

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

CURTIS J. NEELEY JR.,	§	
	§	
PLAINTIFF	§	
	§	
VS.	§	CIVIL ACTION NO. 12-CV-5208-JLH
	§	
FEDERAL COMMUNICATIONS	§	
COMMISSION, MICROSOFT CORP.,	§	
AND GOOGLE INC.,	§	
	§	
DEFENDANTS	§	

MOTION FOR SANCTIONS UNDER RULE 11

Defendant Google Inc. (“Google”) moves the Court for an injunction against Plaintiff Curtis J. Neeley, Jr. (“Mr. Neeley”) that will prevent further frivolous, malicious, and vexatious litigation against Google arising from, or connected with, the events previously litigated in Case Nos. 5:09-cv-5151-JLH and 5:12-cv-5074-JLH, and which are now repeated in the instant case, without first seeking and obtaining prior approval by the Court.

1. This is Mr. Neeley’s third attempt to sue Google over virtually identical allegations. All three of these lawsuits have been frivolous, malicious, and vexatious.

2. Mr. Neeley’s first case, *Curtis J Neeley, Jr. v. NameMedia, Inc., et al.*, Case No. 5:09-cv-5151-JLH (“*Neeley I*”), purported to claim trademark and copyright violations and intentional infliction of emotional distress. The case ended in summary judgment against Mr. Neeley (*Neeley I*, Dkt. Nos. 97, 268), which was subsequently affirmed by the Eighth Circuit. (*Neeley I*, Dkt. Nos. 166-1, 166-2, and 290-1).

3. The second case, again arising out of the same circumstances as the first, was filed on April 18, 2012. *Curtis J Neeley, Jr. v. NameMedia, Inc., et al.*, Case No. 5:12-cv-5074-JLH (“*Neeley II*”). *Neeley II* alleged invasion of privacy, defamation, and violation of artist’s moral rights under 17 U.S.C. § 106A. On August 1, 2012, this Court adopted Magistrate Judge Setser’s Recommendation and dismissed Mr. Neeley’s complaint under the doctrine of *res judicata* and pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). Order at 8, *Neeley II* (Dkt. No. 21).

4. The current case is once again based on the same circumstances as the first, alleging damages in excess of eleven billion dollars, and claims false light invasion of privacy, misattribution, and various violations of the alleged exclusive right to control creations and undefined civil rights under 42 U.S.C. § 1983. See Amended Complaint for Violations of Privacy Rights and Failure to Regulate Safety for Simultaneous Wire and Radio Communications as well as Violation of the Exclusive Right to Control Creations For A Time Protected by 42 U.S.C. § 1983 (“Complaint”) (Dkt. No. 5). These claims are legally and factually baseless and were filed solely to continue Mr. Neeley’s frivolous, malicious, and vexatious crusade against Google.

5. All of the claims, issues, and purported causes of action alleged by Mr. Neeley against Google “stem from the same underlying facts and occurrences that were the basis for the claims made in case #09-5151: plaintiff’s artwork depicting nude figures, which he placed in the public domain, were accessible to users, including minors, by conducting an internet search of plaintiff’s name.” Order at 4, *Neeley II* (Dkt. No. 21). Nothing has changed since Judge Hendren wrote those words, and Mr. Neeley’s Complaint does not allege any facts differing from the Court’s synopsis.

6. Mr. Neeley's litigation record against Google is replete with repetitious and frivolous motions, as this Court has remarked. *See, e.g.*, Order at 7, *Neeley I*, (May 20, 2010) (Dkt. No. 125) ("defendants have been required to address multiple frivolous motions, including several that were filed and later withdrawn. The tenor of much of Neeley's pleadings, as noted in the Court's Order of March 1, 2010, indicates 'that he is more interested in wreaking revenge on the defendants than obtaining legal redress for any economic injury to himself.'").

7. Mr. Neeley has been reprimanded repeatedly by this Court and warned about the possibility of sanctions for his abusive litigation behavior. *See* Order at 2 ¶ 4, *Neeley I*, (Oct. 27, 2010) (Dkt. No. 189) ("If ... frivolous motions continue to be filed, the opposing party may seek sanctions pursuant to F.R.C.P. 11."); Transcript of Proceedings Before the Honorable Erin Setser, United States District Magistrate at 64-65, *Neeley I* (Dec. 6, 2010) (Dkt. No. 216) ("You made personal attacks. I think you accused opposing counsel of committing fraud What that means is I could just strike your pleadings, motions denied, wouldn't even have to have this hearing today. ... It could be monetary sanctions. ... It could be more severe sanctions. It could result in your case just being dismissed, Mr. Neeley."); Magistrate's Report and Recommendation at 9, *Neeley I*, (Dec. 16, 2010) (Dkt. No. 225) ("Plaintiff again referred to 'old judges,' 'older judges,' and 'elderly judges.' These comments serve no purpose in the pleadings and Plaintiff is again directed to refrain from making such comments.").

8. By filing the Complaint against Google, Mr. Neeley has made it clear that he has no intention of heeding this Court's warnings and will continue to pursue his frivolous, malicious, and vexatious litigation without end. As such, Google respectfully requests that this Court impose sanctions under Rule 11 in order to deter repetitious conduct which violates Rule 11(b).

9. Under the All Writs Act, 28 U.S.C. § 1651(a), this Court has the power to issue “all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

10. This Court is also vested with “discretion to impose sanctions upon a party under its inherent disciplinary power.” *Van Deelen v. City of Kansas City*, 2006 U.S. Dist. LEXIS 50734, *33 (W.D. Mo. 2006). The inherent power enables the Court to “manage [its] own affairs to achieve orderly and expeditious disposition of cases,” and fills the interstices among the Federal Rules of Civil Procedure. *Id.* (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991)).

11. Monetary sanctions are not appropriate in this case because Mr. Neeley repeatedly represents himself to be a pauper and such sanctions will not have the intended effect of stemming his litigious feud against Google.

12. For all these reasons, Google respectfully requests that the Court enter an injunction against Mr. Neeley that will prevent further frivolous, malicious, and vexatious litigation against Google arising from, or connected with, the events previously litigated in *Neeley I* and *Neeley II*. Specifically, Google requests that Mr. Neeley be required to obtain the Court’s prior approval before filing any further motions, pleadings, or pro se complaints relating to events previously litigated. Google respectfully requests all other relief that the Court deems equitable, appropriate, and just.

Respectfully submitted,

\s\ Jennifer H. Doan

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**ATTORNEYS FOR DEFENDANT
GOOGLE INC.**

CERTIFICATE OF SERVICE

I, Jennifer H. Doan, hereby certify that on December 28, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to CM/ECF participants, and I hereby certify that I have mailed the document by the United States Postal Service to the following non-CM/ECF participants:

Curtis J. Neely, Jr.
2619 N. Quality Lane
Apartment 123
Fayetteville, AR 72703

\s\ Jennifer H. Doan

Jennifer H. Doan

Exhibit A

From: [Jennifer Doan](#)
To: Curtis@CurtisNeeley.com
Cc: "[Michael Page](#)"; [Josh Thane](#)
Subject: Neeley v. Google - Motion for Sanctions Under Rule 11
Date: Wednesday, December 05, 2012 12:04:19 AM
Attachments: [Motion for Rule 11 Sanctions.pdf](#)

Dear Mr. Neeley,
Enclosed please find Google's Motion for Sanctions Under Rule 11. Google will file this Motion unless you withdraw or permanently dismiss your Complaint against Google within 21 days from the date of this letter.
Respectfully,

Jennifer

Jennifer H. Doan
HALTOM & DOAN