

**U. S. District Court
Western District of Arkansas (Fayetteville)
CIVIL DOCKET FOR CASE #: 5:09-cv-05151-JLH
*Internal Use Only***

Neeley v. NameMedia, Inc.
Assigned to: Honorable Jimm Larry Hendren
Case in other court: 8th Circuit Court of Appeals, 10-02255
Cause: 15:1125 Trademark Infringement (Lanham Act)

Date Filed: 07/22/2009
Jury Demand: Plaintiff
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

Plaintiff

Curtis J Neeley, Jr.
MFA

represented by **Curtis J Neeley, Jr.**
2619 N. Quality Ln
Apartment 123
Fayetteville, AR 72703
(479)263-4795
PRO SE

V.

Defendant

NameMedia, Inc.
TERMINATED: 06/07/2011

represented by **Brooks Christopher White**
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TERMINATED: 02/17/2010

Defendant

Network Solutions Inc.
TERMINATED: 05/20/2010

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Defendant

Google Inc.
TERMINATED: 06/07/2011

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Counter Claimant

NameMedia, Inc.

represented by **Brooks Christopher White**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

H. William Allen
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin M. Lemley
(See above for address)
TERMINATED: 02/17/2010

V.

Counter Defendant

Curtis J Neeley, Jr.
MFA

Counter Claimant

NameMedia, Inc.

represented by **Brooks Christopher White**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

H. William Allen
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin M. Lemley
(See above for address)

V.

Counter Defendant**Curtis J Neeley, Jr.***MFA*

Date Filed	#	Page	Docket Text
07/22/2009	<u>1</u>		DISREGARD ENTRY, FILED AS DOCUMENT 3. COMPLAINT against NameMedia, Inc., filed by Curtis J Neeley, Jr.(src) Modified on 7/23/2009 to add text (src). (Entered: 07/22/2009)
07/22/2009	<u>2</u>		ORDER directing clerk to provisionally file <u>1</u> Complaint prior to a determination regarding plaintiff's IFP status. Plaintiff is directed to return completed IFP application by August 3, 2009. Signed by Honorable James R. Marschewski on July 20, 2009. (src) Modified on 7/22/2009 to correct date (src). (Entered: 07/22/2009)
07/22/2009	<u>3</u>		COMPLAINT with Jury Demand against NameMedia, Inc., filed by Curtis J Neeley, Jr.(src) (Entered: 07/23/2009)
07/23/2009	<u>4</u>		REPORT on the filing or determination of an action re TRADEMARK by Curtis J Neeley, Jr See attached document for specifics. (src) (Entered: 07/23/2009)
07/31/2009	<u>5</u>		MOTION for Leave to Proceed in forma pauperis, MOTION for Service by Curtis J Neeley, Jr. (src) (Entered: 07/31/2009)
07/31/2009			MOTIONS REFERRED: <u>5</u> MOTION for Leave to Proceed in forma pauperis MOTION for Service. Motions referred to James R. Marschewski.(src) (Entered: 07/31/2009)
10/13/2009	<u>6</u>		ORDER granting <u>5</u> Motion for Leave to Proceed in forma pauperis. Signed by Honorable James R. Marschewski on October 13, 2009. (src) (Entered: 10/13/2009)
10/14/2009	<u>7</u>		ORDER directing plaintiff to complete, sign and return addendum to <u>3</u> Complaint by October 30, 2009. Signed by Honorable James R. Marschewski on October 14, 2009. (src) (Entered: 10/14/2009)
10/20/2009	<u>8</u>		ADDENDUM by Curtis J Neeley, Jr to <u>3</u> Complaint. (src) (Entered: 10/20/2009)

