

<https://www.youtube.com/watch?v=SORAiHhTx1U>

This content infringes copyrights held by Watch Tower. (See Declaration of Paul D. Polidoro (hereinafter “Polidoro Decl. **Exhibit B**”).

Watch Tower has satisfied the requirements for issuance of a subpoena pursuant to 17 U.S.C. § 512(h), namely:

- (1) Watch Tower has submitted copies of notifications pursuant to 17 U.S.C. § 512(c)(3)(A) as **Exhibit 1** to the Declaration of Paul D. Polidoro.
- (2) Watch Tower has submitted the proposed DMCA Subpoena attached hereto as **Exhibit A**; and
- (3) Watch Tower, through its counsel of record, has submitted a sworn declaration confirming that the purpose for which the DMCA Subpoena is sought is to obtain the identity of an alleged infringer or infringers, and that such information will only be used for the purpose of protecting Watch Tower’s rights under Title 17 U.S.C. § 512(h)(2).
See Polidoro Decl., ¶ 4.

Having complied with the statutory requirements, Watch Tower respectfully requests that the Clerk expeditiously issue and sign the proposed DMCA Subpoena pursuant to 17 U.S.C. § 512(h)(4).

Dated: June 25, 2018

/s/ Paul D. Polidoro
Paul D. Polidoro
Associate General Counsel
SDNY Bar No. PP2509

WATCH TOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA

Legal Department

100 Watchtower Drive

Patterson, NY 12563

Telephone: 845-306-1000

Facsimile: 845-306-0709

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: DMCA Section 512(h) Subpoena
To YouTube (Google, Inc.)

CIVIL ACTION NO.

**SUBPOENA TO PRODUCE DOCUMENTS OR INFORMATION
PURSUANT TO 17 U.S.C. § 512(h)**

To: Custodian of Records for: Google, Inc., 1600 Amphitheater Parkway, Mountain View, California 94043 by and through its registered agent Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833

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

All identifying information, including subscriber registration information, the name(s), address(es), telephone number(s), any electronic mail addresses associated with the infringing YouTube account with the user name "The UnReluctant", and all logs of Internet Protocol addresses including time stamps used to access the subject account or to upload videos available at the following URLs :

<https://www.youtube.com/watch?v=SORAiHhTx1U>

Place: Watch Tower Bible and Tract Society of Pennsylvania Office of General Counsel 100 Watchtower Drive Patterson, NY 12563	Date and Time: 07/18/2018 10:00 am
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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.

CLERK OF THE COURT

Date: _____

Signature of Clerk or Deputy Clerk

The name, address, e-mail address, and telephone number of the attorney representing, Watch Tower Bible and Tract Society of Pennsylvania, who issues or requests this subpoena is Paul D. Polidoro, Associate General Counsel, Watch Tower Bible Tract Society of Pennsylvania, Legal Department. 100 Watchtower Dr. Patterson, NY 12563, ppolidor@jw.org, 845-306-1000.

Notice to the person who issues or requests this subpoena

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).

Civil Action No. _____

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 \$ _____.

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.

Paul D. Polidoro
Associate General Counsel
WATCH TOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA
Legal Department
100 Watchtower Drive
Patterson, NY 12563
Tel: 845-306-1000
Email: ppolidor@jw.org
Attorney for Plaintiff

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

In Re DMCA Subpoena to YouTube (Google, Inc.) X Case No. _____
: :
: **Declaration of Paul D. Polidoro in**
: **Support of Watch Tower Bible**
: **and Tract Society’s Request to the**
: **Clerk for Issuance of Subpoena to**
: **YouTube (Google, Inc.), Pursuant**
: **to 17 U.S.C. § 512(h) to Identify**
: **Alleged Infringers**
X

I, Paul D. Polidoro, counsel of record for Petitioner, Watch Tower Bible and Tract Society of Pennsylvania (hereinafter “Watch Tower”), in the above-referenced matter, hereby declare as follows:

1. I am authorized to act on behalf of Watch Tower.
2. I submit this declaration in support of Watch Tower’s request for issuance to YouTube (Google, Inc.) of a subpoena, pursuant to the Digital Millennium Copyright Act (DMCA) 17 U.S.C. § 512(h) (hereinafter “DMCA Subpoena”), to identify the user named: “The UnReluctant”.
3. Pursuant to 17 U.S.C. § 512 (c)(3)(A), Watch Tower submitted notifications to YouTube (Google, Inc.) identifying the infringing content posted by the aforementioned user and provided the information required by 17 U.S.C. §

512 (c)(3)(A). True and accurate copies of the submitted notifications are attached hereto as **Exhibit 1**.

