

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

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

CASE NO. 14-MC-139

**Petitioner Jeunesse, LLC's Request for
Issuance of 17 U.S.C. § 512(h) Subpoena**

Petitioner Jeunesse, LLC, through its undersigned counsel of record, hereby requests that the Clerk of this Court issue a subpoena to Google, Inc. ("Google") to identify an alleged infringer or infringers, pursuant to the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512(h) (the "DMCA Subpoena"), and respectfully shows the court as follows:

1. The DMCA Subpoena is directed to Google, the service provider of the YouTube accounts to which the infringing party, under the user name "Pyramid Alert" posted content at the URL:

<http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be>

This content infringes copyrights held by Jeunesse (the "Infringing Content").

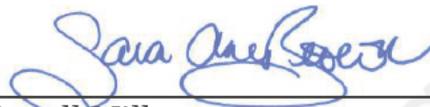
2. Jeunesse has satisfied the requirements for issuance of a subpoena pursuant to 17 U.S.C. § 512(h), namely:
 - 2.1. Jeunesse has submitted copies of the notices required by 17 U.S.C. § 512(c)(3)(A) as Exhibits 1 and 2 to the Brown Declaration, attached as Exhibit B hereto;
 - 2.2. Jeunesse has attached the proposed DMCA Subpoena as Exhibit A; and
 - 2.3. Jeunesse 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 Jeunesse's rights under 17 U.S.C. § 512(h)(2).

Because Jeunesse has complied with the statutory requirements, Jeunesse respectfully requests that the Clerk expeditiously issue and sign the proposed DMCA Subpoena pursuant to 17 U.S.C. § 512(h)(4) and return it to undersigned counsel for service on the subpoena recipient.

Dated: November 12, 2014

Respectfully Submitted,



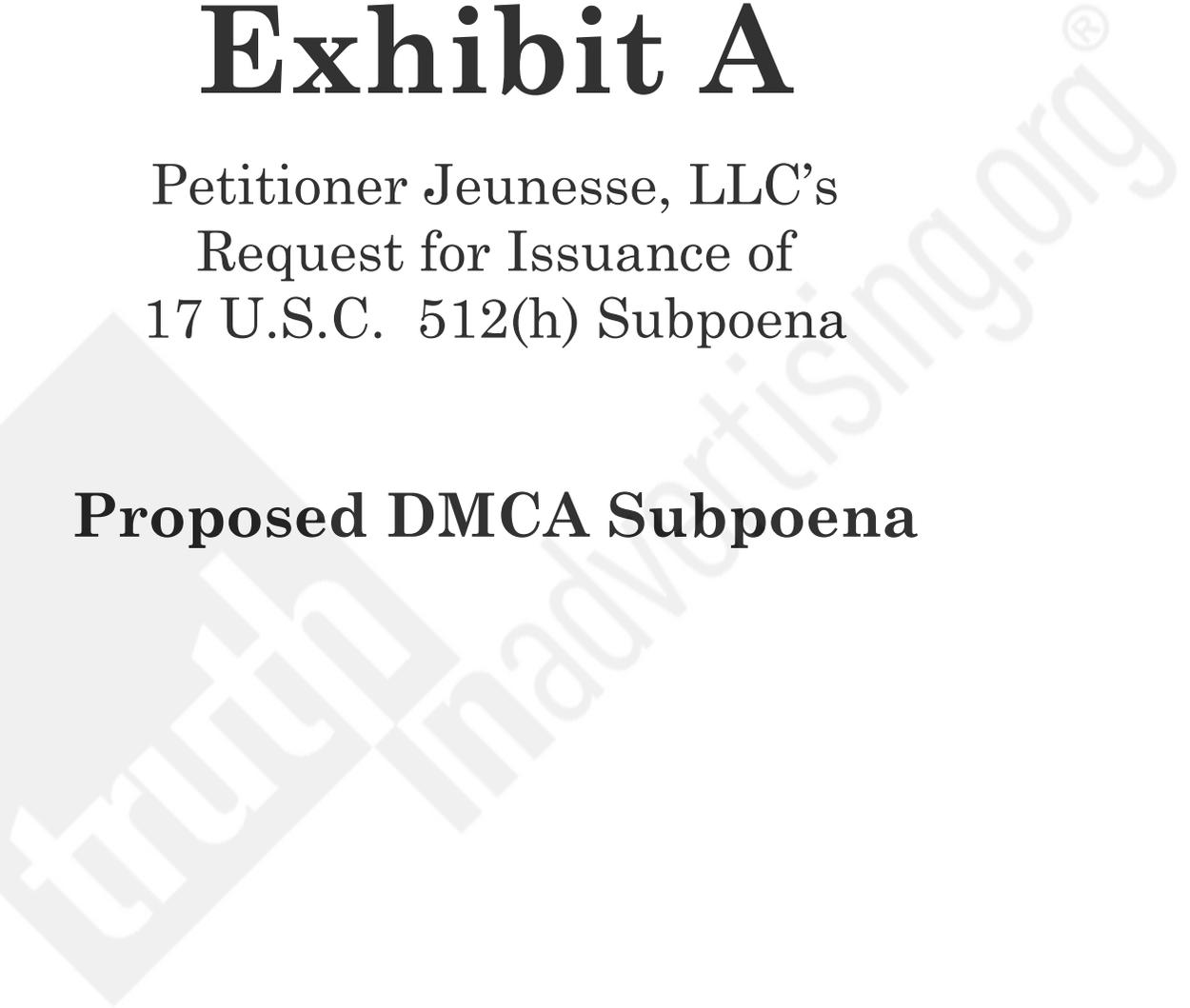
Terrell Miller
Texas Bar No. 24045446
Sara Ann Brown
Texas Bar No. 24075773
GARDERE WYNNE SEWELL LLP
3000 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201-4761
Telephone: 214.999.3000
Facsimile: 214.999.4887

Gardere01 - 6520661v.1

Exhibit A

Petitioner Jeunesse, LLC's
Request for Issuance of
17 U.S.C. 512(h) Subpoena

Proposed DMCA Subpoena



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

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

CASE NO. 14-MC-139

**Subpoena to Produce Documents or Information
Pursuant to 17 U.S.C. § 512(h)**

To: Google, Inc., 1601 Amphitheater Pkwy, Mountain View, CA by and through its registered agent Corporation Service Company, 2710 Gateway Oaks Dr., Suite 150N, Sacramento California 95833

YOU ARE COMMANDED to produce to produce at the time, date, and place set forth below the following documents and information:

All identifying information, including name, address, telephone number, and e-mail address available to identify the alleged infringer of copyrighted material, who uploaded a video to the following URL under the user name "Pyramid Alert": <http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be> (the "Infringing Content").

Place: GARDERE WYNNE SEWELL, LLP 1601 Elm Street, Suite 3000 Dallas, TX 75201-4761	Date and Time: 11/25/2014 at 10:00am
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The Infringing Content is referenced in the Notices of Copyright Infringement, dated November 7, 2014, and attached as Exhibits 1 and 2 to the sworn declaration of Sara Ann Brown, attorney for Jeunesse, LLC, which is attached hereto.

The following provisions of Fed. R. Civ. P. 45 are also 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 or Deputy Clerk

The name, address, e-mail address, and telephone number of the attorney representing Jeunesse, LLC, who issues or requests this subpoena, are: Sara Ann Brown, Gardere Wynne Sewell, LLP, 1601 Elm Street, Suite 3000, Dallas, TX 75201, sabrown@gardere.com, 214-999-4887.

Rule 45, Fed. R. Civ. P., Parts (c), (d) (e) & (g)

(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 of 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.

Gardere01 - 6520659v.1

Exhibit B

Petitioner Jeunesse, LLC's
Request for Issuance of
17 U.S.C. 512(h) Subpoena

Declaration of Sara Ann Brown

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

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

CASE NO. _____

**Declaration in Support of Petitioner Jeunesse, LLC's
Request for Issuance of 17 U.S.C. § 512(h) Subpoena**

I, Sara Ann Brown, declare as follows:

1. I am an attorney licensed to practice law in the State of Texas and am associated with Gardere Wynne Sewell LLP ("Gardere"), counsel for Jeunesse, LLC ("Jeunesse"). Gardere is authorized to act on behalf of Jeunesse on matters involving the infringement of Jeunesse's copyrighted works. I have personal knowledge of the facts contained herein and, if called upon to do so, I could and would testify competently thereto.
2. I submit this declaration of Jeunesse's request for issuance to Google, Inc. ("Google") of a subpoena, pursuant to the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512(h) (the "DMCA Subpoena"), to identify an alleged infringer (or infringers) who posted content under the user name "Pyramid Alert," at the address:

<http://www.youtube.com/watch?v=WLNEMhYNZhk&feature=youtu.be>
(including video clips at 00:59-01:35 and 01:52-2:35)

(the "Infringing Content"). The Infringing Content is a promotional video for Jeunesse.