10/23/2009	<u>9</u>		ORDER DIRECTING SERVICE on NameMedia, Inc. and granting 20 days to answer, Motions terminated: <u>5</u> MOTION for Leave to Proceed in forma pauperis MOTION for Service filed by Curtis J Neeley, Jr.. Signed by Honorable James R. Marschewski on October 23, 2009. (src) (Entered: 10/23/2009)
10/23/2009			USM285 Form Delivered to USMS. (src) (Entered: 10/23/2009)
11/16/2009	<u>10</u>		MOTION to Amend <u>3</u> Complaint, MOTION for Order by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Amended Complaint)(src) (Entered: 11/16/2009)
11/19/2009	<u>11</u>		SUMMONS Returned Executed by Curtis J Neeley, Jr. NameMedia, Inc. served on 11/6/2009, answer due 11/27/2009. (src) (Entered: 11/19/2009)
11/19/2009	<u>12</u>		ORDER granting in part and denying in part <u>10</u> Motion to Amend/Correct and Motion for Order; ORDER REFERRING CASE to Honorable Erin L. Setser. Signed by Honorable Jimm Larry Hendren on November 19, 2009. (src) (Entered: 11/19/2009)
11/23/2009	<u>13</u>		MOTION for Summary Judgment, MOTION for Order to Serve Interrogatories and Granting Leave for Additional Interrogatories by Curtis J Neeley, Jr. (src) Modified on 11/24/2009 to delete referral text (jn). (Entered: 11/23/2009)
11/24/2009			Case no longer referred to Honorable Erin L. Setser. (jn) (Entered: 11/24/2009)
11/24/2009	<u>14</u>		AMENDED COMPLAINT with Jury Demand as to <u>3</u> Complaint against Network Solutions Inc., NameMedia, Inc., Google Inc., filed by Curtis J Neeley, Jr. (src) (Entered: 11/24/2009)
12/01/2009	<u>15</u>		ORDER directing plaintiff to provide the names and addresses of agents for service of process for Network Solutions, Inc. and Google Inc.; and directing the clerk to provide plaintiff with a Pro Se Manual. Signed by Honorable Erin L. Setser on December 1, 2009. (src) (Entered: 12/01/2009)
12/03/2009	<u>16</u>		RESPONSE by Curtis J Neeley, Jr to <u>15</u> Order. (src) (Entered: 12/03/2009)
12/04/2009	<u>17</u>		ANSWER to <u>14</u> Amended Complaint, COUNTERCLAIM against Curtis J Neeley, Jr by NameMedia, Inc.. Related document: <u>14</u> Amended Complaint filed by Curtis J Neeley, Jr.. (Attachments: # <u>1</u> Exhibit Trademark Registration, # <u>2</u> Exhibit Counterdefendant's website)(Lemley, Kevin)

			(Entered: 12/04/2009)
12/04/2009	<u>18</u>		MOTION for Summary Judgment <i>Motion for Partial Summary Judgment</i> by NameMedia, Inc.. (Lemley, Kevin) (Entered: 12/04/2009)
12/04/2009	<u>19</u>		MEMORANDUM BRIEF in Support of <u>18</u> MOTION for Summary Judgment <i>Motion for Partial Summary Judgment</i> by NameMedia, Inc.. (Attachments: # <u>1</u> Affidavit Affidavit of Brian Lucy, # <u>2</u> Exhibit Copyright records)(Lemley, Kevin) (Entered: 12/04/2009)
12/04/2009	<u>20</u>		STATEMENT OF FACTS in support of <u>18</u> MOTION for Summary Judgment <i>Motion for Partial Summary Judgment</i> by NameMedia, Inc.. (Lemley, Kevin) (Entered: 12/04/2009)
12/07/2009			CLERK'S NOTICE re Multiple Attorneys Listed on Pleading directed to Defendant NameMedia, Inc.. Answer to Amended Complaint, Counterclaim,, <u>17</u> , Motion for Summary Judgment <u>18</u> lists multiple attorneys appearing for the filer. The following attorney, who did not sign the pleading, must enter a separate Notice of Appearance in order to receive electronic notification of future activity in the case: H. William Allen . TEXT ONLY ENTRY, NO DOCUMENT ATTACHED. (src) (Entered: 12/07/2009)
12/07/2009	<u>21</u>		NOTICE of Appearance by H. William Allen on behalf of NameMedia, Inc. (Allen, H.) (Entered: 12/07/2009)
12/07/2009	<u>22</u>		RESPONSE to Motion re <u>13</u> MOTION for Summary Judgment MOTION for Order <i>to Serve Interrogatories and Granting Leave for Additional Interrogatories</i> filed by NameMedia, Inc.. (Lemley, Kevin) (Entered: 12/07/2009)
12/14/2009	<u>23</u>		ORDER DIRECTING SERVICE on Google Inc., Network Solutions Inc. via certified mail with a return receipt and granting 20 days to answer. Signed by Honorable Erin L. Setser on December 14, 2009. (src) (Entered: 12/15/2009)
12/15/2009			2 USM285 Forms Delivered to USMS. (src) (Entered: 12/15/2009)
12/15/2009	<u>24</u>		MOTION to Withdraw <u>13</u> MOTION for Summary Judgment MOTION for Order by Curtis J Neeley, Jr. (src) (Entered: 12/15/2009)
12/16/2009			TEXT ONLY ORDER granting <u>24</u> Motion to Withdraw Motion For Summary Judgment <u>13</u> .

