

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MALIBU MEDIA, LLC,  
  
                                Plaintiff,  
  
                  v.  
  
JOHN DOE SUBSCRIBER ASSIGNED  
IP ADDRESS 108.206.113.196, et al.  
  
                                Defendants.

No. 2:15-cv-2701-JAM-KJN, et al.

ORDER

On May 5, 2016, the court conducted a global hearing with respect to plaintiff Malibu Media, LLC’s *ex parte* motions to conduct expedited discovery pending in several related actions filed by plaintiff in the Sacramento division of this district.

In connection with those motions, plaintiff lodged with the court for initial *in camera* review a status report addressing various questions/issues outlined in the court’s April 8, 2016 order scheduling the May 5, 2016 hearing, as well as representative samples of plaintiff’s settlement correspondence and settlement agreements. The status report was subsequently filed on the court’s public docket, and the exhibits to the status report, which contain confidential

1 settlement correspondence and settlement agreements, were filed under seal.<sup>1</sup>

2 At the May 5, 2016 hearing, attorneys Brian Heit and Brenna Erlbaum appeared on behalf  
3 of plaintiff, along with their client and plaintiff's sole owner, Colette Pelisseir Field, and  
4 responded to further questioning by the court.

5 After carefully considering the court's record and the applicable law, IT IS HEREBY  
6 ORDERED that:

- 7 1. Based on the showing made in plaintiff's motions, as well as plaintiff's representations  
8 made in their status report filed in Malibu Media, LLC v. John Doe subscriber  
9 assigned IP address 108.206.113.196, 2:15-cv-2701-JAM-KJN, (ECF Nos. 11, 12),  
10 and verbally at the May 5, 2016 hearing in that matter (ECF No. 9), the court finds  
11 that plaintiff has shown that good cause exists to conduct the requested expedited  
12 discovery in these cases in an attempt to identify the respective John Doe defendants.  
13 See Semitool, Inc. v. Tokyo Electron Am, Inc., 208 F.R.D. 273, 276 (N.D. Cal. 2002).  
14 As such, plaintiff's motions are GRANTED, subject to the restrictions outlined below.
- 15 2. Plaintiff may immediately serve a Rule 45 subpoena ("Subpoena") on the internet  
16 service provider ("ISP") identified in Exhibit A to the operative complaint in each  
17 case, or on any other entity identified as providing internet services to the John Doe  
18 defendant at the particular IP address, to obtain information to identify the John Doe  
19 defendant; more specifically, his or her *name and address*. The ISP shall NOT release  
20 the subscriber's telephone number or e-mail address. A copy of this order shall be  
21 attached to the Subpoena in each case.
- 22 3. The ISP shall have 30 days from the date of service of the Subpoena upon it to serve  
23 the John Doe defendant with a copy of the Subpoena and a copy of this order. The  
24 ISP may serve the John Doe defendant using any reasonable means, including written  
25 notice sent to his or her last known address, transmitted either by first-class mail or via  
26

---

27 <sup>1</sup> Those documents were filed on the court's docket in the first-filed case, Malibu Media, LLC v.  
28 John Doe subscriber assigned IP address 108.206.113.196, 2:15-cv-2701-JAM-KJN, (ECF Nos.  
11, 12).

1 overnight service.

