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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

|                        |   |                         |
|------------------------|---|-------------------------|
| Patrick Collins, Inc., | ) | No. CV-12-00687-PHX-ROS |
| Plaintiff,             | ) | <b>ORDER</b>            |
| vs.                    | ) |                         |
| Does 1-57,             | ) |                         |
| Defendant.             | ) |                         |

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Pending before the Court is Plaintiff’s motion for leave to take expedited discovery. (Doc. 3). Having considered the issues raised therein, including the requirements of the Cable Privacy Act, 47 U.S.C. § 551, Plaintiff’s motion will be granted.

**BACKGROUND**

Plaintiff filed a Complaint alleging copyright infringement and contributory infringement against unknown defendants. (Doc. 1). Plaintiff alleges persons in the on-line community duplicated and distributed unauthorized copies of Plaintiff’s copyrighted movie. Plaintiff seeks permission to take early discovery for the limited purpose of identifying these unknown defendants. Specifically, Plaintiff seeks to subpoena Comcast Cable, Cox Communications and Qwest Communications, each in its capacity as an Internet Service Provider (“ISP”), to determine the name, current and permanent address, telephone numbers, e-mail addresses, and Media Access Control (MAC) Address of subscribers connected to

1 specific IP addresses that have allegedly been used to infringe upon of Plaintiff's copyrighted  
2 works. (Doc. 1, Ex. A).

3 **ANALYSIS**

4 Where the identity of alleged defendants will not be known prior to the filing of a  
5 complaint, "the plaintiff should be given an opportunity through discovery to identify the  
6 unknown defendants, unless it is clear that discovery would not uncover the identities, or that  
7 the complaint would be dismissed on other grounds." *Gillespie v. Civiletti*, 629 F.2d 637, 642  
8 (9th Cir. 1980). More specifically, courts have recognized that, "[s]ervice of process can  
9 pose a special dilemma for plaintiffs in cases like this in which the tortious activity occurred  
10 entirely on-line." *Columbia Ins. Co. v. Seescandy.com*, 185 F.R.D. 573, 577 (N.D. Cal.  
11 1999).

12 The Court will exercise its discretion to allow Plaintiff to collect limited pre-service  
13 discovery from Comcast Cable, Cox Communications and Qwest Communications, and to  
14 excuse Plaintiff from the meet and confer requirements of Rule 26(d) and 26(f) for the  
15 limited purpose of determining the identities of the unknown defendants. The Court will  
16 order Comcast Cable, Cox Communications and Qwest Communications—to the extent they  
17 are "cable operator[s]" as defined by 47 U.S.C. § 522(5)—to comply with the notice provision  
18 contained in 47 U.S.C. § 551(c)(2)(B).

19 Accordingly,

20 **IT IS ORDERED** Plaintiff's motion for expedited discovery (**Doc. 3**) is **GRANTED**.  
21 Plaintiff is excused from the meet and confer requirements of Rule 26(d) and 26(f) and may  
22 subpoena Comcast Cable, Cox Communications and Qwest Communications for the limited  
23 purpose of discovering the identities of the subscribers to whom the IP addresses listed in  
24 Doc. 1, Exhibit A, had been assigned at the time the alleged unauthorized distribution of the  
25 copyrighted work occurred.

26 **IT IS FURTHER ORDERED** that, if served with such a subpoena, Comcast Cable,  
27 Cox Communications and Qwest Communications shall:

28 1) immediately suspend any process that might delete the information sought by

1 Plaintiff; and

2 2) have 30 calendar days from the date of service of the subpoena to

3 (a) comply with the notice provision contained in 47 U.S.C. § 551(c)(2)(B), if

4 the subpoenaed party is a “cable operator” as defined by 47 U.S.C. § 522(5), and

5 (b) respond to the subpoena.

6 **IT IS FURTHER ORDERED** Plaintiff shall serve a copy of this order to the  
7 subpoenaed parties.

8 DATED this 24<sup>th</sup> day of April, 2012.

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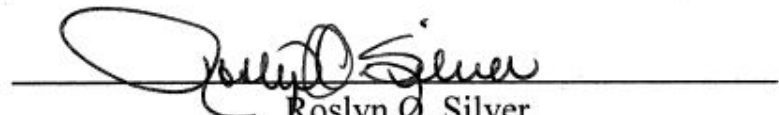
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Roslyn O. Silver  
Chief United States District Judge