			Signed by Honorable Jimm Larry Hendren on December 16, 2009. (kcg) (Entered: 12/16/2009)
12/18/2009	<u>25</u>		ANSWER to <u>17</u> Answer to Amended Complaint, Counterclaim,, by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit 2003, # <u>2</u> Exhibit 2788, # <u>3</u> Exhibit Bio, # <u>4</u> Exhibit BNM, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit EE, # <u>8</u> Exhibit EPARK, # <u>9</u> Exhibit F, # <u>10</u> Exhibit FNW, # <u>11</u> Exhibit G, # <u>12</u> Exhibit GNM, # <u>13</u> Exhibit H, # <u>14</u> Exhibit I, # <u>15</u> Exhibit IP, # <u>16</u> Exhibit J, # <u>17</u> Exhibit JM, # <u>18</u> Exhibit K, # <u>19</u> Exhibit L, # <u>20</u> Exhibit M, # <u>21</u> Exhibit NM, # <u>22</u> Exhibit NMS, # <u>23</u> Exhibit P, # <u>24</u> Exhibit PARK, # <u>25</u> Exhibit PL, # <u>26</u> Exhibit Q, # <u>27</u> Exhibit R, # <u>28</u> Exhibit SS, # <u>29</u> Exhibit T, # <u>30</u> Exhibit TO, # <u>31</u> Exhibit X, # <u>32</u> Exhibit YNM, # <u>33</u> Exhibit Z)(src) (Entered: 12/21/2009)
12/18/2009	<u>26</u>		MOTION Seeking Sanctions by Curtis J Neeley, Jr. (src) (Entered: 12/21/2009)
12/18/2009	<u>27</u>		MEMORANDUM BRIEF in Support of <u>26</u> MOTION for Sanctions by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit 2003, # <u>2</u> Exhibit 2788, # <u>3</u> Exhibit Bio, # <u>4</u> Exhibit BNM, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit EE, # <u>8</u> Exhibit EPARK, # <u>9</u> Exhibit F, # <u>10</u> Exhibit FNW, # <u>11</u> Exhibit G, # <u>12</u> Exhibit GNM, # <u>13</u> Exhibit H, # <u>14</u> Exhibit I, # <u>15</u> Exhibit IP, # <u>16</u> Exhibit J, # <u>17</u> Exhibit JM, # <u>18</u> Exhibit K, # <u>19</u> Exhibit L, # <u>20</u> Exhibit M, # <u>21</u> Exhibit NM, # <u>22</u> Exhibit NMS, # <u>23</u> Exhibit P, # <u>24</u> Exhibit PARK, # <u>25</u> Exhibit PL, # <u>26</u> Exhibit Q, # <u>27</u> Exhibit R, # <u>28</u> Exhibit SS, # <u>29</u> Exhibit T, # <u>30</u> Exhibit TO, # <u>31</u> Exhibit X, # <u>32</u> Exhibit YNM, # <u>33</u> Exhibit Z)(src) (Entered: 12/21/2009)
12/18/2009	<u>28</u>		RESPONSE in Opposition to <u>18</u> MOTION for Summary Judgment <i>Motion for Partial Summary Judgment</i> filed by Curtis J Neeley, Jr. (src) (Entered: 12/21/2009)
12/18/2009	<u>30</u>		MEMORANDUM BRIEF in Support of <u>28</u> Response in Opposition to Motion by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit 2003, # <u>2</u> Exhibit 2788, # <u>3</u> Exhibit Bio, # <u>4</u> Exhibit BNM, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit EE, # <u>8</u> Exhibit EPark, # <u>9</u> Exhibit F, # <u>10</u> Exhibit FNW, # <u>11</u> Exhibit G, # <u>12</u> Exhibit GNM, # <u>13</u> Exhibit H, # <u>14</u> Exhibit I, # <u>15</u> Exhibit IP, # <u>16</u> Exhibit J, # <u>17</u> Exhibit JM, # <u>18</u> Exhibit K, # <u>19</u> Exhibit L, # <u>20</u> Exhibit M, # <u>21</u> Exhibit NM, # <u>22</u> Exhibit NMS, # <u>23</u> Exhibit P, # <u>24</u> Exhibit PARK, # <u>25</u> Exhibit PL, # <u>26</u> Exhibit Q, # <u>27</u> Exhibit R, # <u>28</u> Exhibit SS, # <u>29</u> Exhibit T, # <u>30</u>

