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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ON THE CHEAP, LLC, a)
California Corporation,)
)
Plaintiff(s),)
)
v.)
)
DOES 1-5011,)
)
Defendant(s).)
_____)

No. C10-4472 BZ
**ORDER GRANTING PLAINTIFF
LEAVE TO TAKE EARLY
DISCOVERY**

The Court, having reviewed Plaintiff's Ex Parte Application for Leave to Take Limited Discovery Prior to a Rule 26 Conference and the supporting documents submitted therewith, and good cause appearing therefore, hereby grants Plaintiff's Ex Parte Application and orders as follows:

1. **IT IS HEREBY ORDERED** that Plaintiff is allowed to serve immediate discovery on the internet service providers (ISPs) listed in Exhibit A to the First Amended Complaint filed in this matter to obtain the identity of the Doe Defendants listed in that Exhibit by serving a Rule 45

1 subpoena that seeks information sufficient to identify each
2 such Defendant, including the name, addresses, telephone
3 numbers, and email addresses of such Defendant.

4 2. **IT IS FURTHER ORDERED** that Plaintiff's counsel shall
5 issue subpoenas in substantially the same form as the example
6 attached as Exhibit 1 to Plaintiff's Ex Parte Application for
7 Leave to Take Limited Discovery Prior to a Rule 26 Conference,
8 with each subpoena including a copy of this Order.

9 3. **IT IS FURTHER ORDERED** that each ISP will have 30 days
10 from the date of service upon it to serve each of its
11 subscriber(s) whose identity information is sought with a copy
12 of the subpoena and a copy of this Order. The ISPs may serve
13 the subscribers using any reasonable means, including written
14 notice sent to the subscriber's last known address,
15 transmitted either by first-class mail or via overnight
16 service.

17 4. **IT IS FURTHER ORDERED** that each subscriber shall have
18 30 days from the date of service upon him, her or it to file
19 any motions in this court contesting the subpoena (including a
20 motion to quash or modify the subpoena). If that 30-day period
21 lapses without the subscriber contesting the subpoena, the ISP
22 shall have 10 days to produce to Plaintiff the information
23 responsive to the subpoena with respect to that subscriber.


24 5. **IT IS FURTHER ORDERED** that, because no appearance by a
25 person at a deposition is required by the subpoena, instead
26 only production of documents, records and the like is
27 required, the witness and mileage fees required by Rule
28 45(b)(1) of the Federal Rules of Civil Procedure do **not** apply

1 and no such fees need be tendered.

2 6. **IT IS FURTHER ORDERED** that any ISP that receives a
3 subpoena shall preserve all subpoenaed information pending the
4 ISP's delivering such information to Plaintiff or the final
5 resolution of a timely filed and granted motion to quash the
6 subpoena with respect to such information.

7 7. **IT IS FURTHER ORDERED** that any information disclosed
8 to Plaintiff in response to a subpoena may be used by
9 Plaintiff solely for the purpose of protecting its rights
10 under the Copyright Act, 17 U.S.C. § 101 et seq.

11 Dated: February 3, 2011



12 _____
13 Bernard Zimmerman
United States Magistrate Judge

14 G:\BZALL\BZCASES\ON THE CHEAP V. DOES\PROPOSED ORDER GRANTING PLAINTIFF LEAVE
15 TO TAKE EARLY DISCOVERY.wpd
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