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

FIRST TIME VIDEOS, LLC,)	
)	2:11-cv-03478-GEB-EFB
Plaintiff,)	
)	<u>ORDER CONTINUING STATUS</u>
v.)	<u>(PRETRIAL SCHEDULING)</u>
)	<u>CONFERENCE</u>
JOHN DOE,)	
)	
Defendant.)	
_____)	

Plaintiff states in its Status Report filed August 8, 2012, in relevant part as follows:

Plaintiff is unable to serve the unidentified John Doe at this time. On December 30, 2011, Plaintiff filed its Complaint. (Doc. No. 1.) On January 6, 2011, Plaintiff filed its Amended Complaint. (Doc. No. 6.) Attached as Exhibit A to the Amended Complaint were a list of Internet Protocol addresses associated with John Doe and his co-conspirators. (Doc. No. 6-1.) Per the Amended Complaint, Plaintiff's agents observed these IP addresses unlawfully reproducing Plaintiff's copyrighted work via the BitTorrent protocol. As further stated, "Plaintiff cannot ascertain the identities of John Doe or his co-conspirators without information from their respective Internet Service Providers ('ISPs')." (Doc. No. 6 at ¶ 4.)

Due to this need for information, on January 12, 2012, Plaintiff filed its Ex Parte Application for Leave to Take Expedited Discovery requesting the ability to discover[] the identifying information of the IP address holders from the relevant ISPs. (Doc. No. 7.) On January 19, 2012, the Court issued its Order granting in part and denying in part Plaintiff's Application. (Doc. No. 9, "January 19 Order.") While not allowing Plaintiff to serve subpoenas on ISPs to identify

1 the coconspirators—thus eliminating the possibility
2 of naming and/or serving those individuals in this
3 case—the Court did allow Plaintiff to obtain the
4 identifying information of the account holder whose
5 IP address was used by John Doe to infringe on
6 Plaintiff's copyrighted works. (Doc. No. 9.)
7

8 On April 4, 2012, after discovering that the
9 Court's January 19 Order erroneously identified the
10 Internet Protocol relating to John Doe, Plaintiff
11 filed its Motion for Administrative Relief for an
12 Order Correcting a Clerical Error Under FRCP Rule
13 60(a) to allow Plaintiff to serve a subpoena on
14 John Doe's Internet Service Provider, Comcast Cable
15 Communications ("Comcast") to identify him (Doc.
16 No. 16). On April 16, 2012, the Court corrected the
17 Internet Protocol address (Doc. No. 18, "April 16
18 Order"). Subsequently, Plaintiff served a copy of
19 the April 16 Order and the relevant subpoena on
20 Comcast. . . .

21 Most recently, Plaintiff received notice from
22 Comcast that, in light of the delay described
23 above, the subscriber information related to John
24 Doe was no longer in their records. As of now,
25 therefore, that time-sensitive information no
26 longer exists. Currently, Plaintiff is exploring
27 its options in this case in light of Comcast's
28 recent response.

17 (Status Report 1:33-3:6.)


18 These representations reveal this case is not ready to be
19 scheduled. Therefore, the Status (Pretrial Scheduling) Conference
20 scheduled for hearing on August 20, 2012, is continued to October 29,
21 2012, at 9:00 a.m. A further status report shall be filed no later than
22 fourteen (14) days prior to the Status Conference, in which Plaintiff
23 shall address its efforts to prosecute this action.

24 Further, if Plaintiff fails to take sufficient steps to
25 identify John Doe prior to the October 29, 2012 Status Conference,
26 Plaintiff shall show cause in its status report why this action should
27 not be dismissed for failure of prosecution. This action may be
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1 dismissed with prejudice under Federal Rule of Civil Procedure 41(b) if
2 Plaintiff fails to respond to this Order.

3 IT IS SO ORDERED.

4 Dated: August 14, 2012

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8 GARLAND E. BURRELL, JR.
9 Senior United States District Judge
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