

# EXHIBIT N

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

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BREMENN RESEARCH LABS, LLC.,  
BREMENN IP HOLDINGS, LLC, and  
BASIC RESEARCH, LLC

Plaintiffs,

v.

JOHN DOES 1-20 et al.,

Defendants.

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR DISCOVERY**

Civil No. 2:07 cv 45 TC

Judge Tena Campbell

Magistrate Judge Brooke C. Wells

This matter comes before the court on Plaintiffs' *Ex Parte* Motion for Leave to take Immediate Discovery.<sup>1</sup> In their Complaint<sup>2</sup> Plaintiffs allege that Defendants-which are currently unknown-are "engaged in an ongoing and deliberate violation of Plaintiffs' trademark rights by selling and offering for sale products identified as the Hylexin® eye cream product over the Internet web site Overstock.com."<sup>3</sup> Plaintiffs seek discovery from third party, Overstock.com, to identify the unknown Defendants. Additionally, Plaintiffs represent that they intend to seek a preliminary injunction to prevent further misappropriation of their marks once they learn the identity of Defendants with this discovery.<sup>4</sup> After consider Plaintiffs' request, along with relevant case law, the court finds that Plaintiffs have demonstrated good cause that discovery should precede. The court therefore GRANTS Plaintiffs' motion. But, the court will allow

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<sup>1</sup> Docket no. 4.

<sup>2</sup> Docket no. 2.

<sup>3</sup> Mem. in Supp. p. 1.

<sup>4</sup> *See id.* p. 2.

Overstock.com an opportunity to move to quash the subpoena because Plaintiffs' motion is *Ex Parte*.

Under Rule 26(d) "a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)."<sup>5</sup> The traditional sequence of discovery may, however, be altered by the court in the exercise of its broad discretion. But, the party seeking expedited discovery in advance of a Rule 26(f) conference bears the burden of showing good cause for departing from the usual discovery procedures.<sup>6</sup> Good cause exists "where a party seeks a preliminary injunction . . . or where the moving party has asserted claims of infringement and unfair competition."<sup>7</sup>

Here, Plaintiffs have filed a complaint alleging trademark infringement and they seek a preliminary injunction. Both of these elements meet the good cause threshold.<sup>8</sup> And, in the court's view, the fact that Plaintiffs do not know the identity of the alleged defendants further supports Plaintiffs' need for expedited discovery.

Accordingly, it is hereby Ordered

that Plaintiffs' *Ex Parte* Motion for Leave to take Immediate Discovery is GRANTED.

Plaintiffs may serve discovery pursuant to Rule 45<sup>9</sup> on Overstock.com to ascertain the identity of the purported defendants. It is further Ordered

that Plaintiffs shall serve on Overstock.com a copy of Plaintiffs' Complaint and this order along with the discovery requests. If Overstock.com desires to move to quash any subpoenas served on them by Plaintiffs they must do so within ten days following service. The court finds

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<sup>5</sup> Fed. R. Civ. P. 26(d).

<sup>6</sup> See *Pod-Ners, LLC v. Northern Feed & Bean of Lucerne, LLC*, 204 F.R.D. 675, 676 (D.Colo.2002).

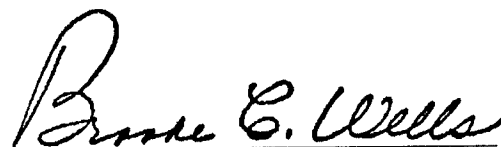
<sup>7</sup> *Qvc - Communications Int'l Inc. v. Worldquest Networks, Inc.*, 213 F.R.D. 418, 419 (D.Colo.2003).

<sup>8</sup> See *id.*

<sup>9</sup> See Fed. R. Civ. P. 45.

it is appropriate to allow Overstock.com this opportunity because Plaintiffs motion is brought *Ex Parte*.

Dated this 12th day of February, 2007.

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive style with a large, looping initial 'B'.

Brooke C. Wells  
United States Magistrate Judge

04-CV-02218-ORD

The Honorable John C. Coughenour

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION, a  
Washington corporation,  
  
Plaintiff,  
  
v.  
  
JOHN DOES 1-50 d/b/a yourloanz.com,  
  
Defendants.

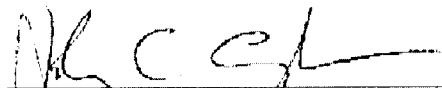
No. 2:04-cv-02218

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR LEAVE  
TO CONDUCT THIRD-PARTY  
DISCOVERY**

Plaintiff Microsoft Corporation's Motion for Leave to Conduct Third-Party Discovery  
is hereby GRANTED.

Microsoft Corporation ("Microsoft") shall have until April 1, 2005, to conduct the  
discovery, including issuing subpoenas to, and conducting depositions of, third-party hosting  
companies and internet service providers, Internet domain registrars, e-mail service providers,  
electronic payment processors, and banks, as reasonably necessary to identify and effect  
service of the summons and complaint on the Doe defendants.

