

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

| | | |
|---|---|-----------------------------|
| MALIBU MEDIA, LLC, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CAUSE NO. 4:13-CV-27-JD-JEM |
| |) | |
| JOHN DOE, <i>subscriber assigned IP</i> |) | |
| <i>address 98.226.144.247,</i> |) | |
| Defendant. |) | |

ORDER

This matter is before the Court on a Motion to Quash or Modify Subpoena [DE 8], filed by Defendant John Doe on June 17, 2013. Defendant seeks to quash a third party subpoena served by Plaintiff Malibu Media on Defendant’s Internet Service Provider (“ISP”) in order to determine Defendant’s identity so Plaintiff can pursue claims for copyright infringement. In the alternative, Defendant seeks a Protective Order prohibiting any party from publicly disclosing any information that Plaintiff obtains in response to the subpoena. On July 1, 2013, Plaintiff Malibu Media, LLC, filed a response. Defendant did not file a reply within the time allowed to do so.

This copyright infringement case involves a Defendant originally known to Plaintiff only by an IP address of 98.226.144.247. On April 22, 2013, Plaintiff filed a Motion for Leave to Serve a Third Party Subpoena Prior to a Rule 26(f) Conference in order to request from Defendant’s Internet Service Provider (“ISP”) the identity of the subscriber assigned that IP address at the time of the alleged downloads. On May 9, 2013, this Court granted Plaintiff’s motion. However, due to the potential for embarrassment and annoyance to Defendant because of the sexually explicit nature of the allegedly downloaded films, the Court also entered a Protective Order allowing Defendant to proceed anonymously. The Court also ordered Plaintiff “to refrain from any direct communication

with Defendant without express leave of Court.”

On July 24, 2013, Plaintiff filed a notice of Settlement with Defendant John Doe, indicating it had settled this matter with Defendant and intended to dismiss the action with prejudice upon satisfaction of the terms of the settlement agreement. Because it appeared Plaintiff had communicated with Defendant in violation of this Court’s Protective Order of May 9, 2013, this Court set this matter for a Show Cause hearing on August 29, 2013, at 11:00 am.

Accordingly, the Court **TAKES UNDER ADVISEMENT** Defendant’s Motion to Quash or Modify Subpoena [DE 8] until after resolution of the issues to be addressed at the Show Cause hearing.

So ORDERED this 15th day of August, 2013.

s/ John E. Martin
MAGISTRATE JUDGE JOHN E. MARTIN
UNITED STATES DISTRICT COURT

cc: All counsel of record
John Doe