

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MALIBU MEDIA, LLC

Plaintiff

v.

John Does 1 - 43,

Defendants.

Civil Action No.: 12-cv-12597

Honorable Bernard A. Friedman

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Attorney for Third Party Subpoena
Recipient

JOINT STATEMENT OF RESOLVED/UNRESOLVED DISCOVERY ISSUES

Defendant, Doe No. 27, respectfully submit the statement of resolved/unresolved issues regarding the Motion to Quash Subpoena at D/E 7. Defendant, through counsel, contacted Malibu's attorney via email regarding jointly preparing and possibly resolving the issues presented in the Motion to Quash and as further required by this Court's October 13, 2012 Scheduling Order at D/E 13. Regretfully, Defendant did not receive any response from Malibu regarding preparation of this Statement. Therefore, Defendant files this Statement unilaterally.

Resolved Discovery Issues Involving Doe No. 27 Motion At Docket Entry 7:

None	
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Unresolved Discovery Issues Involving Doe No. 27 Motion At Docket Entry 7:

Motion To Quash Subpoena	Plaintiff's Position	Doe's Position
The Subpoena Should Be Quashed Because Comcast Did Not Comply With The Procedural Safeguards Required By The Court's Prior June 27, 2012 Order		The Ten (10) Day Written Notice Requirement Was Expressly Required In The Court June 27, 2012 Order, But Not Complied With
The Subpoena Should Be Quashed Because Comcast Failed To Provide The Doe Party With A Reasonable Time To Comply Under Fed.R.Civ.P. 45		The Timing And Procedural Defects In the Notice Given To Doe No. 27 Is/Was Inadequate Under Rule 45
The Subpoena Should Be Quashed Because It Presents An Undue Burden Without Linking Doe No. 27 To Any Alleged Infringing Activity		The April 29, 2011 Order of the U.S. District Court for the Central District of Illinois at D/E 7-3, which involves this same Plaintiff and a similar cause of action states: "IP subscribers are not necessarily copyright infringers ... The infringer might be the subscriber, someone in the subscriber's household, a visitor with her laptop, or someone parked on the street at any given moment." The Doe's Interest In Personally Identifiable Information Far Outweighs The Plaintiff's Interest – Especially Where It Always Remains A Plaintiff's Duty To Investigate And Ascertain A "Proper" Party
The Subpoena Should Be Quashed Because Joinder Of Unnamed Parties Is Improper Under Fed.R.Civ.P. 20(a)(2)		Permissive Joinder Is Wholly Improper Here For The Same Reasons Judge Steeh Gave In <i>Patrick Collins, Inc. v. John Does 1-23, 11-cv-15231</i> , 2012 WL 1019034 (E.D.Mich. 2012) since "there was never common activity linking the

		23 [IP] addresses in th[e] matter.” The same is true here.
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DATED: November 8, 2012

Stipulated and consented to by:

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