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

8 COOK PRODUCTIONS, LLC,,
9

10 Plaintiff,

11 v.

12 SOMCHIT SITHISAK, et al.,

13 Defendants.

C16-1884 TSZ

MINUTE ORDER

14 The following Minute Order is made by direction of the Court, the Honorable
15 Thomas S. Zilly, United States District Judge:

16 (1) Defendant Doe 7's motion to quash or vacate the subpoena, docket no. 16,
17 is DENIED. The Court must quash a subpoena if the discovery sought "can be obtained
18 from some other source that is more convenient, less burdensome, or less expensive."
19 Fed. R. Civ. P. 26(b)(2)(C)(i). Doe 7 argues that plaintiff's subpoena to Comcast should
20 be quashed because plaintiff has "no credible, reliable evidence that Doe 7 has
21 downloaded plaintiff's movie" and because the subpoena subjects Doe 7 to an undue
22 burden. But plaintiff is not required to prove the substance of its claims in order to obtain
23 discovery, and Doe 7 has offered no support for her bald assertion that discovery of the
name, telephone number, address, and email address connected with her assigned Internet
Protocol ("IP") address would subject her to undue burden given that compliance requires
no action on her behalf.¹ See *Mount Hope Church v. Bash Back!*, 705 F.3d 418, 427-28

¹ Doe 7 has likewise failed to articulate any legitimate expectation of privacy in her
identity given that she freely communicated the relevant information to her internet service
provider. See, e.g., *Sony Music Entm't Inc., v. Does 1-40*, 326 F. Supp. 2d 556, 566 (S.D.N.Y.
2004) ("[D]efendants' First Amendment right to remain anonymous must give way to plaintiffs'

1 (9th Cir. 2012) (noting that “undue burden” refers to the “burden associated with
2 compliance” and finding no undue burden where the burdens of complying with the
3 subpoena were not “logistical burden[s] or the result of a failure to narrowly tailor
4 requests.”). The Federal Rules of Civil Procedure permit a party to “obtain discovery
5 regarding any nonprivileged matter that is relevant to any party’s claim or defense,” Fed.
6 R. Civ. P. 26(b)(1), and discovery regarding the subscriber’s identity is plainly relevant to
7 plaintiff’s claims. Although there is no guarantee that the owner of the IP address which
8 downloaded plaintiff’s film was, in fact, the person who ultimately downloaded it, the
9 owner is likely to, at a minimum, have information relevant to the discovery of the actual
10 infringer. Precluding discovery of identifying information altogether would prevent
11 copyright holders from enforcing their rights in the BitTorrent context no matter how
12 meritorious the claim or how blatant or widespread the infringement. Identifying the
13 owner of the IP address connected to the alleged infringement is the sole method of
14 advancing plaintiff’s claim, and thus, there is no “other source” that would satisfy Fed. R.
15 Civ. P. 26(b)(2)(C)(i).

16 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
17 record.

18 Dated this 4th day of April, 2017.

19 William M. McCool
20 Clerk

21 s/Karen Dews
22 Deputy Clerk

23 right to use the judicial process to pursue what appear to be meritorious copyright infringement
claims.”).