

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

GOOD MAN PRODUCTIONS, INC.,

Plaintiff,

v.

Case No: 5:15-cv-100-Oc-32PRL

JOHN DOE

Defendant.

ORDER

The plaintiff, as the alleged owner of the copyright for *A Good Man*, seeks permission to serve Comcast Cable Holdings, LLC, the defendant's alleged Internet Service Provider ("ISP"), with a subpoena before the [Federal Rule of Civil Procedure 26\(f\)](#) conference. [Doc. 6](#). With an assumption that the subscriber is the infringer, it alleges the defendant, known to it only by an internet protocol ("IP") address, infringed its copyright by using BitTorrent protocol¹ to copy and distribute the movie. [Docs. 1](#); [1-2](#); [1-3](#). It argues it needs early discovery to identify him or her. [Doc. 6-1](#).

A court has broad discretion in managing discovery. [Klay v. All Defendants](#), 425 F.3d 977, 982 (11th Cir. 2005). A court may permit a party to conduct discovery before a [Rule 26\(f\)](#) conference. [Fed. R. Civ. P. 26\(d\)\(1\)](#). Courts usually require a showing of good cause for early discovery. See [TracFone Wireless, Inc. v. Holden Prop. Servs., LLC](#), 299 F.R.D. 692, 694 (S.D.

¹Because many courts have already done so, the Court will refrain from describing the BitTorrent protocol here See, e.g., [Columbia Pictures Indus., Inc. v. Fung](#), 710 F.3d 1020, 1026–27 (9th Cir. 2013); [Malibu Media, LLC v. Does 1–28](#), 295 F.R.D. 527, 529–30 (M.D. Fla. 2012).

[Fla. 2014](#)); [Digital Sin, Inc. v. Does 1-176](#), 270 F.R.D. 239, 241 (S.D.N.Y. 2012); [Dorrah v. United States](#), 282 F.R.D. 442, 445 (N.D. Iowa 2012).

Here, the plaintiff has established good cause for early discovery: it has sufficiently alleged infringement, [Doc. 1 at 3-6](#); it does not have another way to discover the putative infringer's identity to proceed with the litigation, [Doc. 6-2](#); and ISPs rarely maintain the information for long, [Doc. 6-1 at 3](#). The Court therefore **grants** the plaintiff's motion, [Doc. 6](#), as follows:

1. The plaintiff may serve on Comcast Cable Holdings, LLC, a [Federal Rule of Civil Procedure 45](#) subpoena commanding the name, address, email address, and telephone number of the subscriber of the identified IP address. The subpoena must attach the complaint and this order.²
2. The plaintiff may use the subscriber's information only to protect and enforce its rights set forth in the complaint.
3. If Comcast Cable Holdings, LLC, is a "cable operator" under [47 U.S.C. § 522\(5\)](#),³ it must comply with [47 U.S.C. § 551\(c\)\(2\)](#), which permits a cable operator to disclose personal identifying information if the disclosure is "made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed," by sending a copy of this order to the defendant.

DONE and ORDERED in Ocala, Florida on April 16, 2015.



PHILIP R. LAMMENS
United States Magistrate Judge

²The plaintiff attaches a proposed order to its motion that would permit it to also serve a subpoena "on any provider identified in response to a subpoena as a provider of Internet services to the Defendant." [Doc. 6-4 ¶3](#). The plaintiff has not requested that relief or otherwise explained the basis for the proposed language in its motion. [Docs. 6; 6-1](#). The Court therefore declines to include it.

³[Section 522\(5\)](#) defines a "cable operator" as "any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system."

Copies furnished to:

Counsel of Record
Unrepresented Parties