

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Strike 3 Holdings, LLC v. John Doe Subscriber Assigned IP Address
76.14.125.66

Strike 3 Holdings · No. 25-cv-03105-TSH · Decided April 28, 2025

SUMMARY

The United States District Court for the Northern District of California grants Strike 3 Holdings, LLC leave to serve a third-party Rule 45 subpoena on Astound Broadband LLC before a Rule 26(f) conference. The subpoena seeks the name and address of the subscriber assigned the identified IP address, subject to notice, opportunities to challenge the subpoena, preservation requirements, and restrictions on disclosure.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Thomas S. Hixson
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 28, 2025
DOCKET	25-cv-03105-TSH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought ex parte leave to serve a third-party Rule 45 subpoena on the defendant's internet service provider before the Rule 26(f) conference in order to identify the Doe defendant.
STANDARD OF REVIEW	The court applied a good-cause standard to the request for early third-party discovery.
PRECEDENTIAL VALUE	Nonprecedential interlocutory district-court order

TOPICS

- discovery dispute
- copyright infringement
- civil procedure

PRACTICE AREAS

- copyright litigation
- civil procedure
- third-party discovery
- anonymous-defendant identification

QUESTIONS PRESENTED

1. Whether Plaintiff established good cause to serve a third-party subpoena on the internet service provider before the Rule 26(f) conference.
2. What procedures and safeguards should govern disclosure of the Doe subscriber's identifying information in response to the subpoena.

HOLDINGS

1. Plaintiff established good cause to serve Astound Broadband LLC with a Rule 45 subpoena before the Rule 26(f) conference to obtain the true name and address of the subscriber associated with the identified IP address.
2. Plaintiff may serve a Rule 45 subpoena on the ISP for the Doe defendant's true name and address and may serve the same type of subpoena on another service provider identified in response as providing internet services to the Defendant.
3. The ISP must provide the subscriber with notice of the subpoena and this order, allow 30 days to contest the subpoena, preserve the subpoenaed information, and withhold production until the challenge period expires; Plaintiff must restrict use and public disclosure of the identifying information and file references to the identity under seal.

KEY QUOTATIONS

“Plaintiff has established “good cause” exists to serve a third-party subpoena on the internet service provider, Astound Broadband LLC (the “ISP”).” (Order at 1)

“Plaintiff may only use the information disclosed in response to a Rule 45 subpoena served on the ISP for the purpose of protecting and enforcing its rights as set forth in the Complaint.” (Order at 2)

FACTUAL BACKGROUND

Plaintiff alleged that Defendant, identified only as John Doe, was associated with IP address 76.14.125.66. Plaintiff sought the identity and address of the subscriber from Astound Broadband LLC, the internet service provider, before the parties' Rule 26(f) conference. The court found good cause for the early subpoena and required protections for the subscriber's notice, ability to challenge the subpoena, and confidential identifying information.

PROCEDURAL HISTORY

Strike 3 Holdings filed a copyright-infringement action against an unidentified subscriber associated with IP address 76.14.125.66. The court granted Plaintiff's ex parte application for leave to serve a third-party subpoena before the Rule 26(f) conference and imposed notice, challenge, preservation, use, and sealing requirements.

DISPOSITION

other

CASES CITED

- UMG Recording, Inc. v. Doe, 2008 WL 4104214, at *4 (N.D. Cal. Sept. 3, 2008)
- Strike 3 Holdings, LLC v. Doe, 2023 WL 6542326, at *2 (N.D. Cal. Sept. 22, 2023)

OPINION

Strike 3 Holdings, LLC v. John Doe subscriber assigned IP address 76.14.125.66
PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 STRIKE 3 HOLDINGS, LLC, Case No. 25-cv-03105-TSH 8 Plaintiff,
ORDER GRANTING EX-PARTE

9 v. MOTION FOR LEAVE TO SERVE

THIRD PARTY SUBPOENA PRIOR TO

10 JOHN DOE SUBSCRIBER ASSIGNED IP A RULE 26(F) CONFERENCE
ADDRESS 76.14.125.66,

11 Re: Dkt. No. 8 Defendant. 12 13 14 THIS CAUSE came before the Court upon Plaintiff’s Ex-
Parte Application for Leave to 15 Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference,
and the Court being duly advised 16 does FIND, ORDER AND ADJUDGE: 17 1. Plaintiff has
established “good cause” exists to serve a third-party subpoena on the 18 internet service provider,
Astound Broadband LLC (the “ISP”). See UMG Recording, Inc. v. Doe, 19 2008 WL 4104214, *4
(N.D. Cal. Sep. 3, 2008) (collecting cases); Strike 3 Holdings, LLC v. Doe, 20 2023 WL 6542326,
at *2 (N.D. Cal. Sept. 22, 2023). 21 2. Plaintiff may serve the ISP with a Rule 45 subpoena
commanding the ISP to provide the 22 true name and address of the Defendant to whom the ISP
assigned an IP address as set forth on 23 Exhibit A to the Complaint. Plaintiff shall attach a copy
of this Order to the subpoena; 24 3. Plaintiff may also serve a Rule 45 subpoena in the same
manner on any service provider 25 that is identified in response to a subpoena as a provider of
Internet services to the Defendant; 26 4. If the ISP qualifies as a “cable operator” under 47 U.S.C.
§ 522(5),¹ the ISP shall 27 1 comply with 47 U.S.C. § 551(c)(2)(B) by sending a copy of this
Order to the Defendant; and 2 5. The ISP shall serve a copy of the subpoena and a copy of this
order on the 3 || subscriber within 30 days of the date of service on the ISP. The ISP may serve the
subscribers 4 || using any reasonable means, including written notice sent to the subscriber’s last
known address, 5 || transmitted either by first-class mail or via overnight service. 6 6. Each
subscriber and the ISP shall have 30 days from the date of service upon him, her, 7 or it to file any
motions in this court contesting the subpoena (including a motion to quash or 8 modify the
subpoena). If the 30-day period lapses without the subscriber contesting the subpoena, 9 || the ISP
shall have 10 days to produce to Plaintiff the information responsive to the subpoena with 10 ||
respect to that subscriber. 11 7. The ISP shall preserve all subpoenaed information pending the

ISP's delivering such 12 || information to Plaintiff or the final resolution of a timely filed motion to quash the subpoena with 5 13 respect to such information. 14 8. Plaintiff may only use the information disclosed in response to a Rule 45 subpoena 15 served on the ISP for the purpose of protecting and enforcing its rights as set forth in the 16 || Complaint. Plaintiff may not publicly disclose the information obtained based on this subpoena 3 17 without leave of the Court—at least until the Doe defendant has had an opportunity to file a S 18 motion to proceed anonymously, or further discovery has been taken. All references to 19 || Defendant's identity must be redacted and filed UNDER SEAL until further notice. 20 IT IS SO ORDERED. 21 22 || Dated: April 28, 2025 23 |

THOMAS S. HIXSON

24 United States Magistrate Judge 25 26 interest in such cable system, or (B) who otherwise controls or is responsible for, through any 7 arrangement, the management and operation of such a cable system.” 47 U.S.C. § 522(5). ‘A cable operator may disclose such [personal identifying] information if the disclosure 1s ... 28 made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed[.]’ 47 U.S.C. § 551(c)(2)(B).