“Mr. Gentile” or “Gentile”) and Juan A. Crawford (“Mr. Crawford” or “Crawford”) (together, “Plaintiffs”) bring this action against Defendants Cassi Crededio (“Ms. Crededio” or “Crededio”) and Kevin Doyle (“Mr. Doyle” or “Doyle”), alleging that Defendants applied for, and received, copyright registrations of a draft screenplay without seeking authorization from Plaintiffs. Plaintiffs allege that they are the sole owners and authors of the draft screenplay at issue and assert claims for declaratory relief and copyright infringement. (See docket entry no. 46 (“First Amended Complaint” or “FAC”).¹) Before the Court is Defendant Crededio’s motion to dismiss the FAC for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). (Docket entry no. 37.) The Court has jurisdiction of the dispute pursuant to 28 U.S.C. sections 1331 and 1338(a).

¹ The unredacted version of the First Amended Complaint was filed at docket entry no. 46 pursuant to the Court’s March 16, 2023 Order (docket entry no. 45) denying Plaintiffs’ motion to seal. The First Amended Complaint was originally filed at docket entry no. 32 in redacted form.

The Court has reviewed carefully the submissions in connection with the instant motion. For the following reasons, Defendant Crededio’s motion to dismiss the First Amended Complaint is granted in its entirety.

BACKGROUND

The following facts, drawn from the First Amended Complaint, are taken as true for the purposes of the instant motion practice. This case concerns ownership of a draft version of a screenplay entitled “Untitled Wyoming Project” or “The Monarch” (the “Work” or the “Untitled Wyoming Project”). Plaintiff Gentile first conceived of the idea for the Work approximately fifteen years ago, inspired by the idea of a show “focused around a flawed female heroine.” (FAC ¶¶ 17-18.) After learning that Wyoming was the “first state or territory in the nation to grant suffrage to women, in 1869[.]” Mr. Gentile decided to create a show based upon the women’s suffrage movement, led by a “madam[.]” in the Wyoming area, who “ran a brothel” and also “championed women’s rights.” (Id. ¶¶ 18-19.) Mr. Gentile shared this idea with his long-time friend and colleague, Mr. Crawford, and together, they “conducted extensive research” into the relevant historical period. (Id. ¶ 20.) Plaintiffs then worked together to draft “the early versions of” a television series “focused on the role that madams of brothers in [the] American West played in bring[ing] suffrage rights to women.” (Id. ¶ 20.) Mr. Crawford submitted a short draft of “the first few scenes of the Work” to the Writers Guild of America (the “WGA”). (Id. ¶ 21; see also id. ¶ 42 (describing the version submitted to the WGA as the “first pages of the Work”).)

Plaintiff Crawford met Defendant Crededio on a set for a different project in which Plaintiff Crawford had an acting role and mentioned that “he and Mr. Gentile could consider hiring [her]” to “assist with work on the Untitled Wyoming Project.” (FAC ¶¶ 22, 24.)

Ms. Crededio was subsequently hired and entered into a Confidentiality Agreement with Mr. Gentile on October 22, 2019, agreeing to “treat all Confidential Information” including “materials relating to Untitled Wyoming Project” with “the strictest confidence.” (Id. ¶ 25.) Ms. Crededio collaborated with Plaintiffs over about a three-week span, from October 14, 2019, to November 2, 2019, during which time she “helped draft the Work’s first three acts.” (Id. ¶¶ 26-27; see also id. ¶ 39 (alleging Ms. Crededio “assisted with drafting the first version of the Work”).)

Plaintiffs allege that they provided Ms. Crededio with “detailed verbal instructions and/or physical outlines as well as rough drafts . . . demonstrating Plaintiffs’ conception of the Work[.]” (FAC ¶ 27.) Ms. Crededio was given “firm deadlines” for completion of “her drafts of each act” and was “paid a sum of \$500 for each act she drafted” by the requisite deadline. (Id. ¶¶ 28-30.) Plaintiffs allege that Ms. Crededio “used a screenwriting software and a platform called ‘WritersDuet’” to draft the three acts of the screenplay, which permits writers to “co-write in real time.” (Id. ¶ 37.) The program gave Plaintiffs “access to the Untitled Wyoming script” where they “could see and comment on any changes Ms. Crededio made to any individual scene” and either “approve[] Ms. Crededio’s words, suggest[] ways that they could be re-written, or simply re-wr[i]te them themselves to ensure that what Ms. Crededio was writing” conformed “with their directions.” (Id.) Plaintiffs allege that they “authored[,]” “were responsible for[,]” and “dictated” aspects of the individual scenes within the first three acts of the play, including characters, the settings, and “the action, description[,] and dialog” of the scenes. (Id. ¶¶ 47-65.) Ms. Crededio’s role, they allege, was “primarily to reduce to writing Plaintiffs’ detailed instructions.” (Id. ¶ 66.) To the extent Ms. Crededio made any independent contributions to the Work, Plaintiffs allege that they were made “on a work-for-hire basis”

