**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-cv-_____

FAÇONNABLE USA CORPORATION, a Delaware corporation,

Plaintiff,

v.

JOHN DOES 1-10, all whose true names are unknown,

Defendants.

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**MOTION FOR EXPEDITED ORDER**
**AUTHORIZING DISCOVERY**

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Pursuant to Federal Rule of Civil Procedure 26(d), Plaintiff Façonnable USA Corporation ("Façonnable USA"), by and through its undersigned counsel, moves the Court for an order authorizing Façonnable USA to conduct discovery before the parties have conferred pursuant to Rule 26(f), and states:

1. This is an action for violation of the Lanham Act and the Colorado Consumer Protection Act, and for common law trade libel/commercial disparagement arising out of Defendants' unauthorized disparagement of Façonnable USA and its ultimate parent, M1 Group, through postings on the Wikipedia website located at http://www.wikipedia.com. Each of the Defendants has posted or has assisted in posting on the Wikipedia website certain false and misleading statements that Façonnable USA and M1 Group are supporters of Hezbollah (the "Defamatory Statements").

2. Façonnable USA has identified the Defendants as John Doe defendants because

the actual names and addresses of the Defendants were not disclosed in connection with the Defendants' postings on Wikipedia.

3. In fact, the only information available from the Wikipedia website about the Defendants are the Internet Protocol ("IP") addresses from which Defendants edited the Wikipedia articles about Façonnable and M1 Group to include the Defamatory Statements.

4. After Defendants first posted the Defamatory Statements in early March 2011, M1 Group traced the IP address associated with that posting and learned that the address was associated with the Internet service provider Skybeam, Inc. ("Skybeam"), which is based in Colorado. M1 Group then requested that Skybeam provide identifying information for the Defendants, but Skybeam declined to provide that information absent a subpoena. *See* Ex. B to Verified Complaint, correspondence between M1 Group and Skybeam.

5. Because Façonnable USA and its parent M1 Group have been unable to ascertain the Defendants' identities through its diligent pre-lawsuit investigations, good cause exists for an order allowing expedited early discovery relating to the Defendants' identities. Specifically, Façonnable USA seeks the Court's authorization to conduct discovery from Skybeam and other Internet service providers or website operators who may have information about the identity of Defendants. To obtain this information, Façonnable USA anticipates that it will be necessary to serve third-party subpoenas pursuant to Federal Rule of Civil Procedure 45 that require the production of evidence and permit the inspection or copying of electronically stored information, documents and other information that relates to the identity of all persons associated with the IP addresses from which changes were or are in the future made to Wikipedia articles about Façonnable and M1 Group, including the names, email addresses, physical addresses and any

other identifying information associated with those persons.

6. Once the Defendants' identities are determined, Façonnable USA will amend its Verified Complaint to identify the actual names of the Defendants.

7. Rule 26(d) permits discovery to be conducted prior to a Rule 26(f) conference "when authorized by . . . court order." Fed.R.Civ.P. 26(d). This Court previously has granted requests for early discovery to obtain this type of information where, as here, good cause exists. *See, e.g., 20/20 Financial Consulting, Inc. v. John Does 1-5*, No. 10-cv-01006-CMA-KMT, 2010 WL 1904530 (D. Colo. May 11, 2010) (allowing expedited discovery for the purpose of discovering defendants' identities). *See also Pod-Ners, LLC v. Northern Feed & Bean of Lucerne Ltd.*, 204 F.R.D. 675, 676 (D. Colo. 2002) (finding good cause existed for expedited discovery). Here, as in the *20/20 Financial Consulting* case, the Court should permit limited discovery on an expedited basis "[b]ecause it appears likely that Plaintiff will continue to be thwarted in its attempts to identify Defendants without the benefit of formal discovery mechanisms."

8. Façonnable USA respectfully requests that the Court consider this Motion on an expedited basis. Recently, on April 5, Defendants engaged in another round of posting the Defamatory Statements to the Wikipedia articles and, while Façonnable USA is in the process of removing the Defamatory Statements once again from Wikipedia, the Defendants' continued postings have created a need for urgent action.

9. A proposed Order is submitted herewith for the Court's convenience.

WHEREFORE, Façonnable USA moves the Court pursuant to Federal Rule of Civil Procedure 26(d) for an order permitting Façonnable USA to conduct discovery regarding the identity of Defendants before the Rule 26(f) conference.

Dated this 7th day of April, 2011.

s/Peter J. Korneffel, Jr.

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ATTORNEYS FOR FAÇONNABLE USA CORPORATION

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**ORDER**

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THIS MATTER comes before the Court on Plaintiff's Motion for Expedited Order Authorizing Discovery (Doc. No. __, filed April 7, 2011), filed pursuant to Fed. R. Civ. P. 26(d).

IT IS ORDERED that Plaintiff's Motion is GRANTED. Pursuant to Fed. R. Civ. P. 45, Plaintiff is authorized to conduct discovery prior to the Fed. R. Civ. P. 26(f) conference for the limited purpose of discovering the identities of Defendants, including discovery of Skybeam, Inc. to identify the persons associated with the Internet Protocol addresses from which edits were made to the Wikipedia articles about Façonnable and M1 Group.

Dated this ____ day of _____, 2011.

BY THE COURT:

_____
District Court Judge