4. The purpose for which this DMCA Subpoena is sought is to obtain the identity of an alleged infringer and such information will only be used for the purpose of protecting Watch Tower's rights under title 17 U.S.C. §§ 100, *et. seq.*

I declare under penalty of perjury under the laws of the State of New York and United States of America that the foregoing is true and correct. Executed this 27th day of June 2018.



Paul D. Polidoro
Associate General Counsel
SDNY Bar No. PP2509
WATCH TOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA
Legal Department
100 Watchtower Drive
Patterson, NY 12563
Telephone: 845-306-1000
Facsimile: 845-306-0709
Attorney for Plaintiff

From: copyright@youtube.com
Sent: Monday, June 18, 2018 4:09 PM
To: InboxLGLIPG
Subject: Re: [8-3748000022718] 1st Notice of Infringement by YouTube Channel: The UnReluctant

Thanks for contacting the YouTube Copyright compliance team. If your issue is a general help inquiry (for example, regarding a copyright strike or a Content ID claim), please understand that those won't be answered here. You may want to check out our [Copyright Troubleshooter](#) in order to find a solution for your copyright issue.

To expedite our ability to investigate your inquiry, we encourage you to submit any copyright takedown requests electronically via our [webform](#). You can find the requirements of copyright takedown requests, and information about our copyright policy, in our [Copyright Center](#). Please make sure that you've provided us with all of the required information in order to process your request.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	18mc301 (DLC)
IN RE WATCH TOWER BIBLE AND TRACT	:	
SOCIETY OF PENNNSYLVANIA'S REQUEST FOR	:	<u>MEMORANDUM OPINION</u>
ISSUANCE OF A SUBPOENA	:	<u>AND ORDER</u>
	:	
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DENISE COTE, District Judge:

On June 27, 2018, petitioner Watch Tower Bible and Tract Society of Pennsylvania requested the issuance of a subpoena to the service provider YouTube to identify an alleged infringer of copyrighted material. The request was made pursuant to the Digital Millennium Copyright Act, 17 U.S.C. §512(h). The action was assigned to this Court as a "miscellaneous case," after petitioner opened the case electronically. The relief sought in the action is limited to the issuance of a subpoena.

DISCUSSION

17 U.S.C. § 512(h) permits a copyright owner to seek subscriber information about an alleged copyright infringer. A copyright owner may request the issuance of a subpoena "to a service provider for identification" of the alleged infringer. Such a request must include the following:

- (A) a copy of a notification described in subsection (c) (3) (A);
- (B) a proposed subpoena; and

(C) a sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.

17 U.S.C. § 512(h)(2). The notification of claimed infringement “described in subsection (c)(3)(A)” which must be included in a subpoena request “must be a written communication provided to the designated agent of a service provider.” 17 U.S.C. § 512(c)(3)(A). The notification must include “substantially” the following:

- (i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- (ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
- (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
- (iv) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- (v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Id.

Petitioner's request for the issuance of a subpoena is deficient. The request includes a proposed subpoena and a sworn declaration. The request, however, does not include a copy of a notification that meets the requirements of Section 512(c). The request includes an attachment which is described as "true and accurate copies of the submitted notifications." That attachment, however, does not match its description. The document is a form email response, from the service provider, YouTube, to, presumably, the petitioner. The subject line of the email is "Re: 1st Notice of Infringement by YouTube Channel: The UnReluctant." The petitioner has not included the original communication sent by it to YouTube, detailing the alleged infringement.¹

A form email reply from a service provider is not "a copy of a notification described in subsection (c)(3)(A)." The exhibit attached to the subpoena request does not include any of the information enumerated in the statute. Due to the deficiencies in the petitioner's application, petitioner is not entitled to the issuance of subpoena.

¹ The petitioner's request also includes a link to a webpage where the infringing content is allegedly published. The content has been removed from the site "due to a copyright claim by Watch Tower Bible of Pennsylvania."

CONCLUSION

The petitioner's June 27 request for the issuance of a subpoena is denied without prejudice. The petitioner may refile its request, with appropriate supporting materials, by July 6.

Dated: New York, New York
June 28, 2018



DENISE COTE
United States District Judge

of YouTube accounts to which the infringing party with the user name, “The UnReluctant”, posted content at the URLs:

<https://www.youtube.com/watch?v=SORAiHhTx1U>

This content infringes copyrights held by Watch Tower. (See Declaration of Paul D. Polidoro (hereinafter “Polidoro Decl. **Exhibit B**”).

Watch Tower has satisfied the requirements for issuance of a subpoena pursuant to 17 U.S.C. § 512(h), namely:

- (1) Watch Tower has submitted copies of notifications pursuant to 17 U.S.C. § 512(c)(3)(A) as **Exhibit 1** to the Declaration of Paul D. Polidoro.
- (2) Watch Tower has submitted the proposed DMCA Subpoena attached hereto as **Exhibit A**; and
- (3) Watch Tower, through its counsel of record, has submitted a sworn declaration confirming that the purpose for which the DMCA Subpoena is sought is to obtain the identity of an alleged infringer or infringers, and that such information will only be used for the purpose of protecting Watch Tower’s rights under Title 17 U.S.C. § 512(h)(2). *See Polidoro Decl., ¶ 4.*

Having complied with the statutory requirements, Watch Tower respectfully requests that the Clerk expeditiously issue and sign the proposed DMCA Subpoena pursuant to 17 U.S.C. § 512(h)(4).

Dated: July 3, 2018

/s/ Paul D. Polidoro

Paul D. Polidoro

Associate General Counsel

SDNY Bar No. PP2509

WATCH TOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA

Legal Department

100 Watchtower Drive

Patterson, NY 12563

Telephone: 845-306-1000

Facsimile: 845-306-0709

Attorney for Plaintiff

EXHIBIT "A"

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: DMCA Section 512(h) Subpoena
To YouTube (Google, Inc.)

CIVIL ACTION NO.

**SUBPOENA TO PRODUCE DOCUMENTS OR INFORMATION
PURSUANT TO 17 U.S.C. § 512(h)**

To: Custodian of Records for: Google, Inc., 1600 Amphitheater Parkway, Mountain View, California 94043 by and through its registered agent Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833

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

All identifying information, including subscriber registration information, the name(s), address(es), telephone number(s), any electronic mail addresses associated with the infringing YouTube account with the user name "The UnReluctant", and all logs of Internet Protocol addresses including time stamps used to access the subject account or to upload videos available at the following URLs :

<https://www.youtube.com/watch?v=SORAiHhTx1U>

Place: Watch Tower Bible and Tract Society of Pennsylvania Office of General Counsel 100 Watchtower Drive Patterson, NY 12563	Date and Time: 07/18/2018 10:00 am
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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.

CLERK OF THE COURT

Date: _____

Signature of Clerk or Deputy Clerk

The name, address, e-mail address, and telephone number of the attorney representing, Watch Tower Bible and Tract Society of Pennsylvania, who issues or requests this subpoena is Paul D. Polidoro, Associate General Counsel, Watch Tower Bible Tract Society of Pennsylvania, Legal Department. 100 Watchtower Dr. Patterson, NY 12563, ppolidor@jw.org, 845-306-1000.

Notice to the person who issues or requests this subpoena

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).

Civil Action No. _____

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 \$ _____.

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.

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- (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
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(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.

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- (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.

EXHIBIT "B"

Paul D. Polidoro
Associate General Counsel
WATCH TOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA
Legal Department
100 Watchtower Drive
Patterson, NY 12563
Tel: 845-306-1000
Email: ppolidor@jw.org
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

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IN RE WATCH TOWER BIBLE AND TRACT : **Case No. 1:18-mc-00301-DLC**
: **SOCIETY OF PENNSYLVANIA’S REQUEST FOR** : **Declaration of Paul D. Polidoro in**
ISSUANCE OF A SUBPOENA : **Support of Watch Tower Bible**
: **and Tract Society’s Request to the**
: **Clerk for Issuance of Subpoena to**
: **YouTube (Google, Inc.), Pursuant**
: **to 17 U.S.C. § 512(h) to Identify**
: **Alleged Infringers**
X

I, Paul D. Polidoro, counsel of record for Petitioner, Watch Tower Bible and Tract Society of Pennsylvania (hereinafter “Watch Tower”), in the above-referenced matter, hereby declare as follows:

1. I am authorized to act on behalf of Watch Tower.
2. I submit this declaration in support of Watch Tower’s request for issuance to YouTube (Google, Inc.) of a subpoena, pursuant to the Digital Millennium Copyright Act (DMCA) 17 U.S.C. § 512(h) (hereinafter “DMCA Subpoena”), to identify the user named: “The UnReluctant”.
3. On June 27, 2018 Watch Tower’s original application was denied since the request did not include a copy of a notification that meets the requirements of 17 U.S.C. Section 512 (c). We apologize for this oversight.

4. On June 28, 2018 this court denied Watch Tower's request for the issuance of a subpoena without prejudice, and allowed the request to be refiled by July 6, 2018.
5. Pursuant to 17 U.S.C. § 512 (c)(3)(A), Watch Tower submitted notifications to YouTube (Google, Inc.) identifying the infringing content posted by the aforementioned user and provided the information required by 17 U.S.C. § 512 (c)(3)(A). True and accurate copies of the submitted notifications are attached hereto as **Exhibit 1**.
6. The purpose for which this DMCA Subpoena is sought is to obtain the identity of an alleged infringer and such information will only be used for the purpose of protecting Watch Tower's rights under title 17 U.S.C. §§ 100, *et. seq.*

I declare under penalty of perjury under the laws of the State of New York and United States of America that the foregoing is true and correct. Executed this 2nd day of July 2018.



