

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Screen Media Ventures, LLC, :  
: Plaintiff, :  
v. : Case No. 2:13-cv-845  
: JUDGE EDMUND A. SARGUS, JR.  
John Does 1-48, : Magistrate Judge Kemp  
: Defendants. :

ORDER

This matter is before the Court to consider the response to the Court's show cause order directing Screen Media to show cause why this case should not be dismissed for lack of subject matter jurisdiction.

The background of this copyright infringement action was set forth in some detail in the Court's previous order and will not be repeated here. Briefly, however, in the prior order, the Court concluded that, based on the record before it, it was not persuaded that Screen Media had established its standing to pursue this copyright infringement action. Consequently, the Court denied Screen Media's application for early discovery.

In response to the Court's order, Screen Media continues to assert that it "is in fact a legal or beneficial owner of the exclusive right to distribute copies of the copyrighted Motion Picture to the public." Further, it contends that it "has the subdivided exclusive right to enforce the distribution rights therein, including the exclusive right to file claims for copyright infringement . . . ."

In support of its position, Screen Media has submitted the declaration of Gino Pereira, an authorized representative of Infected, LLC, dated October 7, 2013. According to this 4-paragraph declaration, Infected, LLC, has a sales agency

agreement with Screen Media for the distribution of the motion picture. This agreement was in place prior to the filing of the lawsuit. It was the understanding and intent of Infected, LLC, that this agreement granted Screen Media the exclusive rights Screen Media claims to possess and not merely the bare right to sue. Mr. Pereira states that he signed and authorized the confirmation letter attached to the complaint as Exhibit A as a representative of Infected, LLC.

Attached to Mr. Pereira's affidavit is a document entitled "Clarification Agreement." This agreement appears to have been executed by Mr. Pereira, as an authorized representative of Infected, LLC, on October 7, 2013, and by an authorized representative of Screen Media on October 15, 2013. According to this agreement, Screen Media has been granted exclusive rights held by Infected, LLC under 17 U.S.C. §106, including the exclusive right to distribute copies of the copyrighted motion picture "Infected."

Based on this additional evidence, the Court is satisfied that Screen Media has met its burden of establishing its standing to pursue this copyright infringement action. In light of this, the Court can now consider whether Screen Media has otherwise demonstrated good cause for expedited discovery under the standard set forth in its previous order.

In Exhibit B to its complaint, Screen Media provides the IP address assigned to each Doe defendant, the date and time of the download at issue, the hash identifier, the ISP, and the location of the IP address. The Court concludes that, based on this information, Screen Media has identified the Doe defendants with sufficient specificity. Further, based on the declaration of Darren M. Griffin, a software consultant, Screen Media has described in detail its efforts to identify the Doe defendants. Additionally, Screen Media has pled a copyright

infringement claim. Finally, Screen Media has demonstrated that the information it seeks is likely to lead to information which will allow it to identify and perfect service on the Doe defendants.

Given Screen Media's stated purpose in seeking this information, there is no suggestion that the Doe defendants would be prejudiced by allowing such limited expedited discovery. Rather, as the Court explained in Malibu Media, LLC v. John Does 1-23, 2012 WL 1144822, \*2 (D. Colo. April 4, 2012),

Much like the Arista Records defendants, Defendants here have engaged in anonymous online behavior, which will likely remain anonymous unless Plaintiff is able to ascertain their identities. Thus, Plaintiff reasonably believes that there are no practical methods to discover Defendants' identities without court-ordered discovery. Accordingly, because it appears likely that Plaintiff will be thwarted in its attempts to identify Defendants without the benefit of formal discovery mechanisms, the court finds that Plaintiff should be permitted to conduct expedited discovery, pursuant to Fed.R.Civ.P. 45, for the limited purpose of discovery the identities of Defendants.

Taking all of the above into account, the Court concludes that Screen Media has demonstrated good cause for the expedited discovery. Consequently, Screen Media will be entitled to serve discovery on the internet service providers as set forth below.

For the reasons stated above, it is ordered that Plaintiff may serve limited, immediate discovery on the internet service providers ("ISPs") identified in Exhibit 1 to the Declaration of Darren M. Griffin and on any later-discovered unknown or intermediary ISPs to obtain the identity of each Doe Defendant or other identified alleged infringers by serving a Rule 45 subpoena that seeks documents that identify each Doe defendant, including the name, addresses, telephone numbers, email addresses, and Media Access Control addresses for each alleged infringer. The disclosure of this information is ordered pursuant to 20 U.S.C. §

1232g(b)(2)(B) where applicable to educational institutions.

It is further ordered that any information that is disclosed to Plaintiff in response to the Rule 45 subpoenas may be used by Plaintiff solely for the purpose of protecting Plaintiff's rights under the Copyright Act.

/s/ Terence P. Kemp  
United States Magistrate Judge