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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LIBERTY MEDIA HOLDINGS, LLC,
Plaintiff,
v.
SWARM OF NOVEMBER 15 AND 16, 2010
SHARING HASH FILE
AE340D0560129AFEE8D78CE07F2394C7B5
BC9C05, and DOES 1 through 132,
Defendants.

Civil No. 11-cv-0880-AJB (POR)

**ORDER DENYING DEFENDANT DOE
100'S MOTION TO QUASH**

[ECF No. 11]

On April 26, 2011, Plaintiff filed a Complaint against Swarm of November 15 and 16, 2010 Sharing Hash File AE340D0560129AFEE8D (the "AE3 Hash") and Does 1-132 for copyright infringement, civil conspiracy and negligence. (ECF No. 1.) Defendant Doe 100 has been identified by his IP address: 75.64.213.89. Plaintiff alleges that on November 16, 2010 at 7:27:07 a.m., Doe 100 used this IP address to illegally republish and distribute Plaintiff's copyrighted motion picture to an unknown number of other individuals over the internet. (*Id.* at 29.)

On May 4, 2011, Plaintiff filed a Motion for Discovery, requesting leave to propound limited discovery on the Doe Defendants and their Internet Service Providers ("ISP's") to determine Defendants' true identities. (ECF No. 3.) On May 13, 2011, the Court granted Plaintiff's motion in part and denied it in part. (ECF No. 5.) Specifically, the Court granted Plaintiff leave to serve discovery on fourteen ISP's to produce any and all documents and/or information sufficient to

1 identify the user(s) of their respective IP addresses as listed in Exhibit 1 to Plaintiff's motion during
2 the corresponding dates and times. However, the Court denied Plaintiff's request to propound
3 discovery in the form of interrogatories and depositions on any individual identified by these ISP's
4 as premature. (*Id.*)

5 On May 16, 2011, Plaintiff served a subpoena for the production of documents on Comcast
6 Cable in Morrestown, New Jersey. (ECF No. 11, Exhibit A.) The subpoena was issued by the
7 United States District Court for the District of New Jersey and served via fax. (*Id.* at 3.) Plaintiff's
8 subpoena requests the production of:

9 Any and all information, customer records, and/or documents sufficient to
10 personally identify the user(s) of the attached IP addresses on the
11 corresponding dates and times, including name, address, phone number, and
12 email address.

12 (*Id.*, Exhibit A.) Comcast Cable notified Defendant Doe 100 of the subpoena. (*Id.* at 3.)

13 On June 29, 2011, Defendant Doe 100 made a special appearance to file the instant Motion
14 to Quash. (ECF No. 11.) Defendant Doe 100 raises three arguments in support of his motion: (1)
15 the Court lacks subject matter and personal jurisdiction; (2) the subpoena is invalid because it was
16 "typed on a United States District Court for the District of New Jersey [form] signed by counsel for
17 the plaintiff, and then served via facsimile;" and (3) 47 U.S.C. § 551(c)(1) prevents disclosure of
18 Defendant Doe 100's personally identifying information without his consent. (*Id.* at 3-4.)

19 Plaintiff filed an Opposition to Doe 100's motion on July 19, 2011. (ECF No. 14.) Plaintiff
20 contends: (1) the Court has subject matter and personal jurisdiction; (2) the subpoena is valid; and
21 (3) 47 U.S.C. § 551 does not apply in light of the Court's order granting Plaintiff's Motion for
22 Discovery. (*Id.* at 3-7.)

23 Federal Rule of Civil Procedure 45(c)(3)(A) permits "the issuing court" to quash or modify a
24 subpoena. "Normally, disputes over discovery from a non-party are decided by the court which
25 issued the subpoena, unless the non-party consents that the matter be resolved by a court in another
26 district." *In re Welding Rod Products Liability Litigation*, 406 F. Supp. 2d 1064, 1065 (N.D. Cal.
27 2005); *see also In re Sealed Case*, 141 F.3d 337, 341 ("only the issuing court has the power to act on
28 its subpoenas"). The District of New Jersey issued the subpoena at issue in this case. Absent the

1 consent of Comcast Cable, this Court declines to grant Defendant Doe 100 any relief.

2 Accordingly, IT IS HEREBY ORDERED that Defendant Doe 100's Motion to Quash is
3 hereby **DENIED** without prejudice to Defendant Doe 100 re-filing his motion in the District of New
4 Jersey.

5 DATED: August 16, 2011

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8 LOUISA S PORTER
9 United States Magistrate Judge

10 cc: The Honorable Anthony J. Battaglia
11 All parties
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