

Anonymity and the Demands of Civil Procedure in Music Downloading Lawsuits

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The Internet has spawned a vast amount of anonymous online activity, both good and bad. On the one hand, cyber-anonymity encourages the open exchange of ideas and creative expression; on the other, it protects improper and illegal behavior such as cyber-stalking, defamation, and copyright violations. This Article, through the prism of music downloading lawsuits, examines the unexpected impact that courts' pretrial procedural rulings have in preserving Internet anonymity and policing improper online conduct. Specifically, the Article addresses issues of personal jurisdiction and misjoinder that arise in the typical music downloading lawsuit, which record companies bring against multitudes of anonymous "John Doe" defendants for downloading music that they did not purchase. The Article focuses on the importance of when courts choose to address these issues of personal jurisdiction and misjoinder and examines whether courts are correctly choosing to defer ruling on the issues until after the Does' true identities are revealed. The Article ultimately concludes that while courts are correctly waiting to rule on the question of personal jurisdiction, courts are incorrectly deferring the question of misjoinder, at a substantial cost to the government and in disregard of the anonymous expressive component of the Does' downloading activity.

I.	INTRODUCTION.....	1050
II.	A BRIEF HISTORY OF MUSIC DOWNLOADING LITIGATION.....	1055
III.	IS ANONYMOUS DOWNLOADING PROTECTED SPEECH?	1063
IV.	PERSONAL JURISDICTION	1068
	A. <i>Is There Personal Jurisdiction over the Does in the Typical Music Downloading Lawsuit?</i>	1069
	1. Residence	1070
	2. General or Specific Jurisdiction.....	1073
	B. <i>When Should Music Downloading Courts Consider the Personal Jurisdiction Issue?</i>	1092
	1. Arguments Favoring Preidentification Consideration of Personal Jurisdiction	1096
	2. Arguments Favoring Postidentification Consideration of Personal Jurisdiction	1099
V.	MISJOINDER	1103

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