3. On November 7, 2014, Rob Dawson, Chief Legal Officer of Jeunesse, submitted on behalf of Jeunesse a notification, via the e-mail address provided on YouTube's DMCA notification form (copyright@youtube.com),

identifying the Infringing Content and providing the information required by 17 U.S.C. § 512(c)(3)(A). Attached hereto as Exhibit 1 is a true and correct copy of the notice submitted to copyright@youtube.com.

4. On November 7, 2014, Rob Dawson, Chief Legal Officer of Jeunesse, submitted on behalf of Jeunesse a notification, to the fax number provided on YouTube's DMCA notification form (650-872-8513), identifying the Infringing Content and providing the information required by 17 U.S.C. § 512(c)(3)(A). Attached hereto as Exhibit 2 is a true and correct copy of the notice submitted to YouTube via fax.
5. The purpose for which the DMCA 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 Jeunesse's rights under 17 U.S.C. §§ 100, *et. seq.*

I declare under the penalty of perjury under the laws of the State of Texas and United States of America that the foregoing is true and correct.

Executed: November 11, 2014



Sara Ann Brown
Texas Bar No. 24075773
GARDERE WYNNE SEWELL LLP
3000 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201-4761
Telephone: 214.999.3000
Facsimile: 214.999.4887

Gardere01 - 6520658v.1

Brown, Sara Ann

From: copyright@youtube.com
Sent: Friday, November 07, 2014 8:50 PM
To: Brown, Sara Ann
Subject: Re: [0-3036000005263] Copyright Infringement - <http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be>.

Thanks for contacting YouTube! You've reached the copyright and DMCA compliance team. Your message has been received and is now queued for review. Please note that general help inquiries won't be answered here. For help with other site-related issues, please visit our Help Center at <http://help.youtube.com>. If you wish to report abuse or inappropriate content, please visit <http://help.youtube.com/support/youtube/bin/topic.py?topic=13044>, or if you feel you have a privacy request, please visit <http://help.youtube.com/support/youtube/bin/answer.py?answer=78346>.

If you're requesting removal of a video that is allegedly infringing your copyright, please make sure that you have provided us with all of the required information in order to process your complaint. Providing incomplete information may delay the processing of your claim. For the requirements of DMCA notification, or if you have questions about our DMCA policy, please see: http://www.youtube.com/t/dmca_policy

Did you know that YouTube offers copyright owners a tool for submitting notifications more easily? If there are many videos to be removed, or you expect to have an ongoing need to remove potentially infringing content from YouTube, we suggest that you sign up for our Content Verification Program, which electronically notifies us, removing any room for error, and significantly increases the speed at which we are able to remove any infringing content. To sign up for this tool please visit:
http://www.youtube.com/t/copyright_program

Regards,
The YouTube Team

Declaration of Sara Ann Brown
Exhibit 1

Brown, Sara Ann

From: Brown, Sara Ann
Sent: Friday, November 07, 2014 8:50 PM
To: copyright@youtube.com
Cc: Miller, Terrell
Subject: Copyright Infringement - <http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be>.
Attachments: 2014-11-7 DMCA Request.pdf

Please see the attached correspondence regarding an infringing video found at <http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be>.

Thank you,

Sara

Sara Ann Brown
Gardere Wynne Sewell LLP

1601 Elm Street, Suite 3000 | Dallas, TX 75201
214.999.4887 direct
214.999.3887 fax
[Gardere](#) | [Bio](#) | [vCard](#)

GARDERE
Austin | Dallas | Houston | Mexico City

 Follow @garderelaw



Jeunesse, LLC
650 Douglas Avenue
Altamonte Springs, Florida 32714
Phone: 407-215-7414
Fax: 407-772-2448

November 7, 2014

DMCA Complaints
YouTube (Google, Inc.)
900 Cherry Ave.
Fifth Floor
San Bruno, CA 94066

RE: Copyright Infringement - www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be

My name is Rob Dawson and I am the Chief Legal Officer of Jeunesse, LLC. A user named "Pyramid Alert" has recently uploaded a video that contains copyright protected video elements owned by Jeunesse that are being used in the above referenced video without permission or any other authority or right by Jeunesse or its agents. Again, the unauthorized and infringing video can be found at:

<http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be> (including video clips at 00:59-01:35 and 01:52-2:35)

The copyrighted content contained in the URL provided above, at the time stamps listed above, is a promotional video for Jeunesse, LLC's stem cell growth factor process used to slow aging of the face.

