

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

LIBERTY MEDIA HOLDINGS, LLC,

Plaintiff,

vs.

SWARM SHARING HASH FILE
AE340D0560129AFEE8D78CE07F2394C7B
5BC9C05; AND DOES 1 through 38,

Defendants.

Civil Action No. 11-cv-10802-MBB

PLAINTIFF’S EMERGENCY EX-PARTE MOTION FOR EARLY DISCOVERY

The plaintiff Liberty Media Holdings, LLC (“Liberty”) respectfully requests that the Court allow it to take early discovery in the present lawsuit — for the sole purpose of identifying all John Doe defendants (“Defendants”) named in the Complaint — by subpoenaing the Defendants’ respective Internet Service Providers (“ISPs”). Moreover, pursuant to the Cable Privacy Act, 47 U.S.C. § 551(c)(2)(B), Liberty further seeks a Court order directing the ISPs to disclose the subscriber’s personally identifiable information. Additionally, Liberty requests permission to propound limited discovery in the form of interrogatories and depositions on any individual identified by these ISPs in order to determine whether or not the actual Internet subscriber is a proper defendant in this action.¹

Liberty requests that this motion be decided on an emergency basis as the internet service providers only keep the records that Liberty requires to identify the Defendants for a limited period of time. Indeed, under one ISP’s publicly stated policy, some essential information will be irrecoverably lost by May 13, 2011 unless Liberty is allowed to serve a valid subpoena before that date.

¹ Liberty notes that is filing a similar motion for early discovery in the related A3E litigation against Does 1–9, Case No. 11-cv-10801-WGY. Since these cases involve substantially identical issues, Liberty requests that they be heard together, in the event that the Court should desire a hearing before rendering its decision.

In support of this motion, Liberty relies on the accompanying memorandum of law and the Dinkela declaration. Moreover, to assist the Court, Liberty has prepared a proposed Order and Court Approved Notice to the Doe Defendants, such as the one employed in *London-Sire Records, Inc. v. Doe 1 et al.*, 542 F. Supp. 2d 153 (D. Mass. 2008) (Gertner, J.).

Dated: May 9, 2011

Respectfully submitted,

LIBERTY MEDIA HOLDINGS, LLC

By its attorneys,

/s/ Aaron Silverstein

Aaron Silverstein, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on the above referenced date, the foregoing document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be served via first-class mail to those indicated as non-registered participants. Copies of this pleading will be served on the John Doe defendants when they make an appearance in the case.

/s/ Aaron Silverstein
Aaron Silverstein