

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MALIBU MEDIA, LLC.,

Plaintiff,

Case No. 13-CV-11406

vs.

HON. GEORGE CARAM STEEH

JOHN DOE subscriber assigned IP
address 68.42.169.117,

Defendant.

ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO SERVE
THIRD-PARTY SUBPOENA PRIOR TO RULE 26(f) CONFERENCE (DOC. # 3)

Before the court is plaintiff's motion for leave to serve third-party subpoena prior to a Fed. R. Civ. P. 26(f) conference, which under ordinary circumstances would be premature. Plaintiff, owner of the copyrights to seven films at issue, alleges that defendant "John Doe" has infringed those copyrights by accessing the films over the internet. Plaintiff seeks to discover the identity of the John Doe defendant through his or her internet service provider ("ISP"), by securing from the ISP the identifying information associated with the internet protocol ("IP") address assigned to defendant.

This court may permit plaintiff to seek discovery prior to the parties' initial conference for good cause. Fed. R. Civ. P. 26(b)(1). In a situation like this, where the defendant may be identified only through such discovery, which is necessary to continue with the litigation, the court finds such good cause exists.

Accordingly, plaintiff's motion is GRANTED. Plaintiff may serve a Fed. R. Civ. P. 45 subpoena on the ISP identified on Exhibit A to the motion, for the purpose of obtaining the name, residential address, telephone number and e-mail address of the

defendant to this action. Such subpoena shall include a return date no sooner than 60 days after the date of service. Plaintiff shall attach a copy of this order to any such subpoena that it issues. Disclosure of the information is ordered under 47 U.S.C. § 551(c)(2)(B), which authorizes cable operators to disclose subscribers' identifying information upon court order.

ISPs receiving subpoenas pursuant to this order shall give written notice, which may include email notice, to the identified subscribers within 10 business days of the service of the subpoena, and include a copy of this order with such written notice. If a motion to quash the subpoena is made by an ISP or defendant to this action, such motion must be made prior to the return date of the subpoena. An ISP shall preserve all subpoenaed information pending the resolution of a timely filed motion to quash.

IT IS SO ORDERED.

Dated: April 15, 2013

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 15, 2013, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk