

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

PATRICK COLLINS, INC.,

Plaintiff,

v.

CASE NO. 1:12-cv-00155-SPM-GRJ

DOES 1-8,

Defendant.

_____ /

ORDER

This matter is before the Court on Doc. 4, the Motion for Leave to Take Discovery Prior to Rule 26(f) Conference by Patrick Collins, Inc.. The plaintiff has filed a complaint against eight (8) John Does who allegedly have obtained copies of plaintiff's copyrighted work without authorization through a file-swapping network. The plaintiff requests leave to serve third party subpoenas on the defendant's Internet Service Providers (ISPs) to obtain defendants' names prior to a Rule 26(f) conference.

In the Complaint, however, Plaintiff alleges that each of the Defendant's acts of copyright infringement occurred using an Internet Protocol address traced to a physical address located within this District. *Comp.* ¶ 4. Plaintiff further alleges that each Defendant committed the tortious conduct alleged in the Complaint in the Middle District of Florida. The IP addresses listed in Exhibit A to the Complaint disclose that three of the IP addresses are located in the Middle District of Florida (Bushnell, Leesburg and Belleview) and the remaining five are located in the Northern District of Florida. Notably, only two of the eight Defendants are located in the Gainesville Division of the Court. Accordingly, the Defendants located in the Middle District of Florida properly

should not be included in a complaint filed in this district but rather should be included in a complaint filed in the Middle District of Florida. Additionally, the allegations in the complaint representing that all of the Defendants are located in the Middle District of Florida is inconsistent with Exhibit A and, therefore, should be amended before the Court permits the Plaintiff to proceed further.

For these reasons, the Motion for Leave to Take Discovery Prior to Rule 26(f) Conference by Patrick Collins, Inc. is due to be denied without prejudice to the right of Plaintiff to renew its motion after the deficiencies in the Complaint have been corrected.

Accordingly, it is now **ORDERED** as follows:

1. Plaintiff's Motion for Leave to Take Discovery Prior to Rule 26(f) Conference, Doc. 4, is **DENIED without prejudice**.

DONE AND ORDERED in Gainesville, Florida this 13th day of July, 2012.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge