CULPEPPER IP, LLLC
Kerry S. Culpepper, Bar No. 9837
75-5915 Walua Rd., Unit 128
Kailua Kona, Hawaii 96740
Telephone: (808) 464-4047
Facsimile: (202) 204-5181
E-Mail: kculpepper@culpepperip.com

Attorney for Plaintiff:
Capstone Studios, Corp.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

CAPSTONE STUDIOS, CORP., Plaintiff, vs. DOES 1-8, Defendant.	CIVIL NO. 1:26-cv-299-LEK-KJM 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 CONFERENCE AND EXTENSION OF DEADLINE TO SERVE DEFENDANTS

On June 17, 2026, Plaintiff Capstone Studios, Corp. ("Plaintiff") filed an Ex Parte Motion for Leave to Serve Third-Party Subpoena Prior to a Rule 26(f)

Conference, to continue the Rule 16 conference set for August 17, 2026 at 9:30 a.m., and for a 90 day extension of the deadline to serve Defendants ("Motion"). ECF No. 8. The Court finds this matter suitable for disposition 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. After carefully considering the Motion and the applicable law, the Court hereby GRANTS Plaintiff's Motion for the reasons set forth below.

BACKGROUND

Plaintiff commenced this copyright infringement action on June 17, 2026. ECF No. 1. Plaintiff asserts that it is the owner of the copyright to the motion picture "Wildcat" ("Work"). *Id.* at 3 ¶ 6, 5 ¶ 17. Plaintiff alleges that each of the Doe Defendants, without Plaintiff's consent, reproduced and distributed the Work through a peer-to-peer file sharing network. Based upon these allegations, Plaintiff asserts claims against Doe Defendants 1 through 8 for direct copyright infringement and contributory copyright infringement pursuant to 17 U.S.C. § 101, et seq. *Id.* at 1 ¶ 1, 2 ¶ 2.

Plaintiff does not know the Doe Defendants' names and addresses because they attempt to use the internet anonymously when conducting their file sharing activities. ECF No. 8-1 at 2. Plaintiff has nonetheless been able to identify the Internet Protocol ("IP") addresses Doe Defendants used, as well as the date and

time that each alleged infringement occurred. *See* Ex. 1 to Compl., ECF No. 1-1. Plaintiff has also identified the related Internet Service Providers ("ISPs") as Hawaiian Telcom, Verizon Wireless and Spectrum. *Id.* Accordingly, Plaintiff seeks leave to take early discovery through subpoenas to the ISPs to determine the names and addresses of the subscribers connected to the IP addresses that have been linked to alleged infringement of Plaintiff's work.

DISCUSSION

Generally, unless authorized by court order, a party is prohibited from seeking discovery before the Federal Rule of Civil Procedure 26(f) conference. Fed. R. Civ. P. 26(d)(1).[1] In rare situations, "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) (some citations omitted) (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, 275–76 (N.D. Cal. 2002) (citation omitted).

[1] This rule also applies to subpoenas served on non-parties. *Bodyguard Prods., Inc. v. Baldridge*, Civil No. 18-00298 JMS-KSC, 2018 WL 6567057, at *1 n.1 (D. Haw. Aug. 13, 2018) (citing *Platinum Mfg. Int'l, Inc. v. UniNet Imaging, Inc.*, No. 8:08- cv310-T-27MAP, 2008 WL 927558, at *1 n.2 (M.D. Fla. Apr. 4, 2008)).

"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." *Id*. at 276.

Where the identity of the defendant is not known, 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 identity, or that the complaint would be dismissed on other grounds." *Gillespie*, 629 F.2d at 642 (citations omitted). Courts examine various factors in evaluating whether a plaintiff has established good cause for early discovery to assist in the identification of doe defendants, including whether the plaintiff has made a prima facie showing of infringement, whether the plaintiff has identified the doe defendants with sufficient particularity, and whether the requested discovery is likely to lead to identifying information. *See*, *e.g.*, *Patrick Collins, Inc. v. Does 1–1219*, No. C 10-04468 LB, 2010 WL 5422569, at *2 (N.D. Cal. Dec. 28, 2010) (citations omitted). Courts have found that good cause exists to permit "expedited discovery to ascertain the identities of Doe defendants in copyright infringement actions." *AF Holdings, LLC v. Doe,* Civ. No. S-12-1078 GEB GGH, 2012 WL 1610185, at *2 (E.D. Cal. May 8, 2012) (citing *UMG Recordings, Inc. v. Doe*, No. C-08-03999 RMW, 2008 WL 4104207 (N.D. Cal. Sept. 4, 2008); *Arista Records LLC v. Does 1–43*, Civil No. 07cv2357-LAB (POR), 2007 WL 4538697

(S.D. Cal. Dec. 20, 2007)).