This letter is official notification **under Section 512(c)** of the Digital Millennium Copyright Act ("DMCA"), and Jeunesse LLC seeks the removal of the aforementioned infringing material from your servers and from display, public or otherwise. In accordance with your policies and importantly Section 512(c), please immediately remove the infringing material, and notify the infringer, "Pyramid Alert" to cease any further posting of infringing material to your website/servers in the future.

I have a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law. In addition, I am providing this notice in good faith and with the reasonable belief that these rights that Jeunesse, LLC owns are being infringed. The information in this notification is accurate, and under penalty of perjury, I am the owner, or an agent authorized to act on behalf of the owner, of an exclusive right that is allegedly infringed.

DMCA TAKEDOWN NOTICE TO YOUTUBE BY JEUNESSE, LLC
November 7, 2014

Page 2 of 2

Should you wish to discuss this with me please contact me directly.

Thank you.



Rob Dawson

Jeunesse, LLC
650 Douglas Avenue
Altamonte Springs, Florida 32714
Phone: 407-215-7414
Fax: 407-772-2448
Email: rob.dawson@jeunesseglobal.com

Cc: Terrell R. Miller
Gardere Wynne Sewell, LLP
1601 Elm Street, Suite 3000
Dallas, TX 75201-4761

-- BRO545D31E1463E -----

8:56 PM 1/7/2014 Transmission Record

Sent to: Copyrightakedown

Phone: 1 650 872 8513

Billing information: '136041', '000002'

Remote ID: 16506440488

Unique ID: "BRO545D31E1463E"

Elapsed time: 1 minutes, 30 seconds.

Used channel 0.

NoANI data.

NoAOC data.

Resulting status code (0/0; 0/0): Success

Pages sent: 1 - 3

Delegate ID: ""

8:56 PM 1/7/2014 View Record

Viewed by: BROSA

8:57 PM 1/7/2014 View Record

Viewed by: BROSA

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Declaration of Sara Ann Brown

Exhibit 2

Brown, Sara Ann

From: RightFax E-mail Gateway <FAXOP@Gardere.com>
Posted At: Friday, November 07, 2014 8:58 PM
Conversation: Your fax has been successfully sent to Copyright Takedown at 1 650 872 8513.
Posted To: Inbox

Subject: Your fax has been successfully sent to Copyright Takedown at 1 650 872 8513.

Your fax has been successfully sent to Copyright Takedown at 1 650 872 8513.

From: Sara Brown
Account: 136041
Matter: 000002

Time: 11/7/2014 8:56:05 PM
Sent to 1 650 872 8513 with remote ID "16506440488"
Result: (0/339;0/0) Successful Send
Page record: 1 - 3
Elapsed time: 01:30 on channel 0



Jeunesse, LLC
650 Douglas Avenue
Altamonte Springs, Florida 32714
Phone: 407-215-7414
Fax: 407-772-2448

November 7, 2014

DMCA Complaints
YouTube (Google, Inc.)
900 Cherry Ave.
Fifth Floor
San Bruno, CA 94066

RE: Copyright Infringement - www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be

My name is Rob Dawson and I am the Chief Legal Officer of Jeunesse, LLC. A user named "Pyramid Alert" has recently uploaded a video that contains copyright protected video elements owned by Jeunesse that are being used in the above referenced video without permission or any other authority or right by Jeunesse or its agents. Again, the unauthorized and infringing video can be found at:

<http://www.youtube.com/watch?v=WLNEHmYNZhk&feature=youtu.be> (including video clips at 00:59-01:35 and 01:52-2:35)

The copyrighted content contained in the URL provided above, at the time stamps listed above, is a promotional video for Jeunesse, LLC's stem cell growth factor process used to slow aging of the face.

This letter is official notification **under Section 512(c)** of the Digital Millennium Copyright Act ("DMCA"), and Jeunesse LLC seeks the removal of the aforementioned infringing material from your servers and from display, public or otherwise. In accordance with your policies and importantly Section 512(c), please immediately remove the infringing material, and notify the infringer, "Pyramid Alert" to cease any further posting of infringing material to your website/servers in the future.

I have a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law. In addition, I am providing this notice in good faith and with the reasonable belief that these rights that Jeunesse, LLC owns are being infringed. The information in this notification is accurate, and under penalty of perjury, I am the owner, or an agent authorized to act on behalf of the owner, of an exclusive right that is allegedly infringed.

DMCA TAKEDOWN NOTICE TO YOUTUBE BY JEUNESSE, LLC
November 7, 2014

Page 2 of 2

Should you wish to discuss this with me please contact me directly.

Thank you.



Rob Dawson

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650 Douglas Avenue
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