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UNITED STATES DISTRICT COURT
Northern District of California

NEW SENSATIONS, INC.,

No. C 11-2770 MEJ

Plaintiff,

**ORDER DENYING MOTION TO
QUASH**

v.

DOES 1-1,474,

Docket Nos. 37, 38

Defendants.

On June 7, 2011, Plaintiff New Sensations, Inc. (“Plaintiff”) filed this lawsuit against 1,474 Doe Defendants, alleging that Defendants illegally reproduced and distributed a work subject to Plaintiff’s exclusive license, (“*Big Bang Theory: A XXX Parody*”), using an internet peer-to-peer file sharing network known as BitTorrent, thereby violating the Copyright Act, 17 U.S.C. § 101-1322. Compl. ¶¶ 6-15, Dkt. No. 1. On September 22, 2011, the Court granted Plaintiff’s Application for Leave to Take Limited Expedited Discovery. Dkt. No. 13. The Court permitted Plaintiff to serve subpoenas on Does 1-1,474’s Internet Service Providers (“ISPs”) by serving a Federal Rule of Civil Procedure 45 subpoena that seeks information sufficient to identify the Doe Defendants, including the name, address, telephone number, and email address of Does 1-1,474. *Id.* at 11. Once the ISPs provided Does 1-1,474 with a copy of the subpoena, the Court permitted Does 1-1,474 30 days from the date of service to file any motions contesting the subpoena (including a motion to quash or

1 modify the subpoena). *Id.*

2 Now before the Court is a Motion to Quash, filed by an individual Doe Defendant requesting
3 that he be allowed to contest the subpoena without revealing his personal identifying information.¹
4 Dkt. Nos. 37, 38. In his motion, the Doe Defendant argues that he has never downloaded a movie or
5 show from BitTorrent, nor does he know how to do so. However, a general denial of engaging in
6 copyright infringement is not a valid basis for a motion to quash. *MCGIP, LLC v. Does 1-18*, 2011
7 WL 2181620, at *1 (N.D. Cal. Jun. 02, 2011) (citation omitted). As the Doe Defendant presents no
8 other arguments, his motion is DENIED.

9 **IT IS SO ORDERED.**

10
11 Dated: November 15, 2011


12 _____
13 Maria-Elena James
14 Chief United States Magistrate Judge
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18 _____
19 ¹Under 28 U.S.C. § 636(b)(1)(A), a magistrate judge has jurisdiction to hear and decide
20 nondispositive matters without the consent of the parties. A motion to quash is normally considered
21 a non-dispositive matter, *Arista Records, LLC v. Doe 3*, 604 F.3d 110, 116 (2d Cir. 2010), and
22 therefore, the undersigned has jurisdiction to rule on the Defendant’s motion(s) to the extent they
23 seek to quash Plaintiff’s subpoena. In addition, a magistrate judge has jurisdiction to consider the
24 question of whether joinder of unserved defendants is proper, including whether unserved
25 defendants should be severed and dismissed from the action, because defendants who have not been
26 served are not considered “parties” under 28 U.S.C. § 636(c). *Neals v. Norwood*, 59 F.3d 530, 532
27 (5th Cir. 1995) (holding that magistrate judge had jurisdiction to dismiss prison inmate’s action
28 under 42 U.S.C. § 1983 as frivolous without consent of defendants because defendants had not been
served yet and therefore were not parties); *see also United States v. Real Property*, 135 F.3d 1212,
1217 (9th Cir. 1998) (holding that magistrate judge had jurisdiction to enter default judgment in an
in rem forfeiture action even though property owner had not consented to it because 28 U.S.C. §
636(c)(1) only requires the consent of the parties and the property owner, having failed to comply
with the applicable filing requirements, was not a party). Here, Plaintiff has consented to magistrate
jurisdiction and the Doe Defendants have not yet been served. Therefore, the Court finds that it has
jurisdiction under 28 U.S.C. § 636(c) to decide the issues raised in the instant motion(s).