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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DALLAS BUYERS CLUB, LLC, a Texas  
limited liability company,  
  
Plaintiff,  
  
v.  
  
DOE-70.181.160.198,  
  
Defendant.

Case No.: 16cv466-BAS (DHB)

**ORDER GRANTING PLAINTIFF'S  
EX PARTE MOTION FOR LEAVE  
TO ISSUE A FRCP 45 SUBPOENA  
AND MOTION FOR EXTENSION  
OF TIME TO COMPLETE SERVICE**

**[ECF Nos. 12, 14]**

Currently before the Court are Plaintiff, Dallas Buyers Club, LLC’s, *Ex Parte* Motions: (1) for Leave to Issue a Rule 45 Subpoena (ECF No. 12) and (2) for Extension of Time to Complete Service (ECF No. 14). Because Defendant has not been named or served, no opposition or reply briefs have been filed. For the reasons discussed below, Plaintiff’s Motions are **GRANTED**.

**I. BACKGROUND**

On February 19, 2016, Plaintiff filed a Complaint against Doe, a subscriber assigned IP address 70.181.160.198 (“Defendant”). (ECF No. 1.) Plaintiff alleges a single cause of action for direct copyright infringement. Plaintiff asserts that it is the registered copyright holder of the motion picture *Dallas Buyers Club*. (See ECF No. 1 at ¶¶ 4, 6.) Plaintiff contends Defendant used the BitTorrent file distribution network to copy and distribute

1 Plaintiff's copyrighted work through the Internet without Plaintiff's permission. (ECF No.  
2 1 at ¶ 35.) On March 11, 2016, the Court permitted Plaintiff to serve a Rule 45 subpoena  
3 on Cox Communications to learn the identity of the subscriber assigned to Defendant's IP  
4 address. (ECF No. 7.)

5 On April 28, 2016, Cox Communications provided Plaintiff the name and physical  
6 address of the subscriber. (ECF No. 10-1 at 4.) Thereafter, Plaintiff sent a letter to the  
7 subscriber, Cara Greico, requesting that she voluntarily cooperate with Plaintiff to identify  
8 the infringer, and inviting her to contact Plaintiff's counsel with questions. (ECF No. 10-  
9 5.) In response, On May 5, 2016, an individual identifying himself as the subscriber's  
10 husband, Austin Morris, telephoned Plaintiff's counsel. (ECF No. 10-8 at ¶ 2.) Mr. Morris  
11 requested information about how the IP address was tracked and located, and also if  
12 Plaintiff could provide the media access control address (MAC address) of the computer  
13 that was tracked. (*Id.* at ¶ 3.) Mr. Morris indicated he would not assist Plaintiff's counsel  
14 with the investigation unless counsel provided the requested information. (*Id.* at ¶ 4.)

15 On May 9, 2016, Plaintiff sent a second letter to the subscriber. (ECF No. 10-6.)  
16 Plaintiff contends it has not received a response to the letter.

17 Plaintiff now brings the instant motion seeking leave to depose the subscriber. (ECF  
18 Nos. 12.) Plaintiff also requests an additional 90 days to complete service of the Complaint.  
19 (ECF No. 14.)

## 20 II. ANALYSIS

### 21 A. Motion for Leave to Issue a Rule 45 Subpoena

22 The Court was initially hesitant to permit Plaintiff to conduct early depositions of  
23 third parties. Upon further consideration, however, the Court finds permitting a limited  
24 deposition of the subscriber is warranted. The Court has previously determined that  
25 Plaintiff has shown good cause for leave to conduct early discovery. (*See* ECF No. 11.)  
26 Accordingly, Plaintiff's request to depose the subscriber Cara Grieco, who was identified  
27 by Cox Communications on April 28, 2016 is GRANTED as set forth below:

- 28 1. The deposition is limited to **ONE** (1) hour in duration.

1           2.     Questions are limited to establishing the identity of the alleged infringer(s).  
2 The deposition is not to be treated as a fishing expedition for information other than the  
3 identity of the alleged infringer(s).

4           3.     Questions are limited to activity regarding IP address 70.181.160.198 located  
5 at 406 Firebird Lane, San Marcos, CA 92069-1604 from February 12, 2016 to February  
6 17, 2016.

7           4.     Plaintiff shall notify the subscriber of the California Bar Lawyer Referral  
8 Service online at <http://www.calbar.ca.gov/Public/LawyerReferralServicesLRS.aspx> or by  
9 calling (866) 442-2529 and urge the subscriber to consult an attorney as soon as possible.

10          5.     Plaintiff shall make reasonable efforts to accommodate the subscriber in the  
11 time and location of the deposition and ensure that service of the subpoena included a copy  
12 of this Order.

13          6.     Plaintiff shall notify the subscriber that ignoring a Court Order, a subpoena  
14 seeking the subscriber's deposition, or a Summons and Complaint may result in sanctions  
15 including an award of attorney fees and possibly the entry of a default judgment for money  
16 damages.

17           **B.     Motion for Extension of Time to Complete Service**

18           Plaintiff requests an additional 90 days to serve Defendant in light of its ongoing  
19 efforts to identify the proper Defendant. Good cause appearing, Plaintiff's request is  
20 GRANTED. Plaintiff shall have an additional ninety (90) days under Rule 4(m) to serve  
21 the summons and complaint from the date of this order.

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1 **III. CONCLUSION**

2 Plaintiff's *Ex Parte* Motions: (1) for Leave to Issue a Rule 45 Subpoena (ECF No.  
3 12) and (2) for Extension of Time to Complete Service (ECF No. 14) are GRANTED, as  
4 set forth above.

5 IT IS SO ORDERED.

6 Dated: November 17, 2016

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8 LOUISA S PORTER  
9 United States Magistrate Judge  
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