		Exhibit TO, # <u>31</u> Exhibit X, # <u>32</u> Exhibit YNM, # <u>33</u> Exhibit Z)(src) (Entered: 12/21/2009)
12/21/2009	<u>29</u>	LIST OF FACTS at Issue for Trial in Opposing Namemedia Inc Motion for Partial Summary Judgment (<u>28</u> Response in Opposition to Motion) by Curtis J Neeley, Jr. (src) (Entered: 12/21/2009)
12/29/2009	<u>31</u>	RESPONSE to Motion re <u>26</u> MOTION for Sanctions filed by NameMedia, Inc.. (Lemley, Kevin) (Entered: 12/29/2009)
12/29/2009	<u>32</u>	REPLY to Response to Motion re <u>18</u> MOTION for Summary Judgment <i>Motion for Partial Summary Judgment</i> filed by NameMedia, Inc.. (Lemley, Kevin) (Entered: 12/29/2009)
01/05/2010	<u>33</u>	Supplemental REPLY Brief Opposing NAMEMEDIA INC <u>18</u> MOTION for Summary Judgment <i>Motion for Partial Summary Judgment</i> by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit HT)(src) (Entered: 01/05/2010)
01/05/2010	<u>34</u>	MOTION to Withdraw <u>26</u> MOTION for Sanctions by Curtis J Neeley, Jr. (src) (Entered: 01/05/2010)
01/05/2010	<u>35</u>	Amended Brief Objecting to Harassing Answers by Curtis J Neeley, Jr re <u>17</u> Answer to Amended Complaint, Counterclaim. (src) (Entered: 01/05/2010)
01/05/2010	<u>36</u>	NOTICE of Constitutional Challenge to US Title 15, US Title 17, and Rules of C.P. Rule 11 from US Title 28 by Curtis J Neeley, Jr (src) (Entered: 01/05/2010)
01/06/2010	<u>37</u>	ADDENDUM Listing Plaintiff's Exhibit Labels Corresponding to Docket Entry Attachment Numbers <u>33</u> Reply, <u>36</u> Notice (Other), <u>34</u> MOTION to Withdraw <u>26</u> MOTION for Sanctions, <u>35</u> Objection(s). (src) (Entered: 01/06/2010)
01/12/2010	<u>38</u>	MOTION to Strike <u>33</u> Reply (<i>Supplemental</i>) Brief Opposing Namemedia's Motion for Partial Summary Judgment by NameMedia, Inc.. (Lemley, Kevin) (Entered: 01/12/2010)
01/12/2010	<u>39</u>	MEMORANDUM BRIEF in Support of <u>38</u> MOTION to Strike <u>33</u> Reply (<i>Supplemental</i>) Brief Opposing Namemedia's Motion for Partial Summary Judgment by NameMedia, Inc.. (Lemley, Kevin) (Entered: 01/12/2010)
01/12/2010	<u>40</u>	MOTION to Strike <u>35</u> Objection(s) to <i>Harassing Answers</i> by NameMedia, Inc.. (Lemley, Kevin) (Entered: 01/12/2010)
01/12/2010	<u>41</u>	

		MEMORANDUM BRIEF in Support of <u>40</u> MOTION to Strike <u>35</u> Objection(s) to <i>Harassing Answers</i> by NameMedia, Inc.. (Lemley, Kevin) (Entered: 01/12/2010)
01/14/2010	<u>42</u>	MOTION for Order Seeking Denial of NameMedia Motion to Strike Docket <u>33</u> and Granting Motion to Strike Docket <u>35</u> by Curtis J Neeley, Jr. (src) (Entered: 01/14/2010)
01/14/2010	<u>43</u>	MEMORANDUM BRIEF in Support of <u>42</u> MOTION for Order by Curtis J Neeley, Jr. (src) (Entered: 01/14/2010)
01/15/2010	<u>44</u>	NOTICE of Appearance by Jennifer Haltom Doan on behalf of Google Inc. (Doan, Jennifer) (Entered: 01/15/2010)
01/15/2010	<u>45</u>	NOTICE of Appearance by Joshua Reed Thane on behalf of Google Inc. (Thane, Joshua) (Entered: 01/15/2010)
01/15/2010	<u>46</u>	MOTION for Michael H. Page to Appear Pro Hac Vice by Google Inc.. (Thane, Joshua) (Entered: 01/15/2010)
01/19/2010		TEXT ONLY ORDER granting <u>46</u> Motion to Appear Pro Hac Vice. Michael H. Page is directed to immediately register as a CM/ECF user if he has not already done so and enter his appearance in this matter. Signed by Honorable Jimm Larry Hendren on January 19, 2010. (kg) (Entered: 01/19/2010)
01/20/2010	<u>47</u>	NOTICE of Appearance by Michael Henry Page on behalf of Google Inc. (Page, Michael) (Entered: 01/20/2010)
01/21/2010	<u>48</u>	MOTION for Leave to File Second Amended Complaint by Curtis J Neeley, Jr. (src) (Entered: 01/21/2010)
01/21/2010	<u>49</u>	MEMORANDUM BRIEF in Support of <u>48</u> MOTION for Leave to File by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Amended Complaint)(src) (Entered: 01/21/2010)
01/21/2010	<u>50</u>	MOTION for Summary Judgment against NameMedia Inc Counterclaim by Curtis J Neeley, Jr. (src) (Entered: 01/21/2010)
01/21/2010	<u>51</u>	MEMORANDUM BRIEF in Support of <u>50</u> MOTION for Summary Judgment by Curtis J Neeley, Jr. (src) (Entered: 01/21/2010)
01/21/2010	<u>52</u>	List of Undisputable Facts with no issue to be tried in support of <u>50</u> MOTION for Summary Judgment by

