

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

PATRICK COLLINS, INC.,

Plaintiff,

v.

JOHN DOES 1-21,

Defendants.

Case No: 2:11-cv-15232-DPH-MAR

**PLAINTIFF'S RESPONSE IN OPPOSITION TO OBJECTIONS OF DEFENDANT
JOHN DOE 18 TO THE REPORT AND RECOMMENDATION TO DENY
DEFENDANT JOHN DOE 18'S MOTION TO QUASH SUBPOENA AND DISMISS**

Plaintiff respectfully requests the Court deny Defendant's Objections and adopt the Report and Recommendation by the Honorable Judge Randon. Defendant's Objections are an attempt to discredit Plaintiff's purpose and dissuade this Court from the Honorable Judge Randon's well reasoned opinion regarding joinder in BitTorrent actions.

In support of his argument, Defendant relies on many cases holding joinder improper where hundreds, if not thousands, of defendants were joined together in a case, often with disregard for personal jurisdiction and venue. (See Def.'s Obj. 4-5 citing IO Group Inc. v. Does 1-435, No. 10-4382, 2011 U.S. Dist. LEXIS 14123 (N.D. Cal. Feb. 3, 2011), Pacific Century Int'l, Ltd. v. Does 1-101, No. 11-2533 (N.D. Cal. July 8, 2011), LFP Internet Group LLC v. Does 1-3,120, No. 10-2095 (N.D. Tex. Feb. 10, 2011), West Coast Prods. V. Does 1-2010, No. 10-0092 (N.D.W.Va. Dec. 16, 2010)). This case does not share the same procedural difficulties, nor is Plaintiff attempting to join with any improper purpose. Plaintiff recognizes that some cases will be litigated and it has entered this process fully expecting—and desiring—to litigate some cases to completion. Indeed, as Plaintiff explained in its Supplemental Brief (Dkt # 10), Plaintiff has intentionally limited the number of Doe Defendants in this case to a manageable

number to facilitate litigation. Further, in other cases filed by Plaintiff in other districts, Plaintiff has filed numerous individual suits against Defendants and in some cases has proceeded into the discovery phase of litigation.

Defendant's objection to joinder on the basis that it may subject the Defendants to "embarrassment, delay, expense, or other prejudice" lacks merit. Here, being sued in a joined case with other defendants, as opposed to being sued individually, offers no additional embarrassment. This is particularly true at this stage of the litigation because Plaintiff has not been able to identify or serve any individuals. Further, it is not likely defendant will suffer any additional expense, delay, or other prejudice. Indeed, Defendant will likely suffer delay if this case is severed and Plaintiff has to re-file an individual suit against him.

Defendant's legal arguments surrounding joinder in BitTorrent actions ignore the clear reasoning in Judge Randon's opinion. Additionally, Defendant attempts to mischaracterize Plaintiff's copyright by insinuating that Plaintiff may not have fully complied with the statutory requirements. (See Def's Obj. 2.) This argument fails to consider Exhibit B of Plaintiff's complaint which demonstrates a valid copyright registration filed within the three month time period required for Plaintiff to be eligible for statutory damages. See 17 U.S.C. 412.

For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendant's Objection and adopt the Honorable Judge Randon's Report and Recommendation.

This 2nd day of May, 2012

Respectfully submitted,

/s/ John S. Hone

John S. Hone, Esq.

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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 2nd day of May, 2012

/s/ John S. Hone
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