

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Strike 3 Holdings, LLC v. John Doe Subscriber Assigned IP Address 24.7.93.236

Case No. 25-cv-03865-EMC, Docket No. 7 · No. 25-cv-03865-EMC; Docket No. 7 · Decided June 12, 2025

SUMMARY

The United States District Court for the Northern District of California grants Strike 3 Holdings, LLC’s ex parte application to serve Comcast Cable with a Rule 45 subpoena before the Rule 26(f) conference. The subpoena seeks the name and address of the subscriber associated with IP address 24.7.93.236 in a copyright infringement action involving alleged BitTorrent distribution of 29 adult motion pictures. The order imposes notice, confidentiality, preservation, and use restrictions on the discovery.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Edward M. Chen
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 12, 2025
DOCKET	25-cv-03865-EMC; Docket No. 7
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought ex parte leave to serve a third-party Rule 45 subpoena on the Internet service provider before the Rule 26(f) conference in a copyright infringement action against an unidentified defendant.
STANDARD OF REVIEW	The court evaluated whether Strike 3 had established good cause for expedited third-party discovery before the Rule 26(f) conference.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential

TOPICS

- discovery dispute
- copyright infringement
- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- copyright
- anonymous defendant discovery

QUESTIONS PRESENTED

1. Whether Strike 3 established good cause to serve a third-party Rule 45 subpoena on the ISP before the Rule 26(f) conference.
2. What notice, confidentiality, preservation, and use restrictions should govern the expedited discovery.

HOLDINGS

1. Strike 3 established good cause to serve Comcast Cable with a Rule 45 subpoena seeking the true name and address of the subscriber assigned IP address 24.7.93.236.
2. The ISP and Strike 3 must provide or request notice to the Doe subscriber, preserve subpoenaed information pending resolution of any timely motion to dismiss, and restrict use and public disclosure of identifying information absent further court authorization.

KEY QUOTATIONS

“Based on these materials, the Court finds Strike 3 has sufficiently established that it is entitled to the early discovery requested which will enable it to determine the true name and address of John Doe.” (at 1)

“a bare allegation that a defendant is the registered subscriber of an Internet Protocol (‘IP’) address associated with infringing activity is [in]sufficient to state a claim for direct or contributory infringement” (at 1)

FACTUAL BACKGROUND

Strike 3 alleged that John Doe infringed 29 of its adult motion pictures using the BitTorrent protocol. The alleged activity was associated with IP address 24.7.93.236, which had been assigned by Comcast Cable. Strike 3 sought the subscriber's true name and address so it could identify the Doe defendant.

PROCEDURAL HISTORY

Strike 3 Holdings sued John Doe for allegedly infringing 29 adult motion pictures through BitTorrent. Before the Rule 26(f) conference, Strike 3 applied ex parte for leave to subpoena Comcast Cable to identify the subscriber associated with the allegedly infringing IP address. The district court granted the application subject to notice, confidentiality, preservation, and use restrictions.

DISPOSITION

other

CASES CITED

- Strike 3 Holdings, LLC v. Doe, No. 23-cv-04339-RS, 2023 U.S. Dist. LEXIS 169496 (N.D. Cal. Sept. 22, 2023)
- Gonzales, 901 F.3d 1142, 1144 (9th Cir. 2018)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
STRIKE 3 HOLDINGS, LLC, Case No. 25-cv-03865-EMC 8 Plaintiff, ORDER GRANTING
PLAINTIFF'S EX 9 v. PARTE APPLICATION FOR LEAVE TO SERVE THIRD-PARTY 10
JOHN DOE SUBSCRIBER ASSIGNED IP SUBPOENA ADDRESS 24.7.93.236, 11 Defendant.
Docket No. 7 12 13 14 Plaintiff Strike 3 Holdings, LLC has sued Defendant John Doe for
copyright infringement.