			Curtis J Neeley, Jr. (src) (Entered: 01/21/2010)
01/21/2010			TEXT ONLY ORDER granting <u>48</u> Motion for Leave to File Amended Complaint. Signed by Honorable Jimm Larry Hendren on January 21, 2010. (kcg) (Entered: 01/21/2010)
01/22/2010	<u>53</u>		AMENDED COMPLAINT with Jury Demand against Network Solutions Inc., NameMedia, Inc., Google Inc., filed by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Child, # <u>2</u> Exhibit Court, # <u>3</u> Exhibit Fraud, # <u>4</u> Exhibit G–NM–SS)(src) (Entered: 01/22/2010)
01/22/2010	<u>54</u>		Corporate Disclosure Statement by Google Inc.. (Page, Michael) (Entered: 01/22/2010)
01/26/2010	<u>55</u>		SUMMONS Returned Executed by Curtis J Neeley, Jr. Google Inc. served on 1/12/2010, answer due 2/2/2010. (src) (Entered: 01/26/2010)
02/03/2010	<u>56</u>		MOTION for Interlocutory Summary Judgment Leaving the Damages Question for a Jury Against Separate Defendant NameMedia Inc. by Curtis J Neeley, Jr. (src) (Entered: 02/03/2010)
02/03/2010	<u>57</u>		MOTION for Scheduling Order by Curtis J Neeley, Jr. (src) (Entered: 02/03/2010)
02/03/2010	<u>58</u>		MEMORANDUM BRIEF in Support of <u>56</u> MOTION for Interlocutory Summary Judgment by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit 116click, # <u>2</u> Exhibit 2005, # <u>3</u> Exhibit AdWords, # <u>4</u> Exhibit BAN, # <u>5</u> Exhibit Cargills, # <u>6</u> Exhibit CIRS, # <u>7</u> Exhibit Form3800, # <u>8</u> Exhibit G–SS–2010, # <u>9</u> Exhibit GTM, # <u>10</u> Exhibit GTMIGN, # <u>11</u> Exhibit JDH, # <u>12</u> Exhibit JN2009, # <u>13</u> Exhibit JNPN, # <u>14</u> Exhibit KQ, # <u>15</u> Exhibit MISSE, # <u>16</u> Exhibit msthien, # <u>17</u> Exhibit NAMEPRO, # <u>18</u> Exhibit NMB, # <u>19</u> Exhibit DELETE, # <u>20</u> Exhibit OHojo, # <u>21</u> Exhibit PDS, # <u>22</u> Exhibit PNPFL, # <u>23</u> Exhibit police, # <u>24</u> Exhibit PPN, # <u>25</u> Exhibit RHIDE, # <u>26</u> Exhibit RM, # <u>27</u> Exhibit SL, # <u>28</u> Exhibit SS2010, # <u>29</u> Exhibit STSFR, # <u>30</u> Exhibit THIEM, # <u>31</u> Exhibit Wound, # <u>32</u> Exhibit WWED)(src) (Additional attachment added on 2/4/2010: # <u>33</u> Exhibit 2300) (src). Modified on 2/4/2010 (src). (Entered: 02/03/2010)
02/03/2010	<u>59</u>		Concise List of Undisputable Facts in support of <u>56</u> MOTION for Summary Judgment by Curtis J Neeley, Jr. (src) (Entered: 02/03/2010)
02/03/2010	<u>60</u>		MEMORANDUM BRIEF in Support of <u>57</u> MOTION for Scheduling Order by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit 116click, # <u>2</u> Exhibit 2005, # <u>3</u> Exhibit 2300, # <u>4</u> Exhibit AdWords, # <u>5</u> Exhibit

