
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

DISNEY ENTERPRISES, INC.;
LUCASFILM LTD. LLC; TWENTIETH
CENTURY FOX FILM CORPORATION;
WARNER BROS. ENTERTAINMENT
INC.; MVL FILM FINANCE LLC; NEW
LINE PRODUCTIONS, INC.; and TURNER
ENTERTAINMENT CO.,

Petitioners,

vs.

VIDANGEL, INC.,

Defendant.

**ORDER SETTING HEARING AND
REQUIRING PETITIONERS TO FILE
REPLY**

Case No. 2:19-mc-00122

Judge Clark Waddoups

Background

On February 22, 2019, Petitioners filed four Motions to Compel Responses to subpoenas issued in Disney Enterprises, Inc. et al. v. VidAngel, Inc., No. 2:16-cv-04109-AB (C.D. Cal.) (the “California Case”). Plaintiffs in that case allege that VidAngel, Inc. “infring[ed] Plaintiffs’ exclusive rights under the Copyright Act” and also allege that VidAngel “violat[ed] the Digital Millennium Copyright Act. (2:16-cv-04109, ECF No. 228 at 2.)

The four subpoenas were served on four non-parties, one of whom was Bill Aho. Mr. Aho was served with a subpoena to produce documents on January 23, 2019. (ECF No. 10-2 at 2.) Mr. Aho has not produced any documents in response to that subpoena. (See ECF No. 10 at 2.) On February 22, 2019, Petitioners filed an Expedited Short Form Discovery Motion to

Compel Bill Aho's Response to Subpoena Duces Tecum. (ECF No. 3.) On February 25, 2019 the Petitioners paid their filing fee, and the filing date of the case was changed to 2/25/2019. (ECF No. 6.) On February 27, 2019, the court entered an order requiring service of Petitioners' motions. (ECF No. 7.) On March 1, 2019 the Petitioners filed a response to the court's order explaining that three of the respondents, including Mr. Aho, were represented by David Quinto, and explaining that David Quinto is registered to use ECF in this district, thus satisfying the requirement for service under Fed. R. Civ. P. 5(b)(2)(E). (See ECF No. 8 at 2.) Petitioners also requested that consideration of three of their Motions "proceed with their filing date of February 25, 2019." (ECF No. 8 at 2.)

On March 4, 2019, Petitioners filed a Motion to Expedite Consideration of Motion to Compel Bill Aho's Response to Subpoena Duces Tecum. (ECF No. 10.) In this Motion, Petitioners explained that Mr. Aho is scheduled to have a deposition on March 11, 2019. (ECF No. 10 at 2.) Petitioners seek to obtain the documents at issue prior to the deposition, and "request that the Court compel production of the documents by March 8, 2019" (ECF No. 10 at 3.)

On March 4, 2019, Mr. Aho, through his attorney Jay M. Philpot, filed a Response in Opposition to Petitioner's Motion and Counter Motion to Quash. (ECF No. 12.) In this Response, Mr. Aho made three arguments. First, that "[t]he subpoena is untimely under the active scheduling order in the Central District of California, because it was not served sufficiently in advance of the March 18, 2019 fact discovery cut-off." (ECF No. 12 at 1.) Second, that "[t]he subpoena is invalid under DUCivR 37-1(a)(9) because it was not served with a copy of the local rule; and under Federal Rules of Civil Procedure, Rule 45(c)(2)(A) because it

requires compliance outside the 100 miles allowed.” (ECF No. 12 at 2.) And third, that “Plaintiffs’ request is also overbroad and an impermissible fishing expedition.” (ECF No. 12 at 2 (citation omitted).)

Analysis

As an initial matter, the court agrees with Petitioners that the consideration of three of their Motions should proceed with the filing date of February 25, 2019. David Quinto previously represented Bill Aho, Dalton Wright, and Harmon Ventures LLC with respect to the subpoenas. Mr. Quinto previously filed an Electronic Case Filing Registration Form in connection with his Motion for pro hac vice admission in a separate case. (See 2:14-cv-160, ECF No. 149-2.) Judge Nuffer granted David Quinto’s Motion. (See 2:14-cv-160, ECF No. 152.) The court is satisfied that David Quinto is a “registered user” of this district’s electronic filing system. The agrees with Petitioners that David Quinto was effectively served. Consideration of Petitioners’ three Motions shall proceed with the filing date of February 25, 2019.

In this district, if a party files a short form discovery motion, “[t]he opposing party must file its response five business days after the filing of the Motion” DUCivR 37-1(a)(6). Mr. Aho filed his Response on March 4, which is five business days after the filing of Petitioner’s Motions. “To resolve the dispute, the court may . . . set a hearing, telephonic or otherwise . . . and . . . request further briefing and set a briefing schedule.” DUCivR 37-1(a)(7)(B-C).

Order

The court orders the following:

- I. Petitioners shall file Replies to Respondents’ Responses (ECF Nos. 11–14) on or before March 6, 2019.

II. The court sets a hearing on four of Petitioners' Motions, (ECF Nos. 2–5) for March 7, 2019 at 3:00 p.m. in room 8.100.

DATED this 5th day of March, 2019

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Clark Waddoups".

Clark Waddoups
United States District Judge