UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

CAPSTONE STUDIOS, CORP., Plaintiff, vs. DOE, DOE1, DOE2, DOE 3, DOE 4, DOE 5, DOE 6, DOE 7, DOE 8, DOE 9, DOE 10, DOE 11, DOE 12, DOE 13, DOE 14, DOE 15, Defendants.	CIV. NO. 26-00176 MWJS-WRP ORDER GRANTING PLAINTIFF'S *EX PARTE* MOTION FOR LEAVE TO SERVE THIRD PARTY SUBPOENA PRIOR TO A RULE 26(F) CONFERENCE, CONTINUATION OF RULE 16 CONFERENCE, AND EXTENSION OF DEADLINE TO SERVE DEFENDANTS

ORDER GRANTING PLAINTIFF'S *EX PARTE* MOTION FOR LEAVE TO SERVE THIRD PARTY SUBPOENA PRIOR TO A RULE 26(F) CONFERENCE, CONTINUATION OF RULE 16 ONFERENCE, AND EXTENSION OF DEADLINE TO SERVE DEFENDANTS

Before the Court is Plaintiff's *Ex Parte* Motion for Leave to Serve Third Party Subpoena prior to a Rule 26(f) Conference, Continuation of Rule 16 Conference, and Extension of Deadline to Serve Defendants (Motion). See Motion, ECF No. 9. The Court elects to decide this matter without a hearing pursuant to Rule 7.1(c) of the Local Rules of Practice for the United States District Court for the District of Hawaii. Based on careful review of Plaintiff's Motion and the relevant legal authority, the Court GRANTS Plaintiff's Motion.

BACKGROUND

In the Complaint, Plaintiff alleges violations for direct copyright infringement pursuant to 17 U.S.C. § 101, et seq., against Defendants Doe, Doe 1, Doe 2, Doe 3, Doe 4, Doe 5, Doe 6, Doe 7, Doe 8, Doe 9, Doe 10, Doe 11, Doe 12, Doe 13, Doe 14, Doe 15 ("Doe Defendants"). See Complaint, ECF No. 1. According to Plaintiff, Doe Defendants, without Plaintiff's permission or consent, duplicated and distributed motion pictures whose registered copyrights are owned by Plaintiff. See id. ¶¶ 39, 46, 59-63, 70-72. Plaintiff alleges that Doe Defendants used a file sharing protocol to distribute digital media files that are identical or substantially similar to Plaintiff's works. See id. ¶¶ 39, 46, 49. Plaintiff alleges that this conduct has infringed Plaintiff's exclusive rights, in violation of 17 U.S.C. § 106(1), (3), causing Plaintiff monetary damages. See id. ¶¶ 65-67, 72-74.

Plaintiff does not know the names or addresses of Doe Defendants. See id. ¶ 10. However, Plaintiff has been able to identify the Internet Protocol ("IP") addresses that Doe Defendants used and the dates and times that the alleged infringements occurred. See Ex. 3 to Complaint, ECF No. 1-3. Plaintiff has also identified the Internet Service Providers ("ISPs") for the IP addresses as Hawaiian Telcom and Spectrum. See id.

In the present Motion, Plaintiff seeks permission to take early discovery through a subpoena to the ISPs to determine the names and addresses of the subscribers connected to the IP addresses that have been linked to the alleged

infringements of Plaintiff's works. See Memorandum in Support of Motion, ECF No. 9-1 at 2.

DISCUSSION

Unless authorized by a court order, a party is prohibited from seeking discovery before the parties' Federal Rules of Civil Procedure Rule 26(f) conference. See Fed. R. Civ. P. 26(d)(1). In rare circumstances, "courts have made exceptions, permitting limited discovery to ensue after filing of the complaint to permit the plaintiff to learn the identifying facts necessary to permit service on the defendant." Columbia Ins. Co. v. Seescandy.com, 185 F.R.D. 573, 577 (N.D. Cal. 1999) (citing Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)). In deciding whether to allow early discovery, courts consider whether a plaintiff has shown good cause. See Semitool, Inc. v. Tokyo Electron Am., Inc., 208 F.R.D. 273, 276 (N.D. Cal. 2002) ("Good cause may be found where the need for expedited discovery, in consideration of the administration of justice, outweighs the prejudice to the responding party.").

If the identity of a defendant is unknown, the Ninth Circuit has held that a plaintiff "should be given an opportunity through discovery to identify the unknown defendants, unless it is clear that discovery would not uncover the identit[y], or that the complaint would be dismissed on other grounds." Gillespie, 629 F.2d at 642 (citations omitted). To determine whether a plaintiff has

established good cause to conduct early discovery to identify unknown defendants, courts consider if the plaintiff has made a prima facie showing of infringement, if the plaintiff has identified the unknown defendants with sufficient particularity, and if the requested discovery is likely to lead to identifying information. See Patrick Collins, Inc. v. Does 1-1219, 2010 WL 5422569, at *2 (N.D. Cal. Dec. 28, 2010) (citations omitted). For purposes of this Motion, the Court finds that Plaintiff has made a sufficient showing to establish good cause to engage in early discovery to obtain information that may help Plaintiff identify Doe Defendants.

