

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

| | | |
|---|---|---|
| -----X | : | |
| STRIKE 3 HOLDINGS, LLC, | : | |
| | : | Case No. 8:20-cv-00676-MSS-CPT |
| Plaintiff, | : | |
| | : | <u>NOTICE OF INTENT TO SERVE</u> |
| vs. | : | <u>SUBPOENA</u> |
| | : | |
| JOHN DOE subscriber assigned IP address | : | |
| 47.197.99.186, | : | |
| | : | |
| Defendant. | : | |
| -----X | : | |

PLEASE TAKE NOTICE that on February 25, 2022, Plaintiff Strike 3 Holdings LLC, by and through undersigned counsel, will cause the attached subpoena (the “Subpoena”) to be served via process server on Google LLC c/o Corporation Service Company 1201 Hays Street Tallahassee, FL 32301-2525.

Respectfully submitted,

By: /s/ Tyler Mamone
 Tyler Mamone, Esq.
 100 SE 2nd St., Ste 2000
 Miami, FL 33131
 786-209-2379
 Email: tyler@mvlawpllc.com
 Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2022, a true and correct copy of the foregoing document was served via U.S. Mail and/or email to the following.

J. Curtis Edmonson
Law Offices of J. Curtis Edmondson
2660 SE 39th Loop, Suite D
Hillsboro, OR 97123
503-336-3749
Email: jcedmondson@edmolaw.com
Attorneys for the Defendant
JOHN DOE infringer identified as using
IP address 47.197.99.186

Stephanie Reed Traband
Levine Kellogg Lehman Schneider & Grossman LLP
Citigroup Center, Floor 22
201 S Biscayne Blvd
Miami, FL 33131-4332
305-403-8788
Fax: 305-403-8789
Email: srt@lklsg.com
Attorneys for the Defendant
JOHN DOE infringer identified as using
IP address 47.197.99.186

By: /s/ Tyler Mamone
Tyler Mamone, Esq.

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Middle District of Florida

| | | |
|--|---|--|
| Strike 3 Holdings, LLC |) | |
| <i>Plaintiff</i> |) | |
| v. |) | Civil Action No. 8:20-cv-00676-MSS-CPT |
| John Doe subscriber assigned IP address 47.197.99.186 |) | |
| <i>Defendant</i> |) | |

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Google LLC c/o Corporation Service Company 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
Google LLC c/o Corporation Service Company 1201 Hays Street Tallahassee, FL 32301-2525

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Schedule A.

| | |
|--|--------------------------------------|
| Place: Mamone Villalon 100 SE 2nd St., Ste 2000, Miami, FL 33131 tyler@mvlawpllc.com | Date and Time: March 14, 2022 |
|--|--------------------------------------|

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

| | |
|--------|----------------|
| Place: | Date and Time: |
|--------|----------------|

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 2/25/2022

CLERK OF COURT

OR

| | | |
|---|---|--|
| <i>Signature of Clerk or Deputy Clerk</i> |) | s/ Tyler Mamone <i>Attorney's signature</i> |
|---|---|--|

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Strike 3 Holdings, LLC, who issues or requests this subpoena, are:
Tyler Mamone; 100 SE 2nd St., Ste 2000 Miami, FL 33131; 786-209-2379, Email: tyler@mvlawpllc.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

MOTION TO QUASH

EXHIBIT 3

Civil Action No. 8:20-cv-00676-MSS-CPT

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____.

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Schedule A & B

DEFINITIONS

1. “**Basic Registration Information**” shall mean name, birth date, address, email address, telephone number, and list of Computer Devices, accounts, or services that were registered.
2. “**Communications**” shall mean any oral or written statement, dialog, colloquy, discussion or conversation, and also means any transfer of thoughts or ideas between persons by means of documents and includes any transfer of data from one location to another by electronic or similar means.
3. “**Connection Activity Logs**” shall mean logs which contain the dates, timestamps, IP addresses used, Google product or service used, and/or descriptions of **Events**.
4. If not expressly stated, “**control**” means in your possession, custody, or control.

7. “**Documents**” shall mean the original or exact copies of any tangible written, typed, printed or other form of recorded or graphic matter of every kind or description, however produced or reproduced, whether mechanically or electronically recorded, draft, final, original, reproduction, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, and whether handwritten, typed, printed, photostated, duplicated, carbon or otherwise copies or produced in any other manner whatsoever. Without limiting the generality of the foregoing, “documents” shall include business records, correspondence, letters, telegrams, telexes, mailgrams, memoranda, including interoffice and interoffice memoranda, memoranda for files, memoranda of telephone or other conversations, and including meetings, invoices, reports, receipts and statements of account, ledgers, notes or notations, booklets, books, drawings, graphs, telephone records, video cassettes, electronic tapes, discs or other recordings, computer programs, hard drives, discs, printouts, data cards, studies, analysis, e-mails, computer files, back-up tapes, hard disks, litigation data bases and other data compilations from which information can be obtained. Copies of documents which are not identical duplications of the originals, or which contain additions to or deletions from the originals, or copies of documents which are identical duplications of the originals if the originals are not available, shall be considered to be separate documents.

8. “**Event**” shall mean an action or occurrence generated or triggered by a computer system, the user, or in any other way, which is detected by a program and has significance for system hardware or software.

9. The terms “**refer to,**” “**referring to,**” “**relate to,**” “**relating to,**” “**concern,**” or “**concerning**” when used herein, are used in their broadest possible meaning to encompass anything listing analyzing, annotating, associated with, averring to, commenting upon, comprising, concerning, connected with, construing, containing, consisting of, constituting, criticizing, describing, disclosing, discussing, embodying, evidencing, explaining, forming the basis of, is the genesis of or successor to, identifying, is the genesis of or successor to, mentioning, modifying, pertaining to, referring to, reflecting, regarding, representing, revealing, setting forth, showing, stating, substantiating, summarizing, or supporting, whether directly or indirectly, or in whole or in part, or otherwise connected with the matter in question.

