

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Strike 3 Holdings, LLC v. John Doe

Strike 3 Holdings · No. 25cv1132-RBM (MSB) · Decided June 11, 2025

SUMMARY

The United States District Court for the Southern District of California grants Strike 3 Holdings, LLC’s ex parte application for leave to serve a third-party subpoena on AT&T Internet before a Rule 26(f) conference. The subpoena may seek only the name and address of the subscriber assigned to IP address 23.113.27.81, subject to notice, challenge, preservation, and use restrictions.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Michael S. Berg
JURISDICTION	United States District Court for the Southern District of California
DECIDED	June 11, 2025
DOCKET	25cv1132-RBM (MSB)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought ex parte leave under Federal Rule of Civil Procedure 45 to serve a third-party subpoena on Defendant's internet service provider before the Rule 26(f) conference, in order to identify the Doe defendant and effect service.
STANDARD OF REVIEW	The court applied a discretionary good-cause standard to early discovery and the Ninth Circuit's three-factor test for identifying Doe defendants: sufficient specificity, prior good-faith efforts to identify the defendant, and a complaint capable of withstanding a motion to dismiss. The court also considered whether the requested discovery had a reasonable likelihood of producing information permitting service.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter or neutral citation identified.

TOPICS

- discovery dispute
- service of process
- third party practice
- copyright infringement
- civil procedure

PRACTICE AREAS

civil procedure

copyright law

copyright infringement

QUESTIONS PRESENTED

1. Whether good cause existed to permit limited discovery before the Rule 26(f) conference to identify an unknown copyright-infringement defendant.
2. Whether Plaintiff identified the Doe defendant with sufficient specificity to show that the defendant was a real person or entity likely subject to the court's jurisdiction.
3. Whether Plaintiff made good-faith efforts to identify and serve the defendant through other means.
4. Whether the complaint could withstand a motion to dismiss for lack of subject matter jurisdiction, lack of personal jurisdiction, or failure to state a copyright-infringement claim.
5. Whether the requested subpoena to AT&T Internet was reasonably likely to produce information permitting service of process.

HOLDINGS

1. A court may permit limited discovery before the Rule 26(f) conference when the plaintiff establishes good cause under the applicable Doe-defendant identification test and the need for expedited discovery outweighs prejudice to the responding party.
2. A plaintiff sufficiently identifies a Doe defendant for purposes of early discovery by providing a unique IP address assigned to the defendant during the alleged infringement, together with corroborating temporal and geolocation information showing that the defendant is likely subject to the court's jurisdiction.
3. A plaintiff satisfies the prior-efforts factor when it makes good-faith efforts to identify, locate, and serve the Doe defendant through available methods and shows that the ISP subpoena is the practical remaining means of obtaining the defendant's identity.
4. The complaint could withstand a motion to dismiss because it alleged federal subject matter jurisdiction, facts supporting personal jurisdiction, and the elements of direct copyright infringement, including ownership, violation of exclusive rights, and volitional conduct.
5. The subpoena may seek only the subscriber's name and address, and disclosure is subject to notice, an opportunity to challenge, preservation obligations, use restrictions, and a prohibition on additional discovery.

KEY QUOTATIONS

“Good cause” is established “where the need for expedited discovery, in consideration of the administration of justice, outweighs the prejudice to the responding party.” (2)

“Therefore, Plaintiff has sufficiently alleged the prima facie elements of copyright infringement, and the Complaint will likely withstand a motion to dismiss.” (7)

“Plaintiff may serve a subpoena pursuant to Federal Rule of Civil Procedure 45 on AT&T Internet, seeking only the name and address of the subscriber assigned to the IP address 23.113.27.81.” (7-8)

FACTUAL BACKGROUND

Strike 3 Holdings alleged that John Doe, an internet subscriber assigned IP address 23.113.27.81, used BitTorrent to download and distribute twenty-six copyrighted motion pictures without authorization. Plaintiff's forensic tools allegedly connected the IP address to infringing activity beginning April 22, 2025, and MaxMind geolocation associated the address with Oceanside, California, within the district. MaxMind results also indicated that AT&T Internet owned the IP address at the relevant time, and Plaintiff asserted that AT&T was the only entity able to correlate the address with the subscriber's identity.

PROCEDURAL HISTORY

Strike 3 Holdings filed a copyright-infringement complaint against an unidentified subscriber associated with IP address 23.113.27.81. It then filed an ex parte application seeking permission to subpoena AT&T Internet for the subscriber's name and address before the parties' Rule 26(f) conference. Because the defendant had not been identified, no opposition or reply was filed. The court granted the application subject to specified notice, challenge, preservation, use, and scope limitations.

DISPOSITION

other

CASES CITED

- Columbia Ins. Co. v. Seescandy.com, 185 F.R.D. 573, 577-80 (N.D. Cal. 1999)
- Semitool, Inc. v. Tokyo Electron Am., Inc., 208 F.R.D. 273, 275-76 (N.D. Cal. 2002)
- 808 Holdings, LLC v. Collective of Dec. 29, 2011 Sharing Hash E37917C8EEB4585E6421358FF32F29CD63C23C91, No. 12cv186-MMA (RBB), 2012 WL 12884688, at *3-*4 (S.D. Cal. May 8, 2012)
- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Crim. Prods., Inc. v. Doe-72.192.163.220, No. 16cv2589-WQH (JLB), 2016 WL 6822186, at *3 (S.D. Cal. Nov. 18, 2016)
- Malibu Media, LLC v. John Does 1 through 6, No. 12cv1355-LAB (DHB), 2012 WL 4471538, at *3 (S.D. Cal. Sept. 26, 2012)
- Digital Sin, Inc. v. Does 1-5698, No. C 11-04397 LB, 2011 WL 5362068, at *2 (N.D. Cal. Nov. 4, 2011)
- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Ellison v. Robertson, 357 F.3d 1072, 1076 (9th Cir. 2004)
- Perfect 10, Inc. v. Giganews, Inc., 847 F.3d 657, 666 (9th Cir. 2017)
- A&M Recs., Inc. v. Napster, Inc., 239 F.3d 1004, 1013-14 (9th Cir. 2001)
- GPC (JMA), 2016 WL 6216183, at *2 (S.D. Cal. Oct. 25, 2016)

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