

1 **BACKGROUND**

2 The court previously summarized plaintiff’s allegations in its June 7, 2022 order granting
3 her motion for a temporary restraining order. (Doc. No. 6.) The court will refer to its prior order
4 and will not repeat that factual background here. Following the issuance of that order, plaintiff
5 filed the pending motion for expedited discovery, seeking an order authorizing her to conduct
6 expedited discovery upon cryptocurrency exchanges to facilitate the discovery of defendant’s
7 legal identity. (Doc. No. 7-1 at 11.)

8 **LEGAL STANDARD**

9 Federal Rule of Civil Procedure Rule 26(d) provides that no discovery can be sought
10 “from any source before the parties have conferred as required by Rule 26(f), except . . . when
11 authorized . . . by court order.” Fed. R. Civ. P. 26(d)(1). Generally, courts require a showing of
12 good cause to permit expedited discovery. *In re Countrywide Fin. Corp. Derivative Litig.*, 542 F.
13 Supp. 2d 1160, 1179 (C.D. Cal. 2008); *Criswell v. Boudreax*, No. 1:20-cv-01048-DAD-SAB,
14 2020 WL 5235675, at *25 (E.D. Cal. Aug. 31, 2017). “Good cause may be found where the need
15 for expedited discovery, in consideration of the administration of justice, outweighs the prejudice
16 to the responding party.” *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D.
17 Cal. 2002). In determining whether good cause exists, courts consider: (1) whether a preliminary
18 injunction is pending; (2) the breadth of the discovery request; (3) the purpose for requesting the
19 expedited discovery; (4) the burden on the defendants to comply with the requests; and (5) how
20 far in advance of the typical discovery process the request was made.” *Rovio Entm’t Ltd. v. Royal*
21 *Plush Toys, Inc.*, 907 F. Supp. 2d 1086, 1099 (N.D. Cal. 2012).

22 Moreover, district courts in California, applying the test set forth in *Semitool*, have found
23 good cause to authorize expedited discovery to ascertain the identity of a Doe defendant. *See,*
24 *e.g., AF Holdings LLC v. Doe*, No. 2:12-cv-02207-KJM-DAD, 2012 WL 6608993, at *1 (E.D.
25 Cal. Dec. 18, 2012) (granting leave to conduct expedited discovery to determine the identity of a
26 Doe defendant in a copyright infringement action); *First Time Videos, LLC v. Doe*, No. 2:12-cv-
27 00621-GEB-EFB, 2012 WL 1355725 (E.D. Cal. Apr.18, 2012) (same); *UMG Recordings, Inc. v.*
28 *Doe*, No. 5:08-cv-03999-RMW, 2008 WL 4104207 (N.D. Cal. Sept. 4, 2008) (same); *Arista*

1 *Records LLC v. Does 1–43*, No. 3:07-cv-02357-LAB-POR, 2007 WL 4538697 (S.D. Cal. Dec.
2 20, 2007) (same). The Ninth Circuit has held that “where the identity of the alleged defendant[]
3 [is] not [] known prior to the filing of a complaint[,] the plaintiff should be given an opportunity
4 through discovery to identify the unknown defendants, unless it is clear that discovery would not
5 uncover the identities, or that the complaint would be dismissed on other grounds.” *Wakefield v.*
6 *Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (alteration in original) (quoting *Gillespie v.*
7 *Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)).

8 To determine whether a plaintiff has established good cause to seek the identity of a Doe
9 defendant through expedited discovery, courts consider the following:

10 whether the plaintiff (1) identifies the Doe defendant with sufficient
11 specificity that the Court can determine that the defendant is a real
12 person who can be sued in federal court, (2) recounts the steps taken
13 to locate and identify the defendant, (3) demonstrates that the action
can withstand a motion to dismiss, and (4) proves that the discovery
is likely to lead to identifying information that will permit service of
process.

14 *ZG TOP Tech. Co. v. Doe*, No. 2:19-cv-00092-RAJ, 2019 WL 917418, at *2 (W.D. Wash. Feb.
15 25, 2019) (citing *Bodyguard Prods., Inc. v. Doe 1*, 2:17-cv-01647-RSM, 2018 WL 1470873, at *1
16 (W.D. Wash. Mar. 26, 2018); *Columbia Ins. Co. v. seescandy.com*, 185 F.R.D. 573, 578–80 (N.D.
17 Cal. 1999)).

