

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

MALIBU MEDIA, LLC Plaintiff, v. JOHN DOE subscriber assigned to IP Address 24.14.81.195, Defendant.	Case No. 1:13-cv-06312 The Hon. Geraldine S. Brown
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MOTION TO POSTPONE DEPOSITION OF COMCAST CABLE COMMUNICATIONS HOLDINGS, INC.

JOHN DOE subscriber assigned to IP Address 24.14.81.195, by and through his counsel, submits this Motion to Postpone the Deposition of Comcast Communications, LLC, and in support of the same states as follows:

1. On June 18, 2014, this Court authorized Malibu Media, LLC (“Malibu”) to serve a third-party subpoena on Comcast Cable Communications Holdings, Inc. (“Comcast”). (ECF Doc. 95).
2. The deposition date for Comcast was not set until August 1, 2014. The date was unilaterally set for August 18, 2014.
3. Prior to the authorization of ¶ 1, Doe had served a request for production on Malibu seeking “documents that suggest, intimate, or relate in any way that any Internet Service Provider’s IP address to subscriber correlation has failed, or can fail . . . including, but not limited to, those of Malibu’s Colorado counsel and cases involving Hotwire Communications. . . .”
4. While this Motion is not meant to argue the merits of the objection, in response, on July 10, 2014, Malibu did object, stating, “on the basis that this request seeks information that is

neither relevant nor likely to lead to the discovery of admissible evidence. Hotwire Communications is not Defendant's internet service provider. . . . "

5. Since July 10, 2014, counsels for both parties have discussed a multitude of discovery disputes in an attempt to narrow down a soon-to-be-filed Motion to Compel. Such conversations culminated in a final telephone call on August 5, 2014, wherein Malibu's counsel was to follow up regarding the request for production at issue.
6. The follow up email from opposing counsel stated that the request did "not relate to Comcast as I assumed during our phone call" and for that reason Malibu stood by its objection. Communications pointing out the fallacy of the position – as viewed by Doe, of course – did not resolve the issue.
7. The documents requested are manifestly necessary for Doe to properly prepare for the deposition of Comcast.
8. While Doe has not yet filed his Motion to Compel, which includes this particular issue, he does wish for Comcast or Malibu to waste resources preparing for depositions in less than two-weeks. Accordingly, this Motion is being brought as soon as possible and Doe will be prepared to argue the same at presentation.

WHEREFORE, JOHN DOE subscriber assigned to IP Address 24.14.81.195, respectfully requests that the deposition of Comcast Cable Communications Holdings, Inc. be postponed until such time as the soon-to-be filed Motion to Compel is resolved, and if resolved in Doe's favor, further postponed until the aforementioned documents are received by Doe.

Respectfully submitted,
/s/Jonathan LA Phillips
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Certificate of Service

I certify that on August 7, 2014 a copy of the foregoing has been filed with the Clerk of the Court via the Court's ECF filing system, thereby serving it upon all counsel of record.

I further certify that on August 7, 2014, a copy of the foregoing was emailed to John D. Siever, Esq., counsel for the deponent, and recipient of the deposition notices.

I further certify that on August 7, 2014, a copy of the foregoing was mailed to John D. Siever, Esq., counsel for the deponent, and recipient of the deposition notices via US Mail, postage pre-paid.

/s/ Jonathan LA Phillips