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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 ME2 PRODUCTIONS, INC.,

9 Plaintiff,

10 v.

11 DAVID LUPASTEAN, *et al.*,

12 Defendants.

Case No. C16-1882RSL

ORDER GRANTING IN PART
MOTION FOR EXTENSION OF
TIME

13 This matter comes before the Court on plaintiff's motion for an extension of time
14 in which to serve the complaint. Dkt. # 13. A party generally has 90 days after a
15 complaint is filed in which to serve the defendant. Fed. R. Civ. P. 4(m). It can be
16 challenging to meet this deadline in BitTorrent cases where plaintiff must first conduct
17 discovery from the ISP before it can identify and serve the defendant. It can be done,
18 however, and the Court expects a good faith effort to comply with the service deadline.
19 Where the motion for leave to conduct expedited discovery is filed and granted in a
20 timely manner and the ISP responds promptly, plaintiff has some time – a few days or
21 weeks depending on the production date – in which to pursue an amicable resolution of
22 the case before utilizing the waiver of service procedure set forth in Fed. R. Civ. P. 4(d).
23 If plaintiff opts to spend additional time negotiating with persons who have not yet been
24 brought into the suit, it would still have time to engage a process server and accomplish
25 service in a timely manner. In these scenarios, an extension of time should be necessary
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ORDER GRANTING IN PART MOTION
FOR EXTENSION OF TIME - 1

1 only if a defendant failed to waive or was dodging service.

2 Here, plaintiff obtained the necessary contact information more than five weeks
3 before the March 8, 2017, service deadline. It opted to send two letters to the subscribers
4 and delayed mailing the waivers until it was too late to obtain responses within the
5 allotted time frame. It now seeks a sixty day extension of time so that it can receive
6 waivers and, if one or more defendants refuse to waive, can hire a process server.

7 Although good cause has not been shown and the Court expects plaintiff to further
8 modify its procedures as set forth above, plaintiff has at least attempted service prior to
9 the deadline and has timely moved for an extension. In these circumstances, the Court
10 finds that dismissal of this action would be unnecessarily punitive. Nevertheless, a
11 prophylactic sixty day extension of the service deadline – to deal with the possibilities
12 that one or more defendants may refuse to waive and/or that personal service may prove
13 difficult – is not warranted. Plaintiff shall have an additional month, until April 8, 2017,
14 to file proofs of waiver as to all defendants or a second motion for extension of time
15 detailing the efforts made toward effecting personal service.

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17 Dated this 22nd day of February, 2017.

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19 Robert S. Lasnik
20 United States District Judge
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