- 2 4. The John Doe defendant shall have 60 days from the date of service of the Subpoena  
3 and this order upon him or her to file any motions with this court contesting the  
4 Subpoena (including a motion to quash or modify the Subpoena), as well as any  
5 request to litigate the Subpoena anonymously. The ISP may NOT turn over the John  
6 Doe defendant's identifying information to plaintiff before the expiration of this 60-  
7 day period. Additionally, if the John Doe defendant or ISP files a motion to quash the  
8 Subpoena, the ISP may not turn over any information to the plaintiff until the motion  
9 has been resolved by the court. A John Doe defendant who moves to quash or modify  
10 the subpoena, or to proceed anonymously, shall at the same time as his or her filing  
11 notify the ISP so that the ISP is on notice not to release any of the John Doe  
12 defendant's information to plaintiff until the court rules on any such motions.
- 13 5. If the above-mentioned time periods elapse without the John Doe defendant or ISP  
14 contesting the Subpoena, the ISP shall have 10 days to produce the information  
15 responsive to the Subpoena to plaintiff.
- 16 6. Upon service with the Subpoena, the ISP shall preserve any subpoenaed information  
17 until either the information is produced to plaintiff or a timely-filed motion to quash  
18 the subpoena is resolved by the court.
- 19 7. Any information ultimately disclosed to plaintiff in response to a Subpoena may be  
20 used by plaintiff for the sole purpose of protecting plaintiff's rights as set forth in the  
21 operative complaint.

22 This order resolves all pending *ex parte* motions for expedited discovery in the following  
23 cases, and shall be filed by the Clerk of Court on the dockets of all the following cases:

24 2:15-cv-02701-JAM-KJN *Malibu Media, LLC v. JOHN DOE subscriber assigned IP*  
25 *address 108.206.113.196*

26 2:15-cv-02703-JAM-KJN *Malibu Media, LLC v. JOHN DOE subscriber assigned IP*  
27 *address 108.213.72.144*

28 2:15-cv-02704-JAM-KJN *Malibu Media, LLC v. John Doe subscriber assigned IP*

1 *address 108.247.9.93*

2 *2:15-cv-02706-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

3 *address 172.15.36.234*

4 *2:15-cv-02709-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

5 *address 73.220.64.72*

6 *2:15-cv-02710-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

7 *address 75.53.173.243*

8 *2:15-cv-02713-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

9 *address 76.201.82.10*

10 *2:15-cv-02715-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

11 *address 98.208.11.168*

12 *2:16-cv-00329-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

13 *address 174.50.166.111*

14 *2:16-cv-00330-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

15 *address 71.193.37.58*

16 *2:16-cv-00332-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

17 *address 24.23.36.202*

18 *2:16-cv-00333-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

19 *address 50.161.91.225*

20 *2:16-cv-00335-JAM-KJN Malibu Media, LLC v. JOHN DOE subscriber assigned IP*

21 *address 50.197.137.173*

22 *2:16-cv-00337-JAM-KJN Malibu Media, LLC v. JOHN DOE subscriber assigned IP*

23 *address 67.174.50.154*

24 *2:16-cv-00338-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

25 *address 50.197.172.9*

26 *2:16-cv-00340-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

27 *address 67.182.165.59*

28 *2:16-cv-00342-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

1 *address 71.197.126.47*

2 *2:16-cv-00343-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

3 *address 73.41.19.65*

4 *2:16-cv-00344-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

5 *address 73.41.243.169*

6 *2:16-cv-00345-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

7 *address 71.198.67.140*

8 *2:16-cv-00348-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

9 *address 73.162.9.38*

10 *2:16-cv-00349-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

11 *address 73.41.50.157*

12 *2:16-cv-00350-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

13 *address 76.105.55.229*

14 *2:16-cv-00353-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

15 *address 76.127.98.64*

16 *2:16-cv-00354-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

17 *address 98.208.3.49*

18 *2:16-cv-00356-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

19 *address 98.234.74.153*

20 *2:16-cv-00357-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

21 *address 98.252.71.18*

22 *2:16-cv-00358-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

23 *address 98.242.19.2*

24 *2:16-cv-00359-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

25 *address 98.255.105.148*

26 *2:16-cv-00361-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

27 *address 98.255.194.107*

28 *2:16-cv-00362-JAM-KJN Malibu Media, LLC v. John Doe subscriber assigned IP*

1 *address 98.255.70.3*

2 IT IS SO ORDERED.

3 Dated: May 10, 2016

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

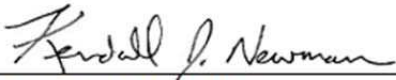
24

25

26

27

28

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE