UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF GEORGIA

SAVANNAH DIVISION

ZAMBEZIA FILMS (PTY,) LTD, Plaintiff, v. DOES 1-33 Defendants.	)	Case No. CV413-016

ORDER

Plaintiff seeks permission to issue Fed. R. Civ. P. 45 subpoenas upon local internet service providers in order to obtain the names, addresses, and other identifying information of each Doe defendant alleged to have pirated its copyrighted work in a single BitTorrent "swarm." (Doc. 3-1.) As in a related case before the undersigned, *Voltage Pictures, LLC v. Doe*, No. CV413-037, doc. 7 (S.D. Ga. Apr. 1, 2013), this "swarm" lasted for several months (from October 2012 through December 2013 (doc. 1-2 at 1)). In *Voltage Pictures*, the Court preliminarily denied pretrial discovery because it was unclear whether all of the Doe defendants were actually part of the same "swarm" or, rather,

were parties to several separate transactions or occurrences. *Id.* doc. 7 at 6-7, 10-11. As there was a strong possibility that the defendants were misjoined, the Court expressed concern that the plaintiff intended to use the information gained through discovery to shake down innocent Does who did not meet the temporality requirement in such cases, or whose internet connections were used improperly by others, but who might be intimidated into paying "nuisance-avoidance" settlements. *Id.*at 8.

While the Court is mindful of plaintiff's contention that ISP data is routinely purged and time is thus of the essence, it cannot overlook the vast number of these lawsuits and their potential for abuse. Moreover, as this very plaintiff has already been informed in another case, there is a real concern that allowing discovery at this time might lead to filing fee losses to the public, assuming misjoinder. *See, e.g.*, *Zambezia Film (Pty) Ltd. v. Does 1-33*, 2013 WL 1181587 at * 1 (N.D. Ill. Mar. 20, 2013) (citing its misjoinder ruling in prior case involving the "inappropriate packaging of defendants, an approach that sought to proceed through payment of a single $350 filing fee, while separate suits against the 300 claimed infringers for their discrete infringements would have escalated that cost to $105,000.").

Consequently, for the same reasons explained in *Voltage*, the Court **DENIES** plaintiff's motion for discovery until it has submitted additional briefing supporting its assertion that every defendant Doe was in fact part of the same swarm and is thus appropriately named as a defendant in this case.

SO ORDERED this 11th day of April, 2013.

UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA