

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

MALIBU MEDIA, LLC, Plaintiff, v. JOHN DOE subscriber assigned IP address 173.64.119.92, Defendant.	Case No. 1:14-cv-0223-MJG Assigned to: Honorable Marvin J. Garbis United States District Judge
MALIBU MEDIA, LLC, Plaintiff, v. JOHN DOE subscriber assigned IP address 71.200.143.209, Defendant.	Case No. 1:14-cv-0257-CCB Assigned to: Honorable Catherine C. Blake United States District Judge
MALIBU MEDIA, LLC, Plaintiff, v. JOHN DOE subscriber assigned IP address 76.100.228.15 Defendant.	Case No. 1:14-cv-0263-RDB ¹ Assigned to: Honorable Richard D. Bennett United States District Judge

[PROPOSED] ORDER GRANTING ISP SUBSCRIBER’S MOTION TO: (1) INTERVENE ANONYMOUSLY; (2) CONSOLIDATE MALIBU MEDIA CASES; AND (3) TEMPORARILY STAY OUTSTANDING SUBPOENAS

¹ An identical version of this motion is being filed concurrently in all cases identified on the caption. In addition, courtesy copies of these papers are being provided to Judges Titus, Grimm and Motz, due to the issues raised with respect to potential consolidation.

ORDER

The Internet user who pays the bill for the account associated with the IP address listed on the caption of this case, who plaintiff Malibu Media, LLC (“**Malibu**”) accuses of being the John Doe defendant in this action, (“**Movant**”), by and through counsel, moved the Court, as follows: (1) to intervene in this action, per Fed. R. Civ. P. 24, on an anonymous basis, for the purpose of adjudicating the issues raised in Movant’s concurrently-filed motion for an order to show cause as to why all evidence and data from Tobias Fieser and his company IPP should not be precluded and these cases dismissed (the “**Motion For An OSC**”); (2) to consolidate, per Fed. R. Civ. P. 42(a)(1), this and other Malibu cases in this district for the purpose of deciding the Motion For An OSC; and (3) to stay the return dates on any outstanding ISP subpoenas, and stay the issuance of any further ISP subpoenas, pending adjudication of the Motion For An OSC.

Having considered the arguments raised in connection with this motion, the Court hereby GRANTS this motion, as follows:

(1) Movant is hereby established as an intervener in this action, per Fed. R. Civ. P. 24. The Court passes no judgment on whether Movant is currently named as a defendant or not, but finds that Movant’s interests are sufficiently implicated to allow for intervention as of right at this stage. The lack of any adversarial opponent having appeared in this case weighs heavily in favor of intervention. Even if the standard for intervention as of right were not satisfied, the Court would find that there are common facts such that, at a minimum, discretionary intervention is appropriate.

(2) In view of Malibu’s representations in the past that it does not oppose such motions, and subject to Movant disclosing his or her identity *to the Court only*, he or she will be allowed to proceed anonymously in this litigation, using the John Doe pseudonym, pending further order of the Court.

(3) Since the issues raised in the concurrently filed Motion For An OSC are common to every Malibu case filed in this district, this action is hereby consolidated, per Fed. R. Civ. P. 42(a)(1), with all of the Malibu actions pending in this district for the purpose of adjudicating the issues raised in the Motion For An OSC.

(4) In view of the limited consolidation, and in the interests of judicial economy, the Motion For An OSC filed here will be transferred to the following Judicial Officer(s) for coordinated resolution:

(5) For good cause shown, pending the adjudication of the Motion For An OSC, any subpoena Malibu has issued to any ISP which seeks to identify the billing account associated with an IP address allegedly linked to alleged BitTorrent infringement is hereby stayed. Within two business days, counsel for Movant is directed to give notice to the relevant ISPs on behalf of the Movant identified on the caption above, and Malibu is directed to give notice of this order to any other ISPs who are in receipt of subpoenas issued on the authority of the Courts of this District. All such subpoenas are stayed, and the ISPs shall not make any returns on them, pending further order of this court.

(6) Case number _____, is hereby designated the lead case in the consolidated proceedings on the Motion For An OSC, and all subsequent filings relating to the consolidated proceedings shall be filed on the docket in that action only.

IT IS SO ORDERED.

DATED: _____

By: _____

United States District / Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing paper with the Clerk of the Court using ECF, which will send notification of such filing to all attorneys of record.

/s/ John C. Lowe

John C. Lowe

DATED: March 28, 2014