10. **“Services and Products”** shall mean any product or service which you offer whether or not for profit including but not limited to: Android Auto, Android OS, Android TV, Calendar, Cardboard, Chrome, Chrome Enterprise, Chromebook, Chromecast, Connected Home, Contacts, Digital Wellbeing, Docs, Drive, Earth, Exposure Notifications, Finance, Forms, Gboard, Gmail, Google Alerts, Google Arts & Culture, Google Assistant, Google Authenticator, Google Chat, Google Classroom, Google Duo, Google Expeditions, Google Family Link, Google Fi, Google Files, Google Find My Device, Google Fit, Google Flights, Google Fonts, Google Groups, Google Home App, Google Input Tools, Google Lens, Google Meet, Google One, Google Pay, Google Photos, Google Play, Google Play Books, Google Play Games, Google Play Pass, Google Play Protect, Google Podcasts, Google Shopping, Google Street View, Google TV, Google Tasks, Google Workspace, Hangouts, Keep, Maps, Messages, News, PhotoScan, Pixel, Pixel Buds, Pixelbook, Scholar, Search, Sheets, Sites, Slides, Snapseed, Stadia, Tilt Brush, Translate, Travel, Voice, Waze, Wear OS by Google, YouTube, YouTube Kids, YouTube Music, YouTube TV, YouTube VR, and any other product or service listed on <<https://about.google/products/#all-products>>.

11. **“Technical Specifications”** shall mean the model number, serial number, and detailed information regarding the device’s capabilities with respect to the operating system, operating system version, browser, browser version, display, processor, storage capacity, memory, graphics, external ports, and wireless function.

12. **“Transactional Information”** shall mean documents relating to the name of the purchaser, address (or shipping address), phone number, e-mail, date of purchase, purchase amount, and the Device, product, or service purchased.

13. **“You”** or **“Your”** shall mean the person upon whom this request was propounded and any other person(s) or entity(ies) acting or purporting to act on your behalf or under your control.

14. The use of the singular of any word includes the plural and vice-versa; the use of the disjunctive includes the conjunctive and vice-versa; the use of the masculine form shall include the feminine form and vice versa; and, the use of the past tense shall include the present tense and vice versa.

Schedule A
DOCUMENTS AND ITEMS REQUESTED

1. All **document(s)** identifying the **Basic Registration Information** for **Defendant's Google Account**.
2. All **document(s)** identifying the alternative email address(es) for **Defendant's Google Account**.
3. All **document(s)** identifying all IP addresses used to access the **Defendant's Google Account** between July 1, 2019 to present day.
4. All **Connection Activity Logs** for **Defendant's Google Account** between July 1, 2019 to present day.
5. All **Transactional Information** for purchases made under **Defendant's Google Account for your Services and Products** between July 1, 2019 to present day.



7. All **document(s)** identifying the **Technical Specifications** of each device used to access **your Services and Products** through **Defendant's Google Account** from July 1, 2019 to present day.

8. All **document(s)** identifying the file names for all files stored on the Google Drive under **Defendant's Google Account** from July 1, 2019 to present day.

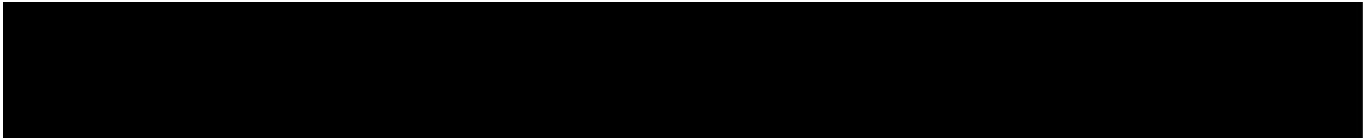
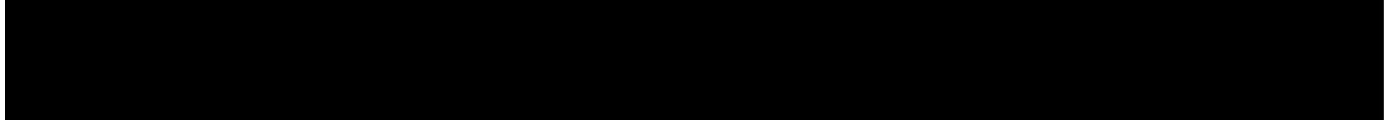
9. All videos uploaded to YouTube using **Defendant's Google Account** from July 1, 2019 to the present.

10. All **document(s) containing all** comments posted by **Defendant's Google Account** on YouTube videos and/or channels from July 1, 2019 to present day.

11. All **documents related to** internet searches performed using Google's search engine under **Defendant's Google Account** from July 1, 2019 to present day **containing the following terms (case insensitive)**:

- i. Strike 3 Holdings;
- ii. Blacked;
- iii. Tushy;
- iv. Vixen;
- v. Torrent;
- vi. uTorrent;

vii. VPN.

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- i. All **document(s)** identifying the **Basic Registration Information** associated with the account.
 - ii. All **document(s)** identifying the alternative email address(es) associated with the account.
 - iii. All **document(s)** identifying all IP addresses used to access the e-mail address associated with the account.
 - iv. All **Connection Activity Logs** for the e-mail address associated with the account between July 1, 2019 to present day.
 - v. All **Transactional Information** for purchases made under the account for **your Services and Products** between July 1, 2019 to present day.