First, Plaintiff has made a prima facie showing of copyright infringement. Plaintiff has alleged that: (1) it owns and has registered the copyrighted works at issue; (2) Doe Defendants reproduced and distributed those works without authorization; and (3) Plaintiff was damaged by Doe Defendants' actions.[1] See Complaint, ECF No. 1 ¶¶ 39. 46, 49, 59-63, 65-67, 70-74. These

[1] The Court notes that the damages awarded in these types of cases are frequently limited to the statutory minimum. See, e.g., Hunter Killer Prods., Inc. v. Galios, 2019 WL 7822503, at *4 (D. Haw. Dec. 19, 2019), *adopted by*, 2020 WL 515820 (D. Haw. Jan. 31, 2020) (awarding $750 in statutory damages); Cook Prods., LLC v. Szerlip, 2017 WL 4883220, at *3 (D. Haw. Oct. 30, 2017) (same); ME2 Prods., Inc., v. Pumaras, 2017 WL 4707015, at *2-*3 (D. Haw. Oct. 19, 2017) (same); ME2 Prods., Inc. v. Ahmed, 289 F. Supp. 3d 760, 764 (W.D. Va. 2018) (stating that courts across the county "award the minimum statutory award of $750.00 per violation" in infringement cases brought by "copyright holders who seek copyright infringement damages not to be made whole, but rather as a primary or secondary revenue stream and [who] file mass lawsuits against anonymous Doe defendants with the hopes of coercing settlements.") (citations omitted).

allegations are minimally sufficient to state a claim for copyright infringement at this stage of the proceedings. See Ellison v. Robertson, 357 F.3d 1072, 1076 (9th Cir. 2004). However, the Court notes that Plaintiff cannot rely on its bare allegations that Doe Defendants are the registered subscribers of the IP addresses associated with infringing activity to state a plausible claim for direct copyright infringement on the merits. See Cobbler Nevada, LLC v. Gonzales, 901 F.3d 1142, 1144-45 (9th Cir. 2018) (holding that the plaintiff had to "allege something more to create a reasonable inference that [the] subscriber is also [the] infringer" to survive a motion to dismiss). For purposes of conducting limited early discovery, however, Plaintiff's allegations are sufficient. See, e.g., Strike 3 Holdings, LLC v. Doe, 2019 WL 591459, at *3 (N.D. Cal. Feb. 13, 2019) (finding similar allegations sufficient for purposes of conducting early discovery); see also Strike 3 Holdings, LLC v. Doe, 2019 WL 78987, at *3 (S.D.N.Y. Jan. 2, 2019) (granting request for early discovery and holding that arguments that "other individuals could have used [Defendant's] IP address to download Plaintiff's copyrighted movies without Defendant's knowledge" are properly brought in a motion to dismiss after service of the complaint).

Second, in the Complaint, Plaintiff identified Doe Defendants with as much specificity as possible. Plaintiff states that Doe Defendants have been observed and documented as infringing on its copyrighted works. See Complaint,

ECF No. 1 ¶¶ 53, 59-62. Plaintiff alleges that the IP addresses associated with the infringing activity is located in the State of Hawaii, thus, the Court likely has jurisdiction over Doe Defendants. See id. ¶ 4; Ex. 3 to Complaint, ECF No. 1-3. It does not appear that there are any other steps Plaintiff could have taken to identify Doe Defendants other than to obtain the IP subscribers' identifying information from the ISPs. However, as noted above, it is not a foregone conclusion that identifying the subscribers will necessarily identify the person or persons who committed the alleged infringement here. See Bodyguard Prods., Inc. v. Doe 1, 2017 WL 10646466, at *2 n.1, (D. Haw. Dec. 20, 2017) ("Case law acknowledges the increasing number of devices and users for each IP address.").

Third, because the subpoena seeks the names and addresses of the IP subscribers associated with the alleged infringing activity, Plaintiff has demonstrated that the proposed subpoena seeks information likely to lead to identifying information that will allow Plaintiff to effect service of process on Doe Defendants. Based on the foregoing, the Court finds that Plaintiff has demonstrated good cause to grant Plaintiff leave to conduct early discovery.

CONCLUSION

The Court GRANTS Plaintiff's *Ex Parte* Motion for Leave to Serve Third Party Subpoena Prior to a Rule 26(f) Conference, Continuation of Rule 16 Conference, and Extension of Deadline to Serve Defendants:

1. Plaintiff is allowed to serve a Rule 45 subpoena on Hawaiian Telcom and Spectrum to obtain the name and address of the subscribers associated with the IP addresses identified in Exhibit 3 to the Complaint.

2. Plaintiff shall serve a copy of this Order with any subpoena issued pursuant to this Order.

3. The subpoenas authorized by this Order shall be deemed appropriate court orders under 47 U.S.C. § 551.

4. Hawaiian Telcom and Spectrum shall have 30 days from the date of service upon it to serve the subscriber of the IP addresses with a copy of the subpoena and a copy of this Order. Hawaiian Telcom and Spectrum may serve the subscriber by any reasonable means, including written notice sent to the subscriber's last known address via first class mail.

5. The subscriber shall have 30 days from the date of service upon them to file any motions in this court contesting the subpoena. If that 30-day period lapses without the subscriber contesting the subpoena, Hawaiian Telcom and Spectrum shall have 10 days to produce the information responsive to the subpoena to Plaintiff.

6. After Hawaiian Telcom and Spectrum are properly served with the Rule 45 subpoena as detailed above, Hawaiian Telcom and Spectrum shall preserve all subpoenaed information pending the production of such information to

Plaintiff or the resolution of a motion to quash the subpoena with respect to such information.

7. Any information disclosed to Plaintiff in response to the subpoena may be used by Plaintiff solely for the purpose of protecting its rights as asserted in the Complaint.

8. The deadline to serve Doe Defendants is extended to **August 18, 2026**.

9. No later than **July 29, 2026**, Plaintiff shall file a Status Report regarding its efforts to identify Doe Defendants and amend its pleading.

10. The Telephonic Rule 16 Scheduling Conference is CONTINUED to **September 17, 2026 at 8:30 a.m.** before Magistrate Judge Wes Reber Porter via Zoom: Dial in number: 1-833-568-8864; Meeting ID: 161 0084 2470.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, April 20, 2026.

Wes Reber Porter
United States Magistrate Judge