		BAN, # <u>6</u> Exhibit Cargills, # <u>7</u> Exhibit CIRS, # <u>8</u> Exhibit Form3800, # <u>9</u> Exhibit G-SS-2010, # <u>10</u> Exhibit GTM, # <u>11</u> Exhibit GTMIGN, # <u>12</u> Exhibit JDH, # <u>13</u> Exhibit JN2009, # <u>14</u> Exhibit JNPN, # <u>15</u> Exhibit KQ, # <u>16</u> Exhibit MISSE, # <u>17</u> Exhibit msthiem, # <u>18</u> Exhibit NAMEPRO, # <u>19</u> Exhibit NMB, # <u>20</u> Exhibit DELETE, # <u>21</u> Exhibit OHojo, # <u>22</u> Exhibit PDS, # <u>23</u> Exhibit PNPFL, # <u>24</u> Exhibit police, # <u>25</u> Exhibit PPN, # <u>26</u> Exhibit RHIDE, # <u>27</u> Exhibit RM, # <u>28</u> Exhibit SL, # <u>29</u> Exhibit SS2010, # <u>30</u> Exhibit STSFR, # <u>31</u> Exhibit THIEM, # <u>32</u> Exhibit Wound, # <u>33</u> Exhibit WWED)(src) (Entered: 02/03/2010)
02/08/2010	<u>61</u>	ANSWER to <u>53</u> Amended Complaint, COUNTERCLAIM against Curtis J Neeley, Jr by NameMedia, Inc.. Related document: <u>53</u> Amended Complaint filed by Curtis J Neeley, Jr.. (Attachments: # <u>1</u> Exhibit Trademark Registration, # <u>2</u> Exhibit Website)(Lemley, Kevin) (Entered: 02/08/2010)
02/08/2010	<u>62</u>	Corporate Disclosure Statement by NameMedia, Inc.. (Lemley, Kevin) (Entered: 02/08/2010)
02/08/2010	<u>63</u>	MOTION to Dismiss <i>for Failure to State a Claim</i> by Google Inc.. (Thane, Joshua) (Entered: 02/08/2010)
02/08/2010	<u>64</u>	MEMORANDUM BRIEF in Support of <u>63</u> MOTION to Dismiss <i>for Failure to State a Claim</i> by Google Inc.. (Thane, Joshua) (Entered: 02/08/2010)
02/10/2010	<u>65</u>	RESPONSE Seeking Denial of Google Inc. <u>63</u> MOTION to Dismiss <i>for Failure to State a Claim</i> filed by Curtis J Neeley, Jr. (src) (Entered: 02/10/2010)
02/10/2010	<u>66</u>	MEMORANDUM BRIEF in Support of <u>65</u> Response to Motion by Curtis J Neeley, Jr. (src) (Entered: 02/10/2010)
02/10/2010	<u>67</u>	MOTION to Amend <u>3</u> Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Amended Complaint)(src) (Entered: 02/10/2010)
02/10/2010	<u>68</u>	MEMORANDUM BRIEF in Support of <u>67</u> MOTION to Amend <u>3</u> Complaint by Curtis J Neeley, Jr. (src) (Entered: 02/10/2010)
02/10/2010	<u>69</u>	Concise List of Undisputable Facts in support of <u>56</u> MOTION for Summary Judgment by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit cirs, # <u>2</u> Exhibit STFSR, # <u>3</u> Exhibit WOUND, # <u>4</u> Exhibit WWED, # <u>5</u> Exhibit THIEM, # <u>6</u> Exhibit SS-2010, # <u>7</u> Exhibit SL, # <u>8</u> Exhibit R-HIDE, # <u>9</u> Exhibit PPS, # <u>10</u> Exhibit PPN, # <u>11</u> Exhibit POLICE, # <u>12</u> Exhibit PNPFL, #

			<u>13</u> Exhibit PDS, # <u>14</u> Exhibit NO-DELETE, # <u>15</u> Exhibit NAMEPRO, # <u>16</u> Exhibit MSTHIEM, # <u>17</u> Exhibit MISSE, # <u>18</u> Exhibit KQ, # <u>19</u> Exhibit JNPN, # <u>20</u> Exhibit JN2009, # <u>21</u> Exhibit GTMIGN, # <u>22</u> Exhibit G-SS-2010, # <u>23</u> Exhibit G-NM-SS, # <u>24</u> Exhibit FORM3800, # <u>25</u> Exhibit COURT, # <u>26</u> Exhibit CHILD, # <u>27</u> Exhibit Cargills, # <u>28</u> Exhibit BAN, # <u>29</u> Exhibit ADWORDS, # <u>30</u> Exhibit 2300, # <u>31</u> Exhibit 2005)(src) (Entered: 02/10/2010)
02/10/2010	<u>70</u>		RESPONSE in Opposition re <u>67</u> MOTION to Amend/Correct <u>3</u> Complaint filed by NameMedia, Inc.. (Lemley, Kevin) (Entered: 02/10/2010)
02/11/2010	<u>71</u>		MEMORANDUM BRIEF in Support of <u>63</u> MOTION to Dismiss <i>for Failure to State a Claim and Opposition to Motion for Leave to File Third Amended Complaint</i> by Google Inc.. (Thane, Joshua) (Entered: 02/11/2010)
02/11/2010	<u>72</u>		MOTION to Withdraw <u>67</u> MOTION to File Third Amended <u>3</u> Complaint by Curtis J Neeley, Jr. (src) (Entered: 02/11/2010)
02/11/2010	<u>73</u>		MEMORANDUM BRIEF in Support of <u>72</u> MOTION to Withdraw <u>67</u> MOTION to Amend <u>3</u> Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit CHIN, # <u>2</u> Exhibit YAHOO, # <u>3</u> Exhibit AOL, # <u>4</u> Exhibit BING)(src) (Entered: 02/11/2010)
02/12/2010			CLERK'S FIRST NOTICE re No Service of Process directed to Plaintiff Curtis J Neeley, Jr. No answer or other responsive pleading has been filed by NETWORK SOLUTIONS, INC. The file does not reflect a proof of service of the complaint upon this defendant. Federal Rules of Civil Procedure 4(l) requires proof of service to be filed with the court. If service is not perfected on a defendant within 120 days after filing the complaint, a show cause order will issue and the complaint against that defendant is subject to dismissal pursuant to Federal Rules of Civil Procedure 4(m). TEXT ONLY ENTRY, NO DOCUMENT ATTACHED (jn) (Entered: 02/12/2010)
02/16/2010	<u>74</u>		MOTION for Leave to Amend Summons by Curtis J Neeley, Jr. (src) (Entered: 02/16/2010)
02/16/2010	<u>75</u>		MEMORANDUM BRIEF in Support of <u>74</u> MOTION for Leave to Amend Summons by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit NSSJList, # <u>2</u> Exhibit NSSJ, # <u>3</u> Exhibit NSSJBrief, # <u>4</u> Exhibit EE-SS-NS-Traffic, # <u>5</u> Exhibit MB, # <u>6</u> Exhibit ParkFraud)(src) (Entered: 02/16/2010)

