

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
	:	
LOUIS PSIHOYOS,	:	
Plaintiff,	:	
	:	
-against-	:	
	:	
JOHN WILEY & SONS, INC.,	:	
Defendant.	:	
-----X	:	

11 Civ. 1416 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiff has requested leave to file a motion under 17 U.S.C. § 505 to recover his attorney’s fees incurred on appeal. Such motions must be filed with the Court of Appeals. *See Roth v. Pritikin*, 787 F.2d 54, 58 (2d Cir. 1986) (“[E]ven if attorneys’ fees under the Copyright Act had been properly awarded in this case, the district court erred in awarding fees to defendants for defending Roth’s petition for certiorari. . . . [I]t is instructive to note that we have held ‘that we, not the district court that rendered the initial decision, should be the judges of whether an appeal is so frivolous as to warrant the imposition of attorneys’ fees.’” (quoting *Sierra Club v. U.S. Army Corps of Engineers*, 776 F.2d 383, 392 (2d Cir. 1985))); *see also Scholastic, Inc. v. Stouffer*, 81 Fed. App’x 396, 398 (2d Cir. 2003) (ruling on request for appellate attorney’s fees in copyright action); *Matthew Bender & Co. v. West Publishing Co.*, 240 F.3d 116, 127 (2d Cir. 2000) (same); *Twin Peaks Productions, Inc. v. Publications Int’l, Ltd.*, 996 F.2d 1366, 1383 (2d Cir. 1993) (same). Plaintiff’s request is denied.

SO ORDERED.

Dated: New York, New York
May 13, 2014



 J. PAUL OETKEN
 United States District Judge