IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS

Curtis J Neeley Jr., MFA — Plaintiff

v

CASE NO. 12-cv-05074

Federal Communications Commission,
Microsoft Corporation, — Defendants
Google Inc,
United States.

COMPLAINT FOR AUTHORS' RIGHTS VIOLATIONS, FAILURE TO REGULATE WIRE COMMUNICATIONS, AND FAILURE TO PROTECT THE EXCLUSIVE RIGHTS OF AUTHORS

The Plaintiff, Curtis J. Neeley Jr., MFA, respectfully states a complaint for repeated exclusive author rights violations resulting in defamation of an author, the Plaintiff, using internet wire and radio communications which present Mr. Neeley in a false negative light. The current position of the defendants creates the appearance Mr. Neeley desired minors to see Neeley's original creations of nude art or other nude art while using "curtis neeley" in a search string on internet wire and radio communication. This was not and is not Mr. Neeley's intent or desire. Mr. Neeley has repeatedly requested that the defendants remove nude images from search results of Defendants.

Mr. Neeley's pre-teen daughter was exposed to Neeley's original photographs of the naked female figure against the known desires of Mr. Neeley. Nude visual art shown on [sic] "the Internet" against Mr. Neeley's expressed desires is a violation of Plaintiff's privacy and a libelous violation of exclusive author rights. Some court decisions have labeled "the Internet" a "*wholly new medium*" although this matter is not settled by Congress nor has Congress determined that internet wire communications are thereby exempted moderate regulation violating the intentions of the Communications Act of 1934 and the plain rule of common law.

I. Abusive Use of Wire Communications

1. Google Inc and Microsoft Corporation attributed and continue to attribute Neeley to creation of original nude art photographs. There are insufficient safeguards on these nude image presentations to prevent anonymous viewers including minors and Muslims from viewing these nude images attributed to Mr. Neeley or returned using "curtis neeley" in searches of computers networked by wire.

2. Google Inc counselor alleged in open court before Magistrate Judge Erin L. Setser the following FRAUD.

> *"...We, of course, then make our own broad cuts on things that we don't permit, like child pornography and things like that. But Mr. Neeley's decision to place his photographs in the public domain was Mr. Neeley's decision alone. He has complete control over the ability to remove them from the public domain, should he used to want to remove them..."*[1]

3. The Plaintiff believes this is an inaccurate contention given in open court. If the Defendant's contention was true and Neeley placed photographs into the "public domain", he alone could remove these nude photographs at will. This is, however, not the case. Google Inc was advised by the Supreme Court in *Golan v Holder* of erroneous legal use of the term "public domain". Google Inc continues to treat all computers accessible by wire as the "public domain" instead of private computers accessible by wire.

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[1] Copied from the transcript filed by RICK L. CONGDON, RMR, FCRR, Federal Official Court Reporter, PROCEEDINGS OF DECEMBER 6, 2010

4. The Wikipedia Foundation maintains an online user editable encyclopedia where two 'figurenude' images were donated by Mr.Neeley. These then returned in searches for "curtis neeley" in Google Inc image searches before reattributed to "CN Foundation" by Mr. Neeley in order to prevent Google Inc from returning these nudes before some minors searching for their father's name in Google Inc image searches while at school and causing Mr. Neeley harm.

5. Google Inc and Microsoft Corporation continue to return one donated nude photograph in searches for "curtis neeley nude" from <cs.wikipedia.org> despite this violating the Creative Commons licensure and harming Mr. Neeley. The search of wire networked computers using the text "curtis neeley nude site:wikipedia.org" returns this nude image as the first result as was documented done by each Defendant.

6. <Wikipedia.org> was called "*like a BLOG*" by Google Inc counselors to further illustrate how unfamiliar Michael Henry Page Esq was with internet wire communications in general[2] as was unrealized during prior jurisprudence.

7. Mr. Neeley once chose to seek adult feedback on creations of nude art and sold nude art from two websites that provided filtration so that visitors to these websites were not exposed to nude art unless opting to view nudity and disclosing identity via email.

8. Google Inc formerly and currently bypasses this filtration to display these images at <google.com> in searches for "curtis neeley" limited to <deviantArt.com> and to anonymous viewers in searches of the Earth's wire network of public and private computers treated as the "public domain" improperly by Google Inc and Microsoft Corporation.