02/16/2010	<u>76</u>		RESPONSE by NameMedia, Inc., NameMedia, Inc., NameMedia, Inc. re <u>50</u> MOTION for Summary Judgment. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit)(Lemley, Kevin) (Entered: 02/16/2010)
02/16/2010	<u>77</u>		STATEMENT OF FACTS <i>IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AS TO NAMEMEDIA'S COUNTERCLAIM</i> by NameMedia, Inc.. (Lemley, Kevin) (Entered: 02/16/2010)
02/16/2010	<u>78</u>		RESPONSE to Motion re <u>57</u> MOTION for Order filed by NameMedia, Inc.. (Lemley, Kevin) (Entered: 02/16/2010)
02/16/2010	<u>79</u>		NOTICE of Appearance by Brooks Christopher White on behalf of NameMedia, Inc. (White, Brooks) (Entered: 02/16/2010)
02/16/2010	<u>80</u>		MOTION to Withdraw <i>as Attorney of Record</i> by NameMedia, Inc.. (Lemley, Kevin) (Entered: 02/16/2010)
02/17/2010			TEXT ONLY ORDER granting <u>80</u> Motion to Withdraw. Kevin M. Lemley is allowed to withdraw from this case, and the Clerk of Court is directed to remove his name from the list of attorneys who receive notices of electronic filing in this matter. Signed by Honorable Jimm Larry Hendren on February 17, 2010. (kcg) (Entered: 02/17/2010)
02/19/2010	<u>81</u>		RESPONSE to Motion re <u>57</u> MOTION for Order <i>Supplemental</i> filed by NameMedia, Inc.. (Attachments: # <u>1</u> Exhibit)(White, Brooks) (Entered: 02/19/2010)
02/19/2010	<u>82</u>		MOTION to Strike <u>78</u> Response to Motion by Curtis J Neeley, Jr. (src) (Entered: 02/19/2010)
02/19/2010	<u>83</u>		MEMORANDUM BRIEF in Support of <u>82</u> MOTION to Strike <u>78</u> Response to Motion by Curtis J Neeley, Jr. (src) (Entered: 02/19/2010)
02/19/2010	<u>84</u>		MOTION for More Definite Statement by Curtis J Neeley, Jr. (src) (Entered: 02/19/2010)
02/19/2010	<u>85</u>		MEMORANDUM BRIEF in Support of <u>84</u> MOTION for More Definite Statement by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit BING69, # <u>2</u> Exhibit NO-GOOGLE)(src) (Entered: 02/19/2010)
02/22/2010	<u>86</u>		RESPONSE by NameMedia, Inc., NameMedia, Inc., NameMedia, Inc. re <u>82</u> MOTION to Strike <u>78</u> Response to Motion. (White, Brooks) (Entered: 02/22/2010)

