

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

CVENT, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:10-cv-481(LMB/IDD)
)	
EVENTBRITE, INC.)	
)	
and DOES 1-10, individuals and/or business entities of unknown nature,)	
)	
Defendants.)	
)	

**PLAINTIFF CVENT, INC.’S MEMORANDUM IN SUPPORT OF ITS
MOTION FOR EXPEDITED DISCOVERY
CONCERNING IDENTITY OF DEFENDANTS DOE 1-10**

Plaintiff Cvent, Inc. (“Cvent”), by counsel, respectfully requests that it be granted immediate, extremely limited discovery to enable it to identify the Defendants currently designated as “Does 1-10,” so that those Defendants may be made parties to this action in their own names and served with a copy of the Complaint and Plaintiff Cvent’s pending Motion for Preliminary Injunction. The relief Plaintiff seeks from the Court is the authorization to issue two one-item requests for the production of documents.

ARGUMENT

Plaintiff Cvent has alleged a classic case of intellectual property theft, accomplished by modern means over the internet. Plaintiff will not restate here its allegations, which are the subject of pending Motions for a Temporary Restraining Order and Preliminary

Injunction, an accompanying Memorandum and three Declarations. In essence, Cvent has alleged that Defendant Eventbrite, acting in concert with other “Doe” Defendants whose actual identities are presently unknown, schemed to use automated “web scraping” techniques to copy valuable proprietary content from thousands of pages of Cvent’s cvent.com website and to redistribute that content on Eventbrite’s eventbrite.com website in violation of Federal and Virginia Law.

Plaintiff Cvent seeks immediate, extremely limited discovery of named Defendant Eventbrite and of a third-party computer hosting provider so that it may identify the Doe Defendants. Such discovery will enable Defendants currently designated as “Does 1-10” to be made parties to this action in their own names., and will allow Cvent to serve them with a copy of the Complaint and Plaintiff Cvent’s pending Motion for a Preliminary Injunction, affording them the opportunity to respond. Second, identifying the Doe defendants will allow Cvent to notify them as soon as possible of the pendency of the action and request that a “litigation hold” be placed on potentially discoverable materials – a particularly important step in a case such as this one, which involves the use of computers and electronically stored information which may be subject to inadvertent or deliberate deletion.

I. COURTS REGULARLY ALLOW EXPEDITED DISCOVERY TO LEARN THE IDENTITY OF “DOE” DEFENDANTS.

As an initial matter, this Court possesses the power to order early, expedited discovery into the identity of unknown “Doe” defendants. *See, e.g., Arista Records LLC v. Does 1-4*, No. 1:07-CV-1115, 2007 WL 4178641 (W.D. Mich. Nov. 20, 2007), at *1 (citing cases); Fed. R. Civ. P. 26(d) (allowing for expedited discovery “by court order”). Courts regularly order

such discovery in internet-based intellectual property infringement cases, especially where (as here) the real identity of an alleged infringer is unknown, but the IP address used by that infringer is known. *See, e.g., Capitol Records, Inc. v. Doe*, No. 07-CV-1570-JM(POR) (S.D. Cal. Aug. 24, 2007); *Arista Records*, 2007 WL 4178641 at *1. Indeed, one District Court, collecting and analyzing the cases, has concluded that “discovery to allow the [identification] of Does defendants is routine.” *Laface Records, LLC v. Atlantic Recording Corp.*, Civ. A No. 07-187, 2007 WL 4286189 (W.D. Mich. Sept. 27, 2007), at *2.

II. CVENT’S PROPOSED DISCOVERY IS LIMITED AND NARROWLY-TAILORED TO IDENTIFY THE DOE DEFENDANTS.

Plaintiff Cvent has proposed two discovery requests to enable it to identify the Doe defendants; each is narrowly-tailored to achieve that objective. *First*, Cvent seeks to issue a Request for Production to named Defendant Eventbrite, Inc. (“Eventbrite”) for “documents sufficient to identify” all those involved in the conception, planning, and creation of Eventbrite’s “venues directory” which, Plaintiff contends, is a product of the Defendants’ scheme to unlawfully “scrape” proprietary content from Cvent’s website and to redistribute that content on Eventbrite’s website. This Request for Production will allow Cvent to identify the other participants in the scheme via discovery to the one currently identifiable participant—Eventbrite. *Second*, Plaintiff seeks a subpoena *duces tecum* to Liquid Web, Inc., a Lansing, Michigan-based computer hosting provider, for “documents sufficient to identify” the user of Internet Protocol (IP) address 67.225.179.162 during the relevant period, a computer IP address which has been implicated by Cvent in a series of unlawful mass downloads of thousands of web pages of Cvent content – content which was then redistributed on defendant Eventbrite’s website. *See generally*

Cvent's Memorandum in Support of Points and Authorities in Support of its Motion for a Temporary Restraining Order and Preliminary Injunction ("Mem. In Support") at 6-12. Copies of the proposed discovery requests are attached to the Proposed Order submitted with this Motion.

CONCLUSION

Plaintiff Cvent has set out *prima facie* claims for relief under, *inter alia*, the Copyright Act 17 U.S.C. § 101 *et seq.*, the Lanham Act (15 U.S.C. § 1125(a)), and the Computer Fraud and Abuse Act (18 U.S.C. § 1030). *See generally* Mem in Support at 16-23. It has proposed narrow, targeted discovery requests to learn the true identities of Does 1-10, and has no practical means to obtain the information otherwise. The information is critical to this case, serving both to give the Does notice of the Complaint and pending Motions, and to prevent loss of potentially discoverable information, and it violates no privacy interest. In such circumstances, issuance of the requested expedited discovery is, Cvent submits, appropriate. *Cf. Arista Records LLC v. John Does 1-19*, 551 F.Supp.2d 1, 6 (D.D.C. 2008) (granting discovery and noting "the overwhelming number of cases" in which courts permitted expedited discovery in Doe cases; case at bar presented both privacy statute and First Amendment implications); *Fonovisa, Inc. v. Does 1-9*, No. 07-CV-1515, 2008 WL 919701 (W.D. Pa. April 3, 2008) (finding "good cause" for expedited discovery in Doe case with privacy statute and First Amendment implications); *Sony Music Entertainment v. Does 1-40*, 326 F.Supp.2d 556, 565-67 (finding "good cause" in Doe subpoena case with First Amendment implications). Plaintiff Cvent therefore respectfully requests that the Court grant its Motion.

Respectfully submitted,

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