

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PATRICK M. CARROLL,

Plaintiff,

-against-

NAMECHEAP, INC.,

Defendant.
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USDC SDNY
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22-cv-5684 (LAK)

MEMORANDUM AND ORDER

LEWIS A. KAPLAN, *District Judge*.

Plaintiff claims that the defendant hosts a website that has posted “images of Mr. Carroll along with a litany of [unspecified] false and defamatory allegations about him” and, in addition, that the website posts “audio of a surreptitiously recorded phone conversation between Mr. Carroll and his ex-wife [obtained] in violation of Florida eavesdropping law.” Am. Cpt. ¶¶ 4, 13. He now seeks a temporary restraining order barring defendant from “from hosting and publishing content on the website” and a preliminary injunction to the same effect. The application is without merit for a number of reasons including but not necessarily limited to the following:

1. As far as the docket discloses, the defendant has not been served.
2. It is questionable whether the complaint adequately alleges facts that, if true, would establish personal jurisdiction over the defendant, which is alleged to be a Delaware corporation with its principal place of business in Arizona. *Id.* ¶ 11. Indeed, plaintiff claims to be a resident of Florida. *Id.* ¶ 10.
3. A temporary restraining order barring the defendant from hosting and publishing [unspecified] content on the web site would be a presumptively unconstitutional prior restraint violating the First Amendment to the United States Constitution and probably also the Due Process Clause. *See, e.g., Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 556-62 (1976); *New York Times Co. v. United States*, 403 U.S. 713, 714 (1971).

Accordingly, the motion for an order to show cause and a temporary restraining order is denied. Plaintiff may move by notice of motion for a preliminary injunction, bearing in mind that he faces a possibly insurmountable task.

SO ORDERED.

Dated: July 11, 2022

/s/ Lewis A. Kaplan

Lewis A. Kaplan
United States District Judge