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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11)
12 AXEL BRAUN,)

13 Plaintiff,)

14 vs.)

15 PRIMARY DISTRIBUTOR DOE)
16 NUMBER 1 and DEFENDANT)
17 DOES 2 through 69,)

18 Defendants.)
19)

Case No.: 12-3690 YGR (JSC)

**CASE MANAGMENT
CONFERENCE STATEMENT
AND [PROPOSED] ORDER**

20
21 Plaintiff provides this Separate Case Management Case which deviates from the
22 Northern District’s form Joint Case Management Conference statement because of the
23 unique nature of the case.

24 Plaintiff requested leave to take early discovery in order to identify the Internet
25 subscribers whose accounts the Doe Defendants used to access the Internet and engage
26 in the infringing activity alleged in the Complaint. See Docket No. 4. The Court
27

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1 granted Plaintiff's request and Plaintiff subpoenaed a number of Internet Service
2 providers. See Docket No. 7.

3 Plaintiff resolved its claims with some potential Defendants and dismissed those
4 Defendants with prejudice. See Docket No. 27.

5 A number of ISPs did not have information for the IP address. Plaintiff
6 dismissed those defendants without prejudice. See Docket No. 28.

7 Some of the service providers recently produced information, and Plaintiff is in
8 the process of contacting those subscribers to further investigate.

9 One Comcast subscriber, filed a motion to dismiss for lack of joinder. That
10 Motion is pending with the Court. No hearing date was set for oral argument. See
11 Docket No. 19. Comcast, has refused to produce information for any of 13Comcast
12 subscribers until the Court rules the Motion to Dismiss. Although Plaintiff believes
13 this action by Comcast is improper, it believes that a Motion to Compel Production
14 would not be heard or resolved before the Court rules on the outstanding motion to
15 dismiss thus resolving the issue. Rather than burden the Court with a Motion to
16 Compel that is likely to become moot, Plaintiff awaits the Court's ruling on the Motion
17 to Dismiss.

18 Plaintiff believes that within sixty days it will obtain the remaining subscriber
19 information, complete its investigation and seek to amend the Complaint to name any
20 remaining Defendants. It will serve those defendants within forty-five days of
21 amending the complaint (and within 120 days of obtaining the identity of the
22 subscribers as previously ordered by the Court. See Docket No.7).

23 Dated: 12/11/2012

/s/ D. Gill Sperlein

Counsel for plaintiff

1 **[PROPOSED] CASE MANAGEMENT ORDER**

2
3 The Case Management Conference currently scheduled for December 17,
4 2012 at 2:00 p.m. is rescheduled for February 25, 2013 at 2:00 p.m.

5
6 IT IS SO ORDERED.

7 Dated:

8 _____
9 YVONNE GONZALEZ ROGERS
10 UNITED STATES DISTRICT JUDGE

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