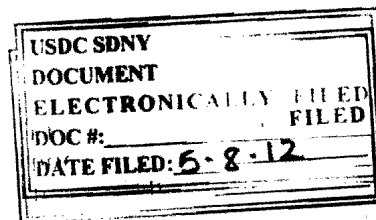


DUNNEGAN & SCILEPPI LLC
ATTORNEYS AT LAW
350 FIFTH AVENUE
NEW YORK, NEW YORK 10118

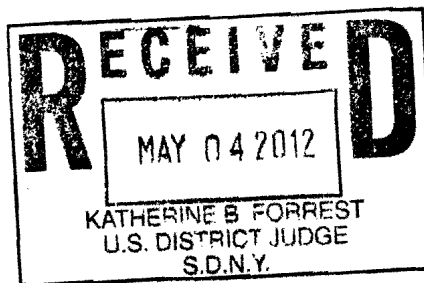


212-332-8300
212-332-8301 TELECOPIER

May 3, 2012

By Hand

Hon. Katherine B. Forrest
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312



Re: John Wiley & Sons, Inc. v. John Does Nos. 1-37
12 Civ. 1027(KBF)
John Wiley & Sons, Inc. v. John Does Nos. 1-38
12 Civ. 1783(KBF)
John Wiley & Sons, Inc. v. John Does Nos. 1-37
12 Civ. 1980(KBF)

Dear Judge Forrest,

We are attorneys for plaintiff in the above action.

We are writing in accordance with Local Civil Rule 37.2 and Rule 2.F. of the Individual Practices of Your Honor to request a conference to address a motion to compel Verizon Online LLC ("Verizon") to respond to our subpoenas in the above actions.

Pursuant to the orders dated April 9, 2012 (See eg. 12 Civ. 1027(KBF), Dkt. No 6.), we served subpoenas on Verizon on April 11, 2012. Verizon served objections on April 25, 2012. A copy of one set of objection is enclosed. On May 3, 2012, we communicated by phone with Verizon's counsel, Benjamin J. Fox, Esq. of Morrisson & Foerster in Los Angeles, in an attempt to resolve this dispute. Verizon was unwilling to withdraw its objections, or otherwise explain the circumstances under which Verizon would respond.

Verizon's first objection is two-fold; first, it argues that our subpoena is invalid "because it was faxed to

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Verizon at a 'P.O. Box' location outside of the issuing district, the Southern District of New York;" second it argues that our subpoena does not comply with Fed. R. Civ. P. 45(b)(2) because it specifies a location for production in New York, "a location that is more than 100 miles from Verizon." We believe these objections should be overruled for two reasons. First, Verizon has extensive ties to this District, with its corporate headquarters located at 140 West Street, New York, NY 10007. Second, Verizon should be estopped from objecting on these grounds because Verizon requested that it be served by fax. See http://www.verizon.net/policies/vzcom/civil_subpoena_popup.asp. Verizon has responded to eight previous, similar subpoenas that were served by this method, per its website and its instructions to my associate.

Verizon's second objection is that the subpoena "constitutes an abuse of the discovery process because Does 1-38 have not been properly joined in the underlying action. . ." Verizon has no standing to raise this objection, because it is not a party. In any event, a joinder motion is premature. As Judge Chen has noted, "discussion of joinder is not germane to the motions to quash before the Court, as the remedy for improper joinder is severance. . ." Sony Music Entm't Inc. v. Does 1-40, 326 F. Supp.2d 556, 568 (S.D.N.Y. 2004). Furthermore, severance would not be proper at this stage in the litigation, as "[t]his action is in its infancy, and each defendant will have ample time to challenge his inclusion in the litigation." John Wiley & Sons, Inc. v. Does Nos. 1-27, 11 CIV. 7627 WHP, 2012 WL 364048 (S.D.N.Y. Feb. 3, 2012) (Judge Pauley holding in a similar case that a motion to sever prior to production of a John Doe's identity by his ISP was premature.)

Verizon's third objection is that the information the subpoena seeks is "neither relevant nor reasonably calculated to lead to the discovery of relevant information and imposes an undue burden on Verizon." The subpoena seeks the identities of the Verizon subscribers whose accounts were used to infringe our client's copyrights. This information is highly likely to allow us to identify the defendants in this action either because the

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individuals that infringed our client's works are the account holders themselves or because the account holders will have knowledge of who committed the infringement. Additionally, it is unclear how production of 10 account holder IDs imposes an undue burden on Verizon in light of the fact that we compensate Verizon at its usual rate of \$45.00 per IP address submitted.

Verizon's fourth objection is that we have made "an insufficient showing that discovery of the identifying information of Does 1-38 would be used for a proper purpose in the current litigation." Contrary to Verizon's implication, our subpoena does not fall within the scope of any of the categories of improper purposes contemplated by Fed. R. Civ. P. 26(g); we do not seek to "to harass, cause unnecessary delay, or needlessly increase the cost of litigation."

Verizon's fifth objection is that the mere fact that multiple works are at issue in this suit refutes "any allegation that the large number of subscribers identified are acting in concert. . ." We reiterate that quashing a subpoena is not the proper remedy for misjoinder, and that, even if this Court found that the parties are potentially misjoined, severance would be premature at this stage of the litigation.

Verizon's sixth objection is that we seek "Information that is protected from disclosure by third parties' rights of privacy and protections guaranteed by the First Amendment." Even when defendants "have privacy interests due to the nature of the subject infringement, those interests do not 'give way to plaintiff['s] right to use the judicial process to pursue what appear to be meritorious copyright infringement claims.'" Next Phase Distribution, Inc. v. Does 1-138, 11 Civ. 9706 (KBF), 2012 WL 691830 at *3 (S.D.N.Y. Mar. 1, 2012).

Verizon's seventh objection is that the subpoena "seeks to impose on Verizon obligations different from, or greater than, those required by the Federal Rules of Civil Procedure or applicable Local Rules." This catch-all objection is inapplicable to this subpoena. Our subpoena does not require

Hon. Katherine B. Forrest

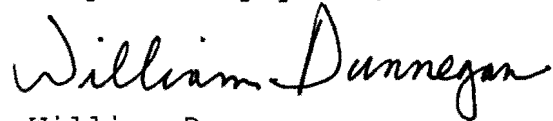
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of Verizon anything beyond the scope of the Federal Rules of Civil Procedure or applicable Local Rules. The subpoena seeks information, to which Verizon's has exclusive control and access, necessary to enforce our client's valid copyrights.

For the above listed reasons, we respectfully request that Your Honor compel Verizon to respond to the subpoenas.

Respectfully yours,



William Dunnegan

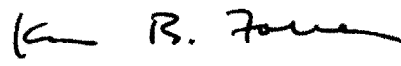
CC: Benjamin J. Fox, Esq. (By e-mail)

Verizon, shall respond
to this letter by 5/10/12.
telephonic
A conference on this
issue shall be held on

May 14, 2012 at 2:30 p.m.

Counsel for plaintiff shall place the call to chambers
with Verizon
on the line
at that time.

5/8/12



USDJ