

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Strike 3 Holdings, LLC v. John Doe Subscriber Assigned IP Address 76.133.135.222

Strike 3 Holdings v. John Doe · No. 25-cv-03869-EMC · 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 for leave to serve a Rule 45 subpoena on Comcast Cable before the Rule 26(f) conference. The subpoena may seek the name and address of the subscriber associated with the specified IP address, subject to notice, confidentiality, preservation, and use restrictions.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	E. Chen
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 12, 2025
DOCKET	25-cv-03869-EMC
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 to identify the John Doe defendant in a copyright-infringement action.
STANDARD OF REVIEW	The court applied a good-cause standard to the request for expedited discovery before the Rule 26(f) conference.
PRECEDENTIAL VALUE	Unknown; district court order granting an ex parte application for early discovery.

TOPICS

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

PRACTICE AREAS

- Civil procedure
- Copyright litigation
- Pre-suit and expedited discovery
- Anonymous-defendant litigation

QUESTIONS PRESENTED

1. Whether good cause existed to permit service of a third-party Rule 45 subpoena before the Rule 26(f) conference to identify the John Doe defendant.
2. What notice, confidentiality, preservation, and use restrictions should govern the subpoena and the information disclosed in response.

HOLDINGS

1. Good cause existed to permit Strike 3 Holdings to serve Comcast Cable with a Rule 45 subpoena before the Rule 26(f) conference to obtain the true name and address of the subscriber assigned the identified IP address.
2. Authorization of the subpoena did not preclude John Doe from filing a Rule 12(b)(6) motion or prejudice the merits of such a motion.
3. Strike 3 was required to provide notice through the ISP or directly to John Doe, use the information only to protect and enforce rights asserted in the complaint, avoid public disclosure without court permission, redact identity references and file them under seal, and preserve subpoenaed information pending resolution of any timely motion to dismiss.

KEY QUOTATIONS

“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 Holdings alleged that John Doe infringed 38 of its adult motion pictures through the BitTorrent protocol. The defendant was identified only by an IP address, and Strike 3 sought the subscriber's true name and address from Comcast Cable, the internet service provider assigned that IP address.

PROCEDURAL HISTORY

Strike 3 Holdings filed a copyright-infringement action against an unidentified subscriber associated with a specified IP address and moved for early third-party discovery. 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

Strike 3 Holdings, LLC v. John Doe subscriber assigned IP address 76.133.135.222

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-03869-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 76.133.135.222,

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 38 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 E . 10 United States District Judge 11 12 13 © 15 16 =
17 Z 18 19 20 21 22 23 24 25 26 27 28