18 ANALYSIS

19 In her pending motion, plaintiff argues that good cause exists to authorize expedited
20 discovery to determine the Doe defendant’s legal identity. (Doc. No. 7-1 at 15.) Plaintiff
21 contends that the discovery sought is “narrowly drawn and . . . relevant to identifying JOHN DOE
22 and resolving the issues of fact and law the Court must confront[.]” According to plaintiff, the
23 relevant information is in the readily accessible possession, custody, and control of the non-party
24 cryptocurrency exchanges Binance, FTX, OKX (OKEx), Poloniex, TokenIon, and gate.io
25 (collectively, “the Exchanges”), such that any burden on the Exchanges in responding to the
26 discovery is *de minimis*. (*Id.*) In particular, plaintiff seeks to obtain the following discovery from
27 the Exchanges:

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1 (a) All documents regarding, reflecting, recording, or memorializing
2 account opening and closing, including JOHN DOE's actual legal
3 name, all proofs of identification (such as government-issued photo
4 ID), date of birth, Social Security Number, telephone number,
5 electronic mail address, residential/ mailing address, and Know Your
6 Customer ("KYC") and Anti-Money Laundering ("AML")
7 information compiled by <<YOUR EXCHANGE>>.

8 (b) All documents regarding, reflecting, recording, or memorializing
9 transactions, funding, registered funding sources (i.e., bank accounts
10 or other sources of funding tied to JOHN DOE's account[s]), and
11 account holdings, including but not limited to transactions into or out
12 of the following wallet address: _____ (the "Wallet Address").

13 (c) All transactional logs for all activity in JOHN DOE's
14 <<EXCHANGE>> account(s), including but not limited to all
15 holding pages, trade confirmations, beginning balance, all trades
16 (whether initiated by JOHN DOE or someone else) or trade orders
17 (whether executed or unexecuted), all date/time stamps for each
18 trade, date/time stamps showing when each trade was filled (as
19 applicable), account balance following each executed trade, the
20 ending balance, and the names and public addresses of all
21 counterparties to each trade.

22 (d) All documents regarding, reflecting, recording, or memorializing
23 any suspicion or belief held by <<YOUR EXCHANGE>> that the
24 JOHN DOE account at <<YOUR EXCHANGE>> to which the
25 Destination Address is linked was linked to or associated with any
26 other <<EXCHANGE>> account(s).

27 (e) Correspondence exchanged by and between <<YOUR
28 EXCHANGE>> and JOHN DOE.

(f) Correspondence exchanged by and between <<YOUR
EXCHANGE>> and any third-party concerning or relating to JOHN
DOE. NOTE: The requested correspondence is not to include any
Suspicious Activity Reports (SARs) filed by <<YOUR
EXCHANGE>> with any governmental regulator or other authority,
any drafts of such SARs, or any documents that expressly reference
any SARs being filed.

22 (*Id.* at 11.) Additionally, plaintiff also seeks to conduct discovery upon "the accountholder to
23 whom [p]laintiff's stolen funds flowed" to support any claim that the accountholder is "a *bona*
24 *fide* purchaser in good faith" and not defendant. (*Id.* at 12.) In doing so, plaintiff would request
25 such accountholders produce the following:

26 All documents and information, including but not limited to: (i)
27 Transactional IDs related to the your [sic] acquisition of the
28 cryptocurrency in question; and (ii) information in your possession
identifying the seller from whom you acquired the tainted
cryptocurrency in question -- showing how the cryptocurrency was

1 obtained, from whom the cryptocurrency was obtained, and the
2 payment records for your acquisition of the tainted cryptocurrency.

3 (*Id.*)

4 The court finds that good cause supports plaintiff’s request for leave to take expedited
5 discovery to ascertain identifying information with respect to defendant John Doe in order to
6 facilitate service of this action, the temporary restraining order, and plaintiff’s anticipated motion
7 for preliminary injunction. Here, plaintiff recounts the use of blockchain analytics to trace the
8 path of her stolen assets and identified a number of cryptocurrency wallet addresses (“Destination
9 Addresses”) at the Exchanges to which her assets have been transferred without her consent:

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Exchange	Destination Address	Asset Type	Funds under claim ²
Binance	43ecea7f78fe65f83646a864b2c73349793ddfe	USDT	45,730.26604
Binance	5cccacf95cd5df55d95e3864af4551de094784c2	USDT	222,583.588
Binance	8f44af4f841ffd7db201e81f8deb66e6eea99c06	USDT	45,543.36493
Binance	bff9f1d0d9156feb7b3182102d4ac226b9c2c44c	USDT	95,118.95336
Binance	c7e185922f923c438fc29b92309153816ba17498	USDT	4,082.182561
TOTAL			413,058.3549 USDT

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Exchange	Destination Address	Asset Type	Funds under claim
FTX	456fc7ea0b17b51e08a861af94e13f1dceba1db9	USDT	83,856.95211
TOTAL			83,856.95211 USDT

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Exchange	Destination Address	Asset Type	Funds under claim
OKX (OKE x)	64452a2f3af318d86d947ba33beadfe39456ed3a	USDT	272,540.4773

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² Plaintiff represents that the value of the funds located in each of the destination addresses listed in this order were calculated using an “average confirmed with five tracing methodologies” and are listed in units of Tether (“USDT”), a cryptocurrency hosted on the Ethereum and Bitcoin blockchains that was designed so that each coin would be worth one U.S. dollar. (Doc. No. 7-1 at 6 n.1, 6–7.)