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[2] The lead counselor for Defendant Google Inc is presumed to be very familiar with language about [sic] "the Internet". Being utterly unaware of the meaning of "public domain" or "like a blog" is unacceptable when given disproportionate weight by the judge(s) during jurisprudence.

9. This wrong is documented July 23, 2012 while preparing this complaint despite the nude images being removed by Mr. Neeley entirely from <deviantArt.com> many months ago.

II. The "Google Inc Books" 2010 Defamation

1. After March 7, 2010, Google Inc books attributed Mr. Neeley correctly but inappropriately to three original 'figurenude' art photographs after Google Inc scanned three nude images from a New York library book as was offensive and caused Mr. Neeley harm by a "libelous" invasion of privacy and violation of exclusive authors' rights. These violations were documented for separate Defendant Google Inc.

2. Google Inc presented Neeley in a negative false light by scanning visual art from this book and digital republication of this visual art before anonymous minors. Congress agreed this was forbidden by Treaty in 1988 and again in 1994. Unwavering Berne compliance was ruled constitutional January 18, 2012 in *Golan v Holder*, (10-545) despite self-serving *amicus* opposing this finding by Google Inc.

3. Republication of books online requires new written authorizations from the authors and the Google Inc "fair-use" claim that will follow is frivolous in this case. The Defendants can not produce written authorizations for use of nudes from the Plaintiff.

4. The "Fair-use" exceptions in 17 USC §107 to exclusive rights of authors for contributions in books are **unconstitutionally vague** and impossible for common people to understand as required of all laws and violate the accepted treaty of "Berne Convention for the Protection of Literary and Artistic Works" despite the recent *Golan v Holder* ruling.

III. Federal Communications Commission Malfeasance

1. The display of nudity to minors and the anonymous by Google Inc and Microsoft Corporation is allowed by the FCC refusing to perform the statutory mission of protecting the safety of the public on interstate and world-wide wire communications and is listed clearly in 47 USC §151 in plain text. There is no valid administrative procedure to address this malfeasance beyond those already done by Mr. Neeley.

2. The *Pacifica*[3] ruling from 1978 was substituted wholly for the 47 USC §151 statutory rational in plain error of law by the FCC. The FCC regulated wire communications when wires were the only way for "instant" communication across the ocean.

3. Internet wire communications, described **precisely** in the Communications Act of 1934 in 47 USC §153 ¶(59)[4] became the worldwide network of apparatus connected to either end of wires.

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[3] *FCC v Pacifica* The "landmark" First amendment holding from 1978 with the "*pervasiveness theory,*" held that broadcast speech was "*uniquely pervasive*" and an "*intruder*" in the home, and therefore demanded special, artificial content restrictions relying on the pervasiveness of radio waves and failed entirely to address the pervasiveness of wire communications when simultaneously available by radio as internet wire communications are though nonexistent in 1978.

[4] (59) Wire communication
The term "wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

The clear §153 ¶(59) definition was not realized in the *ACLU v Reno*[5] "landmark" mistake of law in 1996 causing internet wire communications to become Earth's wire and radio venue for utterly unregulated communications despite the rest of the ignored text in 47 USC §151 and all common law.

4. The FCC abandoned regulation of content by internet wires despite the plain statutory mission of 47 USC §151 to do this due insufficient rational for decency regulation listed in *Pacifica* in the first impact of court misinterpretations of law on decency regulation before the second "landmark" court error of *ACLU v Reno* "encouraged" or excused internet indecency contrary to 47 USC §151 and causes all uses of internet wires to be utterly unregulated by law and be given overbroad First Amendment Free Speech protections without the associated responsibilities.

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[5] *ACLU v Reno* The claim of "*…[i]nternet is "a unique and wholly new medium of worldwide human communication*", failed to address internet wire and radio communications occurring simultaneously on both old mediums and this omission was written early in the days of internet wire communications when few understood internet wire-radio communications to be the new medium independent manner of distance communication and is perhaps more confusing to those growing up without "the Internet" or smartphones like the Justices making the *ACLU v Reno* ruling and those reading this in addition to Neeley. This error of omission becomes more obvious every few years.