The Court finds that Plaintiff has made a sufficient showing to establish good cause to engage in early discovery to identify Doe Defendants. First, Plaintiff has made a prima facie showing of direct copyright infringement. Plaintiff has alleged that: (1) it owns and has registered its Work; (2) Doe Defendants copied and distributed the Work without authorization; and (3) Doe Defendants' actions damaged Plaintiff.

Second, Plaintiff's Complaint identifies Doe Defendants with as much specificity as presently possible. Plaintiff states that the Doe Defendants are persons or entities that have been observed and documented as infringing on Plaintiff's copyrighted work. *See* ECF No. 1 at 9–10 ¶¶ 42–48. Plaintiff provided as Exhibit 1 to Plaintiff's Complaint a list of the IP addresses associated with each of the Doe Defendants, along with the "hit date" that each IP address subscriber allegedly infringed on Plaintiff's copyrighted work. ECF No. 1-1.

Furthermore, the IP addresses are located in the State of Hawaii, which indicates that the Court likely has jurisdiction over the Doe Defendants. *Id.* The Court is not aware of any other reasonable measures Plaintiff could have taken thus far to identify the Doe Defendants other than to obtain the subscribers' identifying information from the ISPs. Finally, Plaintiff has demonstrated that the proposed subpoenas seek information likely to lead to identifying information

that will allow Plaintiff to effect service of process on the Doe Defendants.[2]

Based on the foregoing, the Court finds that Plaintiff has demonstrated good cause to grant Plaintiff leave to conduct the early discovery requested in the Motion.

CONCLUSION

For the reasons stated, the Court hereby GRANTS Plaintiff's Ex Parte Motion for Leave to Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference, as follows:

(1) Plaintiff may serve Rule 45 subpoenas on Hawaiian Telcom, Verizon Wireless and Spectrum to obtain the names and addresses of each subscriber associated with the IP addresses on the dates set forth in Exhibit 1 to the Complaint.

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

---

[2] The Court expresses no opinion as to whether this identifying information will ultimately reveal the individual or entity who allegedly committed the infringing act. Caselaw acknowledges the increasing number of devices and users for each IP address. *See*, *e.g.*, *In re BitTorrent Adult Film Copyright Infringement Cases*, 296 F.R.D. 80, 84 (E.D.N.Y. 2012) ("[I]t is no more likely that the subscriber to an IP address carried out a particular computer function . . . than to say an individual who pays the telephone bill made a specific telephone call."); *Malibu Media LLC v. Does 1–5*, No. 12 Civ. 2950(JPO), 2012 WL 2001968, at *1 (S.D.N.Y. June 1,2012) (citation omitted) ("The fact that a copyrighted work was illegally downloaded from a certain IP address does not necessarily mean that the owner of that IP address was the infringer."); *DigitalSin, Inc. v. Does 1–176*, 279 F.R.D. 239, 242 (S.D.N.Y. 2012) (noting the risk of "false positives" if the individuals identified by ISPs are not the individuals who downloaded the films at issue).

(3) The subpoena authorized by this Order shall be deemed an appropriate court order under 47 U.S.C. § 551.

(4) Hawaiian Telcom, Verizon Wireless and Spectrum shall have 30 days from the date of service upon them to serve the subscribers of the IP addresses with a copy of the subpoena and a copy of this Order. Hawaiian Telcom, Verizon Wireless 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 him, her, or them to file any motions in this court contesting the subpoena. If that 30-day period lapses without a subscriber contesting the subpoena, Hawaiian Telcom, Verizon Wireless and Spectrum shall have 10 days to produce the information responsive to the subpoena to Plaintiff.

(6) After Hawaiian Telcom, Verizon Wireless and Spectrum are properly served with a Rule 45 subpoena as detailed above, Hawaiian Telcom, Verizon Wireless and Spectrum shall preserve all subpoenaed information pending the delivery of such information to Plaintiff or the resolution of a timely filed and granted motion to quash the subpoena with respect to such information.

(7) Any information disclosed to Plaintiff in response to a subpoena may be used by Plaintiff solely for the purpose of protecting Plaintiff's rights under the Copyright Act, 17 U.S.C. § 101, *et seq*.

(8) Plaintiff's deadline for service of Defendants DOES 1-8 shall be extended for an additional 90 days to December 14, 2026.

(9) The Rule 16 conference set for August 17, 2026 at 9:30 is continued until January 19, 2027 at 9:30 a.m. before Magistrate Judge Kenneth J. Mansfield.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, June 18, 2026.

Kenneth J. Mansfield
United States Magistrate Judge

Trap House Project LLC v. DOE et al, Civil No. 1:26-cv-00299-LEK-KJM; Order Granting 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