15 According to Strike 3, John Doe has infringed 29 of Strike 3's adult motion pictures using 16
BitTorrent protocol. Currently pending before the Court is Strike 3's ex parte application for leave
17 to serve a third-party subpoena prior to a Rule 26(f) conference. 18 The Court has reviewed the
application, the supporting declarations, and the complaint. 19 Based on these materials, the Court
finds Strike 3 has sufficiently established that it is entitled to 20 the early discovery requested
which will enable it to determine the true name and address of John 21 Doe.

The Court, however, takes this opportunity to endorse the recent decision of Judge Seeborg 22 in
Strike 3 Holdings, LLC v. Doe, No. 23-cv-04339-RS, 2023 U.S. Dist. LEXIS 169496 (N.D. Cal.
23 Sept. 22, 2023). This Court's rulings below are consistent with Judge Seeborg's decision. 24
Finally, the Court notes that, although it is authorizing Strike 3 to take the discovery 25 requested,
it is not precluding John Doe from filing a 12(b)(6) motion to dismiss nor is it 26 prejudging any
such motion.

The Court also advises Strike 3 that, upon obtaining the name and 27 address of John Doe, it has a
Rule 11 obligation to determine whether to proceed with the lawsuit 1 Gonzales, 901 F.3d 1142,
1144 (9th Cir. 2018) (stating that "a bare allegation that a defendant is 2 the registered subscriber
of an Internet Protocol ('IP') address associated with infringing activity is 3 [in]sufficient to state a
claim for direct or contributory infringement").

4 Accordingly, it is hereby ORDERED as follows: 5 1. Strike 3 has established that good cause
exists to serve a third-party subpoena on 6 Comcast Cable (the "ISP"). Its motion is therefore
granted. 7 2. Strike 3 may serve the ISP with a Rule 45 subpoena commanding the ISP to 8
provide Strike 3 with the true name and address of John Doe to whom the ISP assigned an IP 9
address as set forth in Exhibit A to the Complaint.

Strike 3 shall attach a copy of this Order to any 10 such subpoena and a copy of Judge Seeborg's
decision. 11 3. If the ISP qualifies as a "cable operator," as defined by 47 U.S.C. § 522(5), then it
12 shall comply with 47 U.S.C. § 551(c)(2)(B) by sending a copy of this Order to John Doe. 13 4.
Strike 3 shall also request the ISP forward a copy of this Order to the subscriber, 14 regardless of
whether the ISP qualifies as a cable operator.

If the ISP declines, Strike 3 shall serve 15 a copy of this Order on John Doe simultaneous to or
before any other service or communication to 16 John Doe. Strike 3 must file a copy of its request

to the ISP on the docket. Alternatively to the 17 other requirements in this paragraph, Strike 3 may file an affidavit that it attests the ISP has 18 forwarded this Order to John Doe before attempting to serve or communicate with John Doe.

19 5. Strike 3 may only use the information disclosed in response to a Rule 45 subpoena 20 served on the ISP for the purpose of protecting and enforcing Strike 3's rights as set forth in its 21 Complaint. Specifically, Strike 3 must not publicly disclose the information obtained based on 22 this subpoena without leave of the Court – at least until John Doe has had an opportunity to file a 23 motion to proceed anonymously, or further discovery has been taken.

All references to John 24 Doe's identity must be redacted and filed under seal until further notice. 25 6. Strike 3 must first file an affidavit confirming it proposed confidentiality to John 26 Doe, as it has represented it would. This filing must contain the relevant communications 27 concerning any proposed agreement, e.g., copies of emails related to confidentiality, or 1 7.

Comcast Cable, and/or any other ISP that receives a subpoena pursuant to this 2 Order, must preserve any subpoenaed information pending the resolution of any timely filed 3 motion to dismiss. 4 5 IT IS SO ORDERED. 6 7 Dated: June 12, 2025 8 9 EDW. M. CHEN 10 United States District Judge 11 12 13 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28