

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

USDC - GREENBELT
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In Re DMCA Subpoena to
NameCheap, Inc.

Case No. _____

**REQUEST TO THE CLERK FOR ISSUANCE OF SUBPOENA TO
NAMECHEAP, INC. PURSUANT TO 17 U.S.C. § 512(h) TO IDENTIFY
ALLEGED INFRINGER**

Petitioner Fox News Network, LLC (“Fox News”), by counsel, hereby requests that the Clerk of this Court issue a subpoena to NameCheap, Inc. (“NameCheap”) to identify the alleged infringer(s) at issue pursuant to the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512(h) (the “Section 512(h) Subpoena”). The proposed Section 512(h) Subpoena is attached hereto as Exhibit A.

The proposed Section 512(h) Subpoena is directed to NameCheap, Inc., the domain registrar of TeamTuckerCarlson.com (“Subject Domain Name”). The owner and operator of the Subject Domain Name to infringe one or more copyrights owned by Fox News. Fox News has satisfied the requirements for issuance of a subpoena pursuant to 17 U.S.C. § 512(h):

- (1) Fox News has submitted a copy of the notification sent pursuant to 17 U.S.C. § 512(c)(3)(A) as Attachment 1 to the attached Declaration of David Weslow dated November 12, 2021 (“Weslow Decl.”).
- (2) Fox News has submitted the proposed Section 512(h) Subpoena attached hereto as Exhibit A; and
- (3) Fox News, through its counsel of record, has submitted a sworn declaration confirming that the purpose for which the Section 512(h) Subpoena is sought

is to obtain the identity of an alleged infringer or infringers and such information will only be used for the purpose of protecting Fox News's rights under title 17 of the United States Code. *See* Weslow Decl. ¶ 5.

Having complied with the statutory requirements, Fox News respectfully requests that the Clerk expeditiously issue and sign the proposed Section 512(h) Subpoena pursuant to 17 U.S.C. § 512(h)(4) and return it for service to NameCheap, Inc.

Respectfully submitted,

/s/ David E. Weslow /s/
David E. Weslow
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006
(202)719-7000 - phone
dweslow@wiley.law

Counsel for Fox News Network, LLC

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

In Re DMCA Subpoena to
NameCheap, Inc.

Case No. _____

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

To: Namecheap Legal Department
4600 East Washington Street
Suite 305
Phoenix, Arizona 85034

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:

All identifying information, including registrant registration information, the name(s), address(es), telephone number(s), payment method(s), any electronic mail addresses, as well as all domain names associated with the registrant of TeamTuckerCarlson.com (“Subject Domain Name”), and logs of Internet Protocol addresses including time stamps used to access the Subject Domain Names or send email using the Subject Domain Names and associated mail servers.

Place: Please produce electronically to dweslow@wiley.law and scbrooks@wiley.law. If you prefer to produce at a location in the district, please mail Capital Process Servers c/o Judicial Attorney, 2942 N. 24th St., Suite 114, Phoenix, Arizona 85016.

Date and Time:
11/22/2021
5:00 p.m. EST

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 COURT

Date: _____

Signature of Clerk of Deputy Clerk

The name, address, email address, and telephone number of the attorney representing Fox News Network, LLC, who issues or requests this subpoena, are: David E. Weslow, Wiley Rein LLP, 1776 K Street NW, Washington DC 20006, dweslow@wiley.law, (202)719-7525.

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).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

USDC - GREENBELT
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In Re DMCA Subpoena to
NameCheap, Inc.

Case No. _____

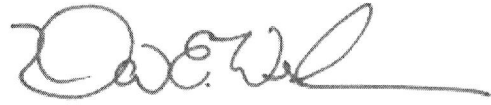
DECLARATION OF DAVID WESLOW

I, David Weslow, counsel of record for Fox News Network, LLC (“Fox News”) in the above-reference matter, hereby declare as follows:

1. I am a partner at Wiley Rein LLP and licensed to practice law in the State of Maryland and the District of Columbia.
2. I am authorized to act on behalf of Fox News.
3. I submit this declaration in support of Fox News’s request for issuance to NameCheap, Inc. of a subpoena pursuant to the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512(h) (the “Section 512(h) Subpoena”), to identify the registrant and user of the Internet domain name TeamTuckerCarlson.com.
4. Pursuant to 17 U.S.C. § 512(c)(3)(A), Fox News submitted a notification to NameCheap, Inc. identifying the infringing content transmitted by the aforementioned user and providing the information required by 17 U.S.C. § 512(c)(3)(A). A true and accurate copy of the submitted notification is attached hereto as Attachment 1.
5. The purpose for which this Section 512(h) Subpoena is sought is to obtain the identity of an alleged infringer or infringers and such information will only be used for the purpose of protecting Fox News’s rights under title 17 of the United States Code.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 12, 2021.

A handwritten signature in black ink, appearing to read "David Weslow", written in a cursive style. The signature is positioned above a horizontal line.

David Weslow

Attachment 1

David E. Weslow
202.719.7525
dweslow@wiley.law



Wiley Rein LLP
1776 K Street NW
Washington, DC 20006
Tel: 202.719.7000

wiley.law

November 12, 2021

BY EMAIL

Namecheap Legal Department
4600 East Washington Street
Suite 305
Phoenix, AZ 85034
dmca@namecheap.com

Re: Notice of Copyright Infringement – TeamTuckerCarlson.com

Dear Sir or Madam:

We are counsel to Fox News. This letter is a notification and request concerning the unauthorized use of Fox News' intellectual property being displayed by TeamTuckerCarlson.com, for which NameCheap appears to be providing services.

Fox News and its related companies own all rights in the copyright protected content, photographs, text, images, graphics, animations, and source code associated with Fox News programming. Fox News is the owner of hundreds of copyrights registered through the United States Copyright Office including, without limitation, copyright number TX0005647280. Additionally, Fox News is the exclusive owner of the FOX NEWS and FOXNEWS.COM trademarks, which are covered by numerous federal registrations including U.S. Federal Trademark Registration Nos. 2469849, 2697433, 2697434, 2697436, 2708769, 5173077, and 5185099.

It has been brought to Fox News's attention that the website located at TeamTuckerCarlson.com has been making unauthorized use of Fox News's intellectual property. Specifically, the TeamTuckerCarlson.com site contains articles and images that copy and replicate copyright protected content from the official Fox News website in an attempt to create a false association between the site and Fox News and/or Mr. Carlson.

We are formally notifying you of your customer's copyright infringing misconduct and requesting that you disable hosting services in connection with the TeamTuckerCarlson.com domain name pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512. With express notice that a customer is misusing your services to conduct activities in violation of the law, and presumably in violation of your Terms of Service, we expect that you are able to make a reasonable determination to deny further services for the TeamTuckerCarlson.com domain name.

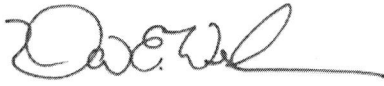
I have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law. To the best of my knowledge, and under penalty of perjury, the information contained in this letter is accurate and I am authorized to act on behalf of Fox News, owner of the infringed exclusive rights described above.

If you have any questions concerning the foregoing, please do not hesitate to contact me.

November 12, 2021

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Sincerely,

A handwritten signature in black ink, appearing to read "David E. Weslow". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David E. Weslow
Counsel for Fox News Network, LLC