

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Strike 3 Holdings, LLC v. Doe

Strike 3 Holdings · No. 25cv1466-JES-SBC · Decided June 25, 2025

SUMMARY

The United States District Court for the Southern District of California grants Strike 3 Holdings, LLC’s ex parte application to serve a third-party subpoena before the Rule 26(f) conference. The order authorizes a Rule 45 subpoena to Spectrum seeking the name and address of the subscriber assigned to the identified IP address during the relevant period in a copyright infringement action against a John Doe defendant. It requires notice to the subscriber and limits discovery to the authorized identification information.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Steve B. Chu
JURISDICTION	United States District Court for the Southern District of California
DECIDED	June 25, 2025
DOCKET	25cv1466-JES-SBC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a copyright-infringement action against an unidentified John Doe defendant and moved ex parte for leave to serve a third-party subpoena on the defendant's Internet service provider before the Rule 26(f) conference.
STANDARD OF REVIEW	The court applied a good-cause standard and the three-factor test for early discovery to identify an unknown defendant. The decision to permit discovery to determine jurisdictional facts is discretionary.
PRECEDENTIAL VALUE	Unknown; district court order granting an ex parte application.

TOPICS

- discovery dispute
- third party practice
- copyright infringement
- copyright law
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff established good cause for expedited discovery before the Rule 26(f) conference to identify an unknown copyright-infringement defendant.
2. Whether plaintiff satisfied the three-factor test requiring specific identification of a real suable person or entity, prior good-faith efforts to locate the defendant, and a complaint capable of withstanding a motion to dismiss.
3. Whether the requested subpoena could be authorized consistently with the Cable Privacy Act.

HOLDINGS

1. A court may permit limited early discovery after a complaint is filed when the plaintiff shows good cause to obtain identifying information necessary to serve an unknown defendant.
2. Plaintiff established good cause for early discovery because it identified the Doe defendant with sufficient specificity, described prior efforts to locate the defendant, alleged facts sufficient to withstand a motion to dismiss, and showed a reasonable likelihood that the subpoena would yield identifying information.
3. A cable operator may disclose subscriber information pursuant to a court order when the operator notifies the subscriber of the order.

KEY QUOTATIONS

“The Ninth Circuit has held that when the defendants’ identities are unknown at the time the complaint is filed, courts may grant plaintiffs leave to take early discovery to determine the defendants’ identities ‘unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds.’” (at 2)

“First, ‘the plaintiff should identify the missing party with sufficient specificity such that the Court can determine that defendant is a real person or entity who could be sued in federal court.’” (at 2-3)

“Third, the ‘plaintiff should establish to the Court’s satisfaction that plaintiff’s suit against defendant could withstand a motion to dismiss.’” (at 3)

“Based on the above, the Court GRANTS Plaintiff’s ex parte application for leave to serve a third-party subpoena prior to a Rule 26(f) conference” (at 4)

FACTUAL BACKGROUND

Strike 3 Holdings alleged that John Doe, an unidentified Spectrum subscriber associated with an IP address, used the BitTorrent file-distribution network to copy and distribute the plaintiff's copyrighted works without permission. Plaintiff asserted ownership of valid copyrights and alleged direct infringement. Plaintiff used geolocation technology, web searches, computer investigators, and cybersecurity consultants to attempt to identify the defendant, and sought a Rule 45 subpoena for the subscriber's name and address. The opinion

contains inconsistent IP-address references: the caption identifies 172.88.76.11, while the procedural-history discussion identifies 104.52.240.104.

PROCEDURAL HISTORY

Plaintiff filed its complaint on June 6, 2025, alleging that an unidentified subscriber used the BitTorrent network to copy and distribute copyrighted works without authorization. Plaintiff then sought early discovery from Spectrum to identify the subscriber associated with the subject IP address. The court found good cause and granted the application, subject to specified notice, timing, and scope limitations.

DISPOSITION

other

CASES CITED

- Columbia Ins. Co. v. Seescandy.com, 185 F.R.D. 573, 577-80 (N.D. Cal. 1999)
- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Semitool, Inc. v. Tokyo Electron Am., Inc., 208 F.R.D. 273, 275-76 (N.D. Cal. 2002)
- Wells Fargo & Co. v. Wells Fargo Express Co., 556 F.2d 406, 430 n.24 (9th Cir. 1977)
- 808 Holdings, LLC v. Collective of Dec. 29, 2011 Sharing Hash, No. 12-cv-0186 MMA (RBB), 2012 WL 12884688, at *3 (S.D. Cal. May 8, 2012)