5. The FCC reported not regulating wire when contacted by Neeley, as is obvious. Regulation allowed for fleeting indecency in broadcast television by *CBS v FCC*, (06-3575) is incompatible with nude images by Neeley allowed transmitted by wire or searches for "teri weigel" allowed transmitting explicit pornography by wire against the mission of the FCC to protect citizen safety using interstate and world-wide **wire OR radio** communications as the FCC was created to do by the "Communications Act of 1934"[6] before any simultaneous wire and radio distance communication venue existed.

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[6] 47 USC §151 - For the purpose of regulating interstate and foreign commerce in communication by **wire and radio** so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide **wire and radio** communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of **wire and radio** communications, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in **wire and radio** communication, there is created a commission to be known as the "Federal Communications Commission", which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this chapter.

*- Highlighting added for **wire and radio** to prevent continued ignoring of this statute.*

6. The progress of science and arts has allowed the universal and overwhelming desire for unlimited knowledge to distort law and lure humanity into preserving anonymous distance communications where responsibility for those communications is avoided counter to the Constitution and natural law.

VI. United States' Personal Rights Protection Malfeasance

1. The "Progress Clause"[7] of the Constitution was written in 1787 and did not include the term copy[rite] because the rights of individuals to control creations had not been protected adequately by the Statute of Anne in 1710. The rights of authors were recognized by aged Benjamin Franklin in 1787. Mr. Franklin died prior to the United States passing the first "Copy[rite] Act"[8] in 1790 and copying the Statute of Anne nearly verbatim and creating [sic] "copyright" laws protecting no personal rights whatsoever but the copying ritual.

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[7] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries

[8] The 1790 Copy[rite] Act is copied almost verbatim from the Statute of Anne (1710), except that it also covered maps and charts and not just books

2. Use of the term [sic] "copyright" initially described the ritual of an author exclusively controlling publication of original books by selecting publishers for limited renewable time periods. The State would then prohibit competition by other book publishers resulting in *de facto* textbook standardization in early America as Noel Webster[9] had sought.

3. Noel Webster noticed the English language spoken in early Colonial America had become quite different from England. Webster felt new elementary school textbooks being printed in Colonial America instead of imported or copied from England would help American English become an entirely new language where Americanized spellings like "color" would replace "colour" and "copyright" would replace "authors' rights". Noel Webster's use of "tung", however, never replaced the continued use of "tongue".

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[9] Politician Daniel Webster was Noah Webster's cousin. As a senator, Daniel sponsored Noah's proposed copy[rite] bill. The first major statutory revision of U.S. copy[rite] law, the 1831 Act was a result of intensive lobbying by Noah Webster and his agents in Congress. Webster also played a critical role lobbying individual states throughout the country during the 1780s to pass the first American copy[rite] laws, which were expected to have distinct nationalistic implications for the infant nation. ^^ *from Wikipedia.com entry for Noah Webster under the copy[rite] heading.*

4. Noel Webster assisted Benjamin Huntington in copying the Statute of Anne and therein "coined" the word [sic] "copyright" while protecting the ritual of copying books and not the personal constitutional rights of authors in the Copy[rite] Act of 1790 despite authorized for protection in the 1787 Constitution.

5. Most of the rest of the Earth has since realized the personal individual rights of authors. The United States failed and fails to protect these constitutionally recognized personal rights. The United States instead confuses and muddles the rights of creators with the ritual for corporate usage of creations like still seen in the generally unconstitutional US Title 17.

6. Benjamin Franklin needed no new term to describe the rights of authors or inventors and felt the Constitution was too important a document for using "Americanized" new terms like [sic] "copyright or tung" and needed unanimous approval and immediate foreign respect. The Americanized Noel Webster term "copyright" was still not included in George Washington's first State of the Union Address though "*promotion of science and literature*"[10] was discussed.

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[10] "…nothing which can better deserve your patronage than the promotion of science and literature. Knowledge is in every country the surest basis of public happiness." ^^ *from President George Washington's State of the Union on January 8th 1790.*

7. The United States remains malfeasant over two centuries later failing to protect the rights of Neeley or other artist to exclusively control creations though this was authorized in 1787 by the Constitution. The exclusive individual right of an author remains protected only by the Ninth Amendment and most notably is NOT PROTECTED BY US TITLE 17.