Exchange	Destination Address	Asset Type	Funds under claim
TOTAL			272,540.4773 USDT

Exchange	Destination Address	Asset Type	Funds under claim
Poloniex	ee861cfb2a34eb5e73ccd92fce9e4b3b6a37a2db	USDT	72,386.28453
TOTAL			72,386.28453 USDT

Exchange	Destination Address	Asset Type	Funds under claim
TokenIon	8d90113a1e286a5ab3e496fbd1853f265e5913c6	USDT	230,153.7314
TOTAL			230,153.7314 USDT

Exchange	Destination Address	Asset Type	Funds under claim
gate.io	29084a44f69510471e41a91f37ee59c088e71804	USDT	46,782.12103
TOTAL			46,782.12103 USDT

(Doc. No. 7-1 at 6–7); *see ZG TOP Tech. Co.*, 2019 WL 917418 at *2 (plaintiffs must recount steps taken to identify defendant to demonstrate good cause for expedited recovery). The conversations between defendant, plaintiff, and plaintiff’s son indicate that John Doe’s identity as the account holder is likely already known or ascertainable. (*Id.* at 6–7); *see ZG TOP Tech. Co.*, 2019 WL 917418 at *2 (courts consider whether plaintiff identifies the Doe defendant with sufficient specificity). Furthermore, as this court concluded in its June 7, 2022 order issuing a temporary restraining order, plaintiff has shown that she is likely to succeed on the merits of her claims brought in this action and in so doing she has also “demonstrated that the action can withstand a motion to dismiss.” *See ZG TOP Tech. Co.*, 2019 WL 917418 at *2. The court also finds that plaintiff’s request seeking identifying information related to the Doe defendant is reasonably likely to lead to the production of information that will permit plaintiff to serve process. *See Semitool*, 208 F.R.D. at 277 (granting expedited discovery where the narrowly tailored requests would “substantially contribute to moving this case forward”). Accordingly, the court will grant plaintiff’s request for expedited discovery directed to the above-listed

Destination Addresses (defendant John Doe): legal name, street address, telephone number, and e-mail address. It may not include defendant's social security number. A copy of this order shall be attached to the subpoena.

Exchange	Destination Address
Binance	43ecaea7f78fe65f83646a864b2c73349793ddfe
Binance	5cccacf95cd5df55d95e3864af4551de094784c2
Binance	8f44af4f841ffd7db201e81f8deb66e6eea99c06
Binance	bff9f1d0d9156feb7b3182102d4ac226b9c2c44c
Binance	c7e185922f923c438fc29b92309153816ba17498
Exchange	Destination Address
FTX	456fc7ea0b17b51e08a861af94e13f1dceba1db9
Exchange	Destination Address
OKX (OKEx)	64452a2f3af318d86d947ba33beadfe39456ed3a
Exchange	Destination Address
Poloniex	ee861cfb2a34eb5e73ccd92fce9e4b3b6a37a2db
Exchange	Destination Address
TokenIon	8d90113a1e286a5ab3e496fbd1853f265e5913c6
Exchange	Destination Address
gate.io	29084a44f69510471e41a91f37ee59c088e71804

- a. If a cryptocurrency exchange is served with a subpoena authorized by this order, it shall serve a copy of the subpoena and a copy of this order to the defendant and any other affected user as soon as possible after service of the subpoena. The cryptocurrency exchange may serve the user using any reasonable means, including written notice sent to the user's last known address, transmitted either by first-class mail or via overnight service. The cryptocurrency exchange shall provide plaintiff with the date when such notice was provided to any affected user.
- b. The cryptocurrency exchanges and any affected user shall have fourteen (14) days from the respective date of service of the subpoena upon them to object to the subpoena pursuant to Federal Rule of Civil Procedure 45(d)(2)(B).

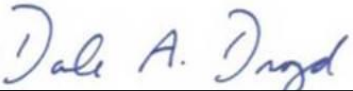
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- c. The cryptocurrency exchanges shall not disclose the defendant's identifying information, or such information for any other affected user, during the 14-day period or if a timely objection is served unless and until the Court orders it to do so.
- d. If an objection is served, the cryptocurrency exchanges shall preserve any material responsive to the subpoena for a period of no less than ninety (90) days in order to allow plaintiff to move for an order compelling production under Federal Rule of Civil Procedure 45(d)(2)(B)(i).
- e. If no objection is served, the cryptocurrency exchanges shall comply with the subpoena within ten (10) days unless an objection to the subpoena will be filed within 14 days of its service.

2. Plaintiff's motion for expedited discovery (Doc. No. 7) is denied as to all her other proposed discovery requests.

IT IS SO ORDERED.

Dated: June 9, 2022



UNITED STATES DISTRICT JUDGE