Paul D. Polidoro
Associate General Counsel
SDNY Bar No. PP2509
WATCH TOWER BIBLE AND TRACT
SOCIETY OF PENNSYLVANIA
Legal Department
100 Watchtower Drive
Patterson, NY 12563
Telephone: 845-306-1000
Facsimile: 845-306-0709
Attorney for Plaintiff

EXHIBIT "1"

From: InboxLGLIPG
Sent: Monday, June 25, 2018 4:19 PM
To: 'Copyright@YouTube.com'
Subject: 1st Notice of Infringement by YouTube Channel: The UnReluctant

Dear Sir/Madam:

I represent Watch Tower Bible and Tract Society of Pennsylvania ("Watch Tower"). It has come to our attention that you are reproducing and distributing Watch Tower's intellectual property illegally and without authorization.

Below is the information needed for you to identify the unauthorized display of Watch Tower's intellectual property.

Title of Video: 60. Watchtower Leaked video-Records Management 2

Channel Name: The UnReluctant

Description of allegedly infringed work: My company, organization or client's video (not from YouTube)

Link to Infringing Video on YouTube's Website:

<https://www.youtube.com/watch?v=SORAiHhTx1U>

Link to Lawful Display of Material(s) on Watch Tower's site: These works are not publicly available on Watch Tower's site.

We hereby request that you take all steps necessary to immediately remove the infringing materials from your website. Advise us in writing within ten (10) days of the date of this letter whether or not you will take the requested action.

I have a good faith belief that use of the materials in the manner complained of is not authorized by the copyright owner, its agent, or the law.

I hereby state under penalty of perjury that this information is accurate, and that I am authorized to act on behalf of the owner of the infringed materials.

Sincerely,

Philip Brumley

Philip Brumley
General Counsel

Intellectual Property Owner: Watch Tower Bible and Tract Society of Pennsylvania

Company: Watch Tower Bible and Tract Society of Pennsylvania

Address: 100 Watchtower Drive

City, State, and Zip: Patterson, NY 12563

Name and Title: Philip Brumley, General Counsel

Attorney Address: 100 Watchtower Drive, Patterson, NY 12563

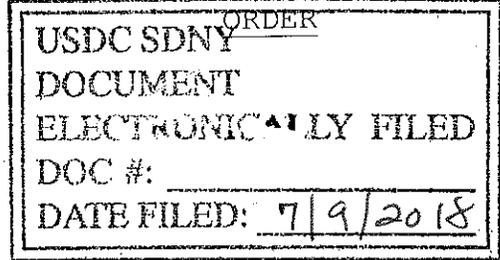
Email Address: InboxLGLCopyright@jw.org

Telephone: 845-306-1000

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
: 18mc301 (DLC)
: IN RE WATCH TOWER BIBLE AND TRACT
: SOCIETY OF PENNNSYLVANIA'S REQUEST FOR
: ISSUANCE OF A SUBPOENA
: ----- X

18mc301 (DLC)



DENISE COTE, District Judge:

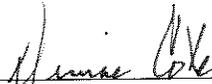
On June 27, 2018, petitioner Watch Tower Bible and Tract Society of Pennsylvania ("Watch Tower") requested the issuance of a subpoena to the service provider YouTube to identify an alleged infringer of copyrighted material. The request was made pursuant to the Digital Millennium Copyright Act, 17 U.S.C. §512(h). A June 28 Memorandum Opinion and Order ("June 28 Opinion") denied Watch Tower's request for failure to comply with the requirements of 17 U.S.C. § 512(h)(2). Watch Tower had not properly included "a copy of a notification" of claimed infringement as required by the statute. The June 28 Opinion granted Watch Tower leave to refile its request by July 6.

On July 6, Watch Tower renewed its request for an issuance of a subpoena. The July 6 request includes the notification Watch Tower sent to YouTube on June 25. That notification complies with 17 U.S.C. § 512(c)(3)(A), the subsection of the

statute which lists the requirements for the notification.¹
Having considered Watch Tower's request, including the
Declaration of Philip Brumley, it is hereby

ORDERED that the Clerk of Court shall issue the subpoena
for YouTube, as sought by Watch Tower.

Dated: New York, New York
July 9, 2018



DENISE COTE

United States District Judge

¹ Watch Tower's notification does not include "[i]dentification of the copyrighted work claimed to have been infringed," 17 U.S.C. § 512(c)(3)(A)(ii), other than to describe it as "[m]y company, organization or client's video" but nevertheless "substantially" includes the rest of the information listed in the statute.