within the scope of her employment. (Id. ¶¶ 74-79.) Plaintiffs allege that the Work has undergone further revision since Ms. Crededio’s three-week term ended, and was unfinished as of the time the First Amended Complaint was filed. (Id. ¶ 39.)

After completing the draft of the first three acts of the screenplay, Ms. Crededio “submitted an application to register” the Work with the U.S. Copyright Office on November 15, 2019, which was ultimately granted. (FAC ¶ 6.) Plaintiffs assert that this registration was “unauthorized” and therefore “invalid” because Plaintiffs are “the exclusive authors of the Work” who “never relinquished control over” its “direction, scope and words.” (Id. ¶¶ 2-7.) Plaintiffs sent Ms. Crededio a cease-and-desist letter on November 25, 2020, asserting that her copyright registration “was made under false pretenses as she was not the author of ‘Untitled Wyoming Project.’” (Id. ¶ 136.) Two days later, “Plaintiffs applied for their own copyright registration[,]” and the U.S. Copyright Office granted such copyright in January 2021 for the “dramatic work and music ‘Untitled Wyoming Project’ a.k.a. Monarch.” (Id. ¶¶ 132-33.)

In this action, Plaintiffs seek declarations “that the copyright registration[] held by Ms. Crededio” is “invalid[,]” that “their copyright registration is valid[,]” and that “Plaintiffs are . . . the exclusive owners and authors of the Work.” (FAC ¶¶ 140-44.) Plaintiffs also assert a claim for copyright infringement, alleging that they are the “owners of a valid copyright” in the Untitled Wyoming Project and that Ms. Crededio not only unlawfully “copied Plaintiffs’ original expression from the copyrighted work when she submitted her application for a copyright to the U.S. Copyright Office” but also that her “continued refusal to cancel” her copyright registration “infringes on Plaintiffs’ exclusive rights.” (Id. ¶¶ 145-49.)

In anticipation of the filing of the Amended Complaint, on July 1, 2022, Judge Broderick, to whom this case was previously assigned, dismissed Defendant Crededio’s motion

to dismiss the original pleading as moot. (Docket entry no. 28.) In that order, Judge Broderick expressed his “concerns about whether Plaintiffs [had] adequately plead[ed] their authorship of the Work” because the “allegations seem[ed] to plead only that [Plaintiffs] provided Crededio with ‘ideas,’ rather than that they provided any particular ‘manner[s] of expression’ that became part of the Work.” (Id. at 4 (citation omitted).) Judge Broderick acknowledged that Plaintiffs failed to “plead any ‘written instrument’ through which they and Crededio agreed that the Work ‘shall be considered a work made for hire[,]’” but rather the “Complaint appear[ed] to portray Crededio as an ‘independent contractor when [s]he produced the’ Work.” (Id. at 4-5 (citations omitted).) In directing Plaintiffs to file an amended complaint by July 28, 2022, Judge Broderick instructed that the revised pleading “should include . . . some or all of the following: (1) a copy of the Work; (2) copies of the ‘physical outlines,’ ‘rough drafts,’ or other work product ‘provided by the Plaintiffs’ to Crededio demonstrating Plaintiffs’ alleged authorship of the Work . . . [;] (3) allegations about which specific parts of the Work they believed they authored; and (4) if it exists, any written employment agreement Plaintiffs entered into with Crededio[,]” in order to meet their “burden to plead sufficient ‘factual content’” to render their claims plausible. (Id. at 5-6 (citations omitted).) In the First Amended Complaint, Plaintiffs allege the portions of the scenes they claim to have “authored,” been “responsible for,” and “dictated.” (FAC ¶¶ 43-65.) Plaintiffs also attached as Exhibit A to the First Amended Complaint “the version of the script as it existed when they ceased to employ Ms. Crededio on or about November 2, 2019.” (Id. ¶ 40.) Plaintiffs allege that the version Ms. Crededio “submitted for copyright protection” is “either identical to Exhibit A or is derivative thereof.” (Id.)

DISCUSSION

“To survive a motion to dismiss, a complaint must contain sufficient factual

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