V. United States Decency Regulation Malfeasance

1. Protection of minors from exposure to indecent wire or radio communications is a legitimate State interest ignored now for decades. It is absolutely absurd and malfeasant that United States' Congress allows 47 §230(c)(1) to be repeatedly misinterpreted by Federal Courts diametrically opposed to the intentions of the Communications Decency Act. The law intended to promote communications decency became the law used by content providers and search engines to conspire and traffic indecent and defamatory communications including the nude art once created by Mr. Neeley before internet wire communications were disguised as the [sic] "Internet" in the obvious *ACLU v Reno* error.

2. The **responsibility for control of producing or trafficking** indecent content or defamatory speech is waived by 47 USC §230(c)(1) for ALL laws now allowing utterly unregulated speech, as violates the clear natural right to be free from defamation and fraud as supported by numerous State laws as well as 47 USC §151 now being ignored by the FCC.

3. Search engines indexing copies of indecent content and revealing indecent content locations should always have been treated by the FCC as the conspiring transmitters of indecency because of search engines communicating indecency in different contexts as new content due to gathering the indecent content and choosing to republish this indecency for profit. The United States Congress should now require common-sense regulation of interstate and international internet wire communications by the FCC as required by 47 USC §151 and the United States Courts should order the FCC and the Attorney General be advised.

PRAYER

1. The United States Courts for the Western District of Arkansas must now invalidate the 47 USC §230[11] preemptions used by search engines to permit liability free republications of indecent art and literary communications and violating exclusive rights of authors like Mr. Neeley and the right to be secure in the person and scores of other natural rights.

2. Defendants Google Inc and Microsoft Corporation should be ordered to cease returning nude art authored by Mr. Neeley or others but not allowed broadcast on daytime television for anonymous users for all uses of Mr. Neeley's name as an injunction and as is trivial and has been trivial since the first advisement by Mr. Neeley in 2009.

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[11] (c) Protection for "Good Samaritan" blocking and screening of offensive material

(1) Treatment of publisher or speaker

No provider *or user* of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider

47 USC §230(c)(1) sought to protect wire communications connectivity providers like telephone communications providers were protected for indecent or harassing calls delivered and not to protect search engines.

3. Google Inc and Microsoft Corporation should pay damages of $125,000 per nude image authored by Neeley or associated with the text "curtis neeley" that was found displayed or indexed for redisplay after advised display of these nudes were not authorized or as the jury feels is just including ZERO if the jury feels search engines ignoring metadata and advisements regarding indecent image-text associations should continue so that indecent art trafficking to anonymous viewers can continue.

4. Additional punitive amounts should be awarded as the jury determines to fund modernization of the FCC Wire Division[12] and offset taxes since all artists who produce nude or indecent art were harmed.

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[12] Punitive awards should be the largest ever established by a jury. Neeley wishes these awarded to the FCC and US Treasury to offset taxes. Every user of internet wire communications on Earth was damaged. Defendant Microsoft Corporation and Defendant Google Inc have been aware of the ease of content control since each company created search interfaces yet have spent millions each year to keep US law supportive of the "holy open Internet" and authors' rights violations. Authors' rights invalidations are often called "fair-use" in the United States despite not being fair and often prohibited by the "Berne Convention for the Protection of Literary and Artistic Works" accepted by Treaty approved by Congress in 1988. This congressional decision was ruled constitutional in 2012 in *Golan v Holder*, (10-545) despite self-serving amicus opposing "Berne" public domain protections by Defendant Google Inc.

5. Curtis J Neeley Jr., MFA asserts this prayer contains no "windfall" damages but seeks the "right thing" being done establishing wire-radio communications as the borderless medium independent venue safe for children and free speech including speech not the least bit acceptable for children but protected for identified responsible adults willing to comply with the need to identify as adults and protect minors from harmful internet wire communications that is an ignored need related to Free Speech, authors rights, and regulation of pervasive distant wire and radio communications.

5. Adult communications will continue via [sic] the "Internet" but Neeley prays these no longer be permitted for anonymous persons[13] for indecent communications, as has been technically trivial now for decades. The identity requirement for viewing indecent art is supported even for controversial subjects by *Doe v. Reed*, (09-559) when legitimate State interests are served. The protection of minors from exposure to indecent wire or radio communications is a legitimate State interest ignored now for decades.

Respectfully Submitted,

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Curtis J Neeley Jr., MFA

[13] IP addresses were recently found not to individually identify wire communications users due to shared connectivity. IP addresses paired with packet request times have, however, always uniquely identified individual connections and requests and always have. This fact was not explained to the ruling court in New York.