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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MEDIA PRODUCTS, INC. dba
DEVIL’S FILM, a California
Corporation,

Plaintiff,

No. 2:12-cv-01937 LKK AC

vs.

DOES 1-128, inclusive,

ORDER

Defendants.

_____/

In this action plaintiff filed an ex parte application for expedited discovery to serve Rule 45 subpoenas on Internet Service Providers to obtain identifying information applicable for the Doe defendants. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(1).

On October 5, 2012, Magistrate Judge Drozd¹ filed findings and recommendations herein recommending that Does 2-128 be dismissed for improper joinder of those defendants. The findings and recommendations were served on plaintiff and contained notice that any objections were to be filed within fourteen days after they were served. The

¹ This matter was later transferred to Magistrate Judge Claire.

1 fourteen-day period has expired, and no objections have been filed by any party.


2 The court has reviewed the file and finds the findings and recommendations to be
3 supported by the record and by the magistrate judge's analysis. The court notes that plaintiff is
4 attempting to sue, in one action, 128 unknown defendants. Although each defendant allegedly
5 downloaded the same pornographic movie using the same program ("BitTorrent"), plaintiff's
6 own evidence tends to show that the downloading occurred at different times (from February
7 through June, 2012), from different computers, and therefore presumably by different persons.
8 There is no allegation or inference that these defendants are related to each other, know of the
9 existence of any other defendant, acted in concert, or that these separate downloads constitute
10 "the same transaction or series of transactions" giving rise to plaintiff's alleged injury. It is
11 therefore appropriate to sever the claims against Does 2-128 pursuant to Fed. R. Civ. P. 21, but
12 to permit these claims to be brought separately, if plaintiff chooses to do so.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. The findings and recommendations filed October 5, 2012, (Doc. No. 8) are
15 adopted in full; and

16 2. Does 2-128 are dismissed without prejudice.

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18 DATED: December 5, 2012.

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22 LAWRENCE K. KARLTON
23 SENIOR JUDGE
24 UNITED STATES DISTRICT COURT
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