ORDERED this 30 day of Nov, 2004.

  
The Honorable John C. Coughenour  
United States District Court Judge

**[PROPOSED] ORDER GRANTING PLAINTIFF'S  
LEAVE TO CONDUCT THIRD-PARTY  
DISCOVERY - 1  
CASE NO. 2:04-cv-02218**

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Presented by:

/s/ Joanne M. Hepburn  
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Joanne M. Hepburn, WSBA #32841  
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Attorneys for Plaintiff  
Microsoft Corporation

**[PROPOSED] ORDER GRANTING PLAINTIFF'S  
LEAVE TO CONDUCT THIRD-PARTY  
DISCOVERY - 2  
CASE NO. 2:04-cv-02218**

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION, a Washington corporation,

Plaintiff,

v.

JOHN DOES 1-217,

Defendants.

CASE NO. C06-1192RSM

ORDER GRANTING LEAVE TO  
CONDUCT THIRD-PARTY  
DISCOVERY

Plaintiff Microsoft Corporation's Motion for Leave to Conduct Third-Party Discovery (Dkt. #3) is hereby GRANTED.

Microsoft Corporation ("Microsoft") is authorized to conduct such discovery by issuing subpoenas to, and conducting depositions of, third parties for the purpose of determining the identities of defendants John Does 1-217 in this matter. Microsoft's authorization in this respect includes the authorization to issue subpoenas to third parties it has identified through public records, as well as follow-up subpoenas to third parties it identifies based on production it receives in response to its initial subpoenas.

This Order authorizes any cable provider to whom Microsoft properly issues a subpoena for information related to the defendants to disclose personal information of its customers pursuant to 47 U.S.C. §551.

Microsoft's authority to issue third party subpoenas pursuant to this Order shall expire at

1 the close of business 120 days from filing date of this order.

2 ORDERED this 14th day of September, 2006.

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RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DYNASTY ZAROONI INC., a Bahamas Corporation, and KABIR MULCHANDANI, an individual, )  
Plaintiffs )  
vs. )  
JOHN DOES 1-50 )  
Defendants. )

No. C-08-05086 JCS

~~Revised Proposed~~ ORDER GRANTING  
PLAINTIFFS' *EX PARTE* APPLICATION  
FOR LEAVE TO TAKE EXPEDITED  
DISCOVERY

Having considered Dynasty Zarooni Inc. and Kabir Mulchandani's *Ex Parte* Application For Leave to Take Expedited Discovery, and all supporting papers and arguments,;

IT IS HEREBY ORDERED THAT:

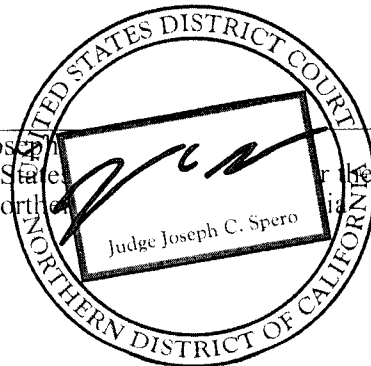
1. Plaintiffs may serve immediate discovery to obtain the identity of each DOE defendant by serving subpoenas upon Wordpress, YouTube, VodPod, ZoomInfo, Blogger, Blog.com, Inc., and Flickr pursuant to Federal Rule of Civil Procedure 45 that seek information sufficient to identify each DOE defendant, including the name, e-mail address, physical address, Internet protocol (IP) address, and media access control (MAC) address for each defendant;

2. Any information disclosed to Plaintiffs in response to the Rule 45 subpoenas may be used by Plaintiffs solely for the purposes of protecting Plaintiffs' rights in this lawsuit;

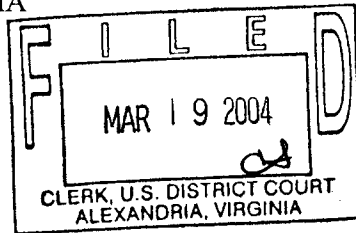
3. Without such discovery, Plaintiffs cannot identify the DOE defendants, and thus cannot pursue their lawsuit against the DOE defendants.

Dated: November 18, 2008

Hon. Joseph C. Spero  
United States District Court  
Northern District of California



IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division



AMERICA ONLINE, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JOHN DOES 1-40, )  
 )  
Defendants. )

CIVIL ACTION NO. 04-260-A

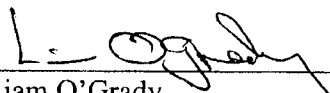
ORDER

For the reasons stated from the bench, and in accord with specific rulings thereto,  
it is hereby

ORDERED that Plaintiff's motion for limited authority to conduct discovery  
necessary to identify and serve Defendants is GRANTED.

Plaintiff shall conclude these discovery efforts and serve any identified  
Defendants by June 18, 2004.

ENTERED this 19th day of March, 2004.

  
\_\_\_\_\_  
Liam O'Grady  
United States Magistrate Judge

Alexandria, Virginia