

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MALIBU MEDIA, LLC.,

Plaintiff,

v.

JOHN DOES 1-5,

Defendants.

Civil Action No. 12-01393 (CKK)

ORDER

(December 9, 2012)

Upon consideration of Plaintiff's [4] Motion for Leave to Serve Third Party Subpoenas Prior to Rule 26(f) Conference, and because Plaintiff alleges in the Complaint that each of the five unnamed John Doe defendants' "acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District", *see* Compl. ¶ 4, the Court finds good cause to grant Plaintiff's Motion. *See Nu Image, Inc. v. Does 1-23*, 322, 799 F. Supp. 2d 34 (D.D.C. 2011); *People Pictures LLC v. Grp. of Participants in Filesharing Swarm Identified by Hash: 43F4CFD05C115EE5887F680B0-CA73B1BA18B434A*, 831 F. Supp. 2d 333 (D.D.C. 2011).

Accordingly, it is, this 9th day of December, 2012, hereby

ORDERED that Plaintiff's [4] Motion for Leave to Serve Third Party Subpoenas Prior to Rule 26(f) Conference is GRANTED and Plaintiff's [6] Motion for Expedited Hearing is DENIED AS MOOT; it is further

ORDERED that Plaintiff may serve each of the Internet Service Providers ("ISPs") listed on Exhibit B, ECF No. [4-4], to Plaintiff's Motion with a subpoena pursuant to Federal Rule of

Civil Procedure 45, commanding each ISP to provide Plaintiff with the true name, address, telephone number, e-mail address and Media Access Control (“MAC”) address of the defendant to whom the ISP assigned an IP address as set forth on Exhibit B to the Motion. Plaintiff shall attach to any such subpoena a copy of this Order, as well as the Complaint in this action; it is further

ORDERED that Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any service provider that is identified in response to a subpoena as a provider of internet services to one of the defendants; it is further

ORDERED that the ISPs listed in Exhibit B to Plaintiff’s Motion must be served with a subpoena within **fourteen (14) days** of the date of this Order. *A subpoena served on an ISP listed in Exhibit B to Plaintiff’s Motion after 14 days of this Order is not authorized*; it is further

ORDERED that all primary or intermediary ISPs that have or will be served with Rule 45 subpoenas in this case will, within **ten (10) days** of receiving this Order from Plaintiff, forward a copy of the Order and subpoena to all subscribers identified by Plaintiff as putative infringers of its motion picture copyright, accompanied by the attached *Notice*. The ISPs shall revise the *Notice* to include the information that presently appears in italics; it is further

ORDERED that because of the probable likelihood that the subscriber may not be liable for copyright infringement, and to avoid undue embarrassment due to the fact that the alleged copyright infringement appears to involve a pornographic work, the Plaintiff and the ISP are hereby prohibited from publicly disclosing any subscriber’s personally identifying information disclosed pursuant to this Order absent further order of this Court. *See Malibu Media, LLC v. John Does 1-11*, Civ. A. No. 12-0237, 2012 U.S. Dist. LEXIS 94648 (D.D.C. July 10, 2012); it is further

ORDERED that upon receipt of the actual names of the putative infringers, Plaintiff shall name as defendants only those persons that it can establish, in good faith and consistent with the requirements of Rule 11 of the Federal Rules of Civil Procedure, are properly subject to this Court's personal jurisdiction. Plaintiff must also establish that venue of its lawsuit against the putative infringers is properly laid in this judicial district; it is further

ORDERED that Plaintiff may only use the information disclosed in response to a Rule 45 subpoena served on an ISP for the purpose of protecting and enforcing Plaintiff's rights as set forth in its Complaint filed in this Court; and it is further.

ORDERED that, on or before **February 7, 2013**, Plaintiff shall file a Status Report with the Court briefly outlining its progress, including providing an expected completion date of the discovery allowed by this Order.

SO ORDERED.

_____/s/_____
COLLEEN KOLLAR-KOTELLY
United States District Judge