

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STRIKE 3 HOLDINGS, LLC,
Plaintiff,
v.
JOHN DOE SUBSCRIBER ASSIGNED IP
ADDRESS 162.231.243.236,
Defendant.

Case No. [18-cv-00697-MEJ](#)

**ORDER DENYING EX PARTE
APPLICATION WITHOUT PREJUDICE**

Re: Dkt. No. 8

Plaintiff Strike 3 Holdings, LLC filed an Ex-Parte Application for Leave to Serve a Third Party Subpoena Prior to a Rule 26(f) Conference (the “Application”). Appl., Dkt. No. 8. The Court finds this matter is suitable for disposition without oral argument. *See* Fed. R. Civ. P. 78(b); Civ. L.R. 7-1(b).

The Complaint alleges the IP address at issue in this action, 162.231.243.236, is owned by AT&T Inc. Compl. ¶ 5, Dkt. No. 5; *see also* Mot. at 1, 11-12. Plaintiff, however, does not establish this ownership with any evidence. The Declarations of Greg Lansky, Tobias Fieser, and Susan B. Stalzer do not identify which ISP owns this IP address. *See* Lansky Decl., Dkt. No. 8-1; Fieser Decl., Dkt. No. 8-2; Stalzer Decl., Dkt. 8-3. Ms. Stalzer declares that she “used American Registry for Internet Numbers (‘ARIN’) to confirm that the ISP did own Defendant’s IP address at the time of the infringements, and hence has the relevant information to identify Doe Defendant” (Stalzer Decl. ¶ 11), but she does not identify the ISP she references. In addition, although the caption page of Ms. Stalzer’s declaration correctly identifies the action, the footer on the remaining pages of her declaration identify a different case. *See id.* at pp. 1-2 (identifying CAND-1062-SANJ). And except for its caption page, Ms. Stalzer’s Declaration does not specifically identify the IP address at issue in this action.

1 Because Plaintiff has failed to establish that AT&T owns the IP address at issue in this
2 action, the Court denies the ex parte Application for early discovery without prejudice.

3 **IT IS SO ORDERED.**

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5 Dated: February 23, 2018

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8 MARIA-ELENA JAMES
9 United States Magistrate Judge
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