



## INTRODUCTION

Watch Tower submits this memorandum and accompanying sworn declaration in response to this Court’s April 2, 2020 order ruling Movant’s original arguments for quashing were without merit and directing Watch Tower to respond to two factual issues, namely, (1) Watch Tower’s good faith use of the DMCA subpoena process to initiate copyright infringement lawsuits, and (2) Watch Tower’s holding valid copyrights to the videos reproduced in their entirety by Movant—none of which are “undercover” or edited videos.

### WATCH TOWER’S GOOD FAITH USE OF THE DMCA SUBPOENA PROCESS TO INITIATE COPYRIGHT INFRINGEMENT LAWSUITS

As Movant readily admits, over the past few years, there has been a proliferation of infringements of “videos which Watch Tower has produced using an all-volunteer workforce”. Jane/John Doe’s Reply in Support of Objection and Motion to Quash DMCA Subpoena at ¶14. Stated more accurately, the videos were produced by “unsalaried members of a religious order.” *The Watchtower*, September 1, 2015, p. 6.

Beginning in June 2018, Watch Tower undertook concentrated efforts to address the global theft of its intellectual property. *See* Declaration of Paul D. Polidoro, dated April 17, 2020 (hereinafter “Polidoro Decl.”) ¶5. To identify a possible defendant for a copyright infringement lawsuit in the United States, Watch Tower availed itself of its statutory rights under the DMCA. *Id.* at ¶6. The vast majority of these subpoenas were issued from June 2018-June 2019. *Id.* at ¶7.

The information obtained from these subpoenas has, thus far, provided little in the way of information necessary to identify a potential defendant. As Movant concedes, “this is the year 2020 and things like VPNs, anonymous proxies, and TOR exit nodes frustrate [Watch Tower] at every turn.” Jane/John Doe’s Reply at 1. When some identifying information was obtained,

usually the infringer resided outside of the United States, such as in South America or Europe. *See* Polidoro Decl. ¶8.

At the end of last year, Watch Tower’s Legal Department was finally able to identify a few potential domestic defendants to bring a copyright infringement action. *Id.* at ¶9. Undertaking litigation with its attendant expenses was and is carefully considered because Jehovah’s Witnesses’ efforts are “supported entirely by voluntary donations.” *See The Watchtower*, September 1, 2015, p.6, Polidoro Decl.¶10. Nevertheless, given the compelling need to institute lawsuits to stem the tide of infringements, in December 2019, the Legal Department was directed to institute legal action. *Id.* at ¶11. After considering a variety of factors, including jurisdiction, a decision was made as to the first defendant to be sued. *Id.* at ¶12. A Manhattan law firm specializing in intellectual property matters was retained as trial co-counsel. *Id.* at ¶13. Since the beginning of 2020, the Legal Department has been working with outside counsel to draft the complaint. *Id.* at ¶14. But for the delay caused by the ongoing COVID-19 pandemic, the complaint would have already been filed. *Id.* at ¶15. Once the complaint is filed in the United States District Court Southern District of New York in the coming weeks with the Court’s permission the undersigned will file an informative motion with this Court providing the docket number. *Id.* at ¶16.

Watch Tower’s forthcoming copyright infringement lawsuit will not end its efforts to take steps to address other ongoing continued infringements. To this end, Watch Tower will continue to avail itself of its statutory rights to pursue DMCA subpoenas to identify other potential defendants. The instant subpoena is one such effort.

**MOVANT POSTED VIDEOS—IN THEIR ENTIRETY—PRODUCED AND  
COPYRIGHTED BY WATCH TOWER**

The instant subpoena encompasses five videos posted by Movant. All of the material

reproduced in their entirety in these videos was produced and copyrighted by Watch Tower. *See* Polidoro Decl. ¶19. None of the videos are “undercover” or edited videos. *Id* at ¶18. Movant’s five video postings are:

1. Choose Your Apps Wisely

Movant posted the *Choose Your Apps Wisely* video in its entirety, including Watch Tower’s copyright notification that appears at the end of this video. Movant posted this unedited video without providing criticism. *See* Polidoro Decl. ¶20.

The *Choose Your Apps Wisely* video is not an “undercover” video of meetings. All of the material in this video was produced and copyrighted by Watch Tower. This video was shown at the congregation meetings of Jehovah’s Witnesses in the United States during the week of March 23, 2020 *See* Polidoro Decl. ¶21

2. Whose Leadership Can You Trust?

Movant posted the *Whose Leadership Can You Trust?* video in its entirety, including Watch Tower’s copyright notification that appears at the end of this video. Movant posted the unedited video without providing criticism. *See* Polidoro Decl. ¶22.

The *Whose Leadership Can You Trust?* video is not an “undercover” video of meetings. All of the material in this video was produced and copyrighted by Watch Tower. This video was shown in connection with the Special Talk presented at the weekend congregation meetings of Jehovah’s Witnesses during the weeks of March 23 and March 30, 2020. *See* Polidoro Decl. ¶23

3. How Can You Support LDC?

Movant posted the *How Can You Support LDC?* video in its entirety, including Watch Tower’s copyright notification that appears at the end of this video. Movant posted the unedited video without providing criticism. *See* Polidoro Decl. ¶24

The *How Can You Support LDC?* video is not an “undercover” video of meetings. All of the material in this video was produced and copyrighted by Watch Tower. This video was shown at the congregation meetings of Jehovah’s Witnesses in the United States during the week of September 23, 2019. *See* Polidoro Decl. ¶25.

4. Congregation Accounting Training Video #1

Under the title “Congregation Accounting Training Video #1,” Movant posted 9 training videos in their entirety, including Watch Tower’s copyright notification that appears at the end of each individual video. Movant posted the unedited videos without providing criticism. *See* Polidoro Decl. ¶26.

These videos are not “undercover” videos of meetings. All of the material in this video was produced and copyrighted by Watch Tower. These training videos are used in congregations throughout the United States. *See* Polidoro Decl. ¶27.

5. Congregation Accounting Training Video #2

Under the title “Congregation Accounting Training Video #2,” Movant posted 4 training videos in their entirety, including Watch Tower’s copyright notification that appears at the end of each individual video. Movant posted the unedited videos without providing criticism. *See* Polidoro Decl. ¶28

These videos are not “undercover” videos of meetings. All of the material in this video was produced and copyrighted by Watch Tower. These training videos are used in congregations throughout the United States. *See* Polidoro Decl. ¶29.

In sum, Movant posted complete, unedited videos produced and copyrighted by Watch Tower without providing criticism. Unlike the Reddit poster in *In re DMCA Subpoena to Reddit, Inc., No. 19-MC-80005, 2020 WL 999788 (N.D. Cal. Mar. 2, 2020)*, this Movant did not post one

page of Watch Tower's intellectual property with critical statements on a website geared to commentary or post one document with critical commentary on Reddit. Rather, this Movant took a number of Watch Tower's copyrighted videos and posted them in their entirety on the internet. Movant now seeks a judicial imprimatur for his/her actions. While Movant is free to express his/her opinions, Movant may not purloin the creative works of others to create a shadow website of Jehovah's Witnesses' intellectual property.

### CONCLUSION

Movant's allegations against Watch Tower are false.

Watch Tower has used the DMCA subpoena process in good faith. Watch Tower's copyright infringement lawsuit is forthcoming. Watch Tower holds copyrights to the infringed videos reproduced in their entirety by Movant. None of the videos reproduced by Movant are "undercover" or edited videos.

Watch Tower respectfully requests that the Court deny Movant's motion to quash and order Google to comply with the subpoena forthwith.

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Respectfully submitted,

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