

**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 <sup>1</sup>  Assigned to: Honorable Richard D. Bennett United States District Judge

**[PROPOSED] ORDER GRANTING ISP SUBSCRIBER’S 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**

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<sup>1</sup> 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, for an order to show cause as to why all evidence and data collected by key witness Tobias Fieser and his company IPP should not be excluded and these cases dismissed, on the ground that Fieser and IPP are or were being paid on a contingent fee basis. *See Accrued Fin. Servs., Inc. v. Prime Retail, Inc.*, 298 F.3d 291, 300 (4th Cir. 2002); *Farmer v. Ramsay*, 159 F. Supp. 2d 873, 883 (D. Md. 2001) *aff’d on other grounds*, 43 Fed. Appx. 547, 551 (4th Cir. 2002).

For the reasons set forth in an accompanying Memorandum of Decision, this motion is GRANTED, as follows:

(1) This action, and all other Malibu cases in which Malibu sought leave to issue a Rule 45 subpoena by relying, in whole or in part, on the Declaration of Tobias Fieser are hereby DISMISSED WITH PREJUDICE.

(2) In the future, if Malibu, or its current counsel on behalf of other clients, file new copyright infringement cases in this district in which they seek early discovery prior to a Rule 26(f) conference that is aimed at identifying a John Doe defendant, then in such cases they are hereby ORDERED to disclose all persons, whether individuals or entities, who will have a pecuniary interest in the outcome of such litigation. In addition to disclosure of all persons with a direct contingency fee interest in the outcome of the litigation, including lawyers, this means that Malibu or its counsel shall also disclose any individuals or companies that regularly provide IP address logging or related services that are contemplated to be relied upon in connection with infringement litigation, whether they are paid

on contingency or otherwise. Malibu and their counsel are specifically warned that failure to follow this rule in the future will result in sanctions, which may include dismissal of the case or other appropriate measures.

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