

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

K-BEECH, INC.,

Plaintiff,

v.

JOHN DOES 1-18,

Defendants.

Case No: 2:11-cv-15226-AC-LJM

**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO  
JOHN DOE 11'S MOTION TO QUASH**

John Doe 11 fails to provide this Court with a valid reason to quash the subpoena. Rule 45(c)(3) provides that a court must modify or quash a subpoena that fails to allow a reasonable time to comply; requires a non-party to travel more than 100 miles (except for trial within the state); requires disclosure of privileged materials; or, subjects a person to undue burden. See Fed.R.Civ.P. 45(c)(3)(A)(i-iv). The Rule also provides for the circumstances in which a court may modify or quash a subpoena. These circumstances consist of when the subpoena requires disclosure of trade secrets; disclosure of certain expert opinions; or, requires a nonparty to incur substantial expense to travel more than 100 miles to attend a trial. See Rule 45(c)(3)(B)(i-iii).

Defendant has not provided a reason consistent with those listed above to quash the subpoena. Defendant's Motion merely asserts a defense or denial of infringement. In a similar case of online copyright infringement in this Circuit, a court refused to quash a subpoena seeking identifying information on the grounds that "[t]he motion does not rely on any of these bases to quash a subpoena; instead, Doe #13 attacks the merits of the *Complaint*, [and] argues that the Doe defendants were unaware of any infringement . . . [f]or the reasons stated *supra*, Doe # 13's arguments are misplaced and insufficient." Arista Records, LLC v. Does 1-15, 2:07-CCV-450, 2007 WL 5254326 (S.D. Ohio May 17, 2007). Similarly, a motion to quash the subpoena was

denied in LaFace Records, LLC v. Does 1-5, where the defendant “failed to establish the subpoena should be quashed for any reason provided under Rule 45.” LaFace Records, LLC v. Does 1-5, 2:07-CV-187, 2008 WL 513508 (W.D. Mich. Feb. 22, 2008).

For the foregoing reasons, Plaintiff respectfully requests that the Court deny the subject motion.

This 23 day of March, 2012.

Respectfully submitted,

*/s/ John S. Hone*

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John S. Hone  
Michigan Bar No. P36253  
Attorney for Plaintiff  
The Hone Law Firm, P.C.  
28411 Northwestern Hwy., Ste. 960  
Southfield, Michigan 48034  
P: (248) 948-9800  
F: (248) 948-9811  
*jhone@honefirm.com*

**CERTIFICATE OF COMPLIANCE**

Pursuant to MI R USDCTED LR 5.1(a) I hereby certify that the PLAINTIFF'S MEMORANDUM IN OPPOSITION has been prepared using one of the font and point selections approved by the Court in MI R USDCTED LR 5.1(a)(3). This document was prepared using Times New Roman (12 pt.).

This 23 day of March, 2012.

*/s/ John S. Hone*

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John S. Hone

Michigan Bar No. P36253

Attorney for Plaintiff

The Hone Law Firm, P.C.

28411 Northwestern Hwy., Ste. 960

Southfield, Michigan 48034

P: (248) 948-9800

F: (248) 948-9811

*jhone@honefirm.com*