			02/22/2010)
02/22/2010	<u>87</u>		RESPONSE to Motion re <u>84</u> MOTION for More Definite Statement filed by NameMedia, Inc.. (White, Brooks) (Entered: 02/22/2010)
02/22/2010	<u>88</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>82</u> MOTION to Strike <u>78</u> Response to Motion. (src) (Entered: 02/22/2010)
02/22/2010	<u>89</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>83</u> Memorandum Brief in Support. (Attachments: # <u>1</u> Exhibit A)(src) (Entered: 02/22/2010)
02/23/2010			TEXT ONLY ORDER granting <u>34</u> Motion to Withdraw Motion. Signed by Honorable Jimm Larry Hendren on February 23, 2010. (kcg) (Entered: 02/23/2010)
02/23/2010			TEXT ONLY ORDER denying <u>38</u> Motion to Strike. Signed by Honorable Jimm Larry Hendren on February 23, 2010. (kcg) (Entered: 02/23/2010)
02/23/2010			TEXT ONLY ORDER finding as moot <u>40</u> Motion to Strike. Signed by Honorable Jimm Larry Hendren on February 23, 2010. (kcg) (Entered: 02/23/2010)
02/23/2010			TEXT ONLY ORDER finding as moot <u>42</u> Motion for Order. Signed by Honorable Jimm Larry Hendren on February 23, 2010. (kcg) (Entered: 02/23/2010)
02/23/2010			TEXT ONLY ORDER granting <u>72</u> Motion to Withdraw Motion. Signed by Honorable Jimm Larry Hendren on February 23, 2010. (kcg) (Entered: 02/23/2010)
02/23/2010			TEXT ONLY ORDER denying <u>82</u> Motion to Strike. Signed by Honorable Jimm Larry Hendren on February 23, 2010. (kcg) (Entered: 02/23/2010)
02/23/2010	<u>90</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>84</u> MOTION for More Definite Statement. (src) (Entered: 02/23/2010)
02/23/2010	<u>91</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>85</u> Memorandum Brief in Support of Motion for a More Definite Statement. (Attachments: # <u>1</u> Exhibit B, # <u>2</u> Exhibit G, # <u>3</u> Exhibit Y)(src) (Entered: 02/23/2010)
02/24/2010	<u>92</u>		ORDER DIRECTING SERVICE on Network Solutions Inc. by certified mail with a return receipt requested, by no later than March 5, 2010, and granting 21 days to answer. Signed by Honorable Erin L. Setser on February 24, 2010. (src) (Entered: 02/24/2010)

02/24/2010			USM285 Form and <u>92</u> Order Directing Service Delivered to USMS. (src) (Entered: 02/24/2010)
02/24/2010	<u>93</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>65</u> Response to Motion. (src) (Entered: 02/24/2010)
02/24/2010	<u>94</u>		NOTICE by Curtis J Neeley, Jr (src) (Entered: 02/24/2010)
02/24/2010	<u>95</u>		MOTION for Extension of Time to File Response/Reply to <i>Motion for Summary Judgment</i> by NameMedia, Inc.. (White, Brooks) (Entered: 02/24/2010)
02/25/2010	<u>96</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>65</u> Response to Motion. (src) (Entered: 02/25/2010)
03/01/2010	<u>97</u>		ORDER denying <u>50</u> Motion for Summary Judgment; denying <u>56</u> Motion for Summary Judgment; denying <u>57</u> Motion for Order; granting in part and denying in part <u>63</u> Motion to Dismiss; denying <u>74</u> Motion for Leave; denying <u>84</u> Motion for More Definite Statement; granting in part and denying in part <u>18</u> Motion for Summary Judgment. Signed by Honorable Jimm Larry Hendren on March 1, 2010. (src) (Entered: 03/01/2010)
03/01/2010	<u>98</u>		RESPONSE to <u>95</u> MOTION for Extension of Time to File Response/Reply to <i>Motion for Summary Judgment</i> filed by Curtis J Neeley, Jr. (src) (Entered: 03/01/2010)
03/04/2010	<u>99</u>		MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement, MOTION for leave to Amend <u>3</u> Complaint by Curtis J Neeley, Jr. (src) (Entered: 03/05/2010)
03/11/2010	<u>100</u>		NOTICE of Appearance by Robert L. Jones, III on behalf of Network Solutions Inc. (Jones, Robert) (Entered: 03/11/2010)
03/11/2010	<u>101</u>		NOTICE of Appearance by John M. Scott on behalf of Network Solutions Inc. (Scott, John) (Entered: 03/11/2010)
03/11/2010	<u>102</u>		NOTICE of Appearance by Kerri E. Kobbeman on behalf of Network Solutions Inc. (Kobbeman, Kerri) (Entered: 03/11/2010)
03/11/2010	<u>103</u>		Corporate Disclosure Statement by Network Solutions Inc.. (Scott, John) (Entered: 03/11/2010)
03/11/2010	<u>104</u>		MOTION to Dismiss by Network Solutions Inc.. (Scott, John) (Entered: 03/11/2010)

03/11/2010	<u>105</u>		MEMORANDUM BRIEF in Support of <u>104</u> MOTION to Dismiss by Network Solutions Inc.. (Scott, John) (Entered: 03/11/2010)
03/11/2010	<u>106</u>		RESPONSE in Opposition re <u>99</u> MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,, MOTION to Amend/Correct <u>3</u> Complaint MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,, MOTION to Amend/Correct <u>3</u> Complaint (<i>Google Inc.'s Response and Brief in Opposition to Motion Requesting Reconsideration (Re: Docket #97)</i>) filed by Google Inc.. (Thane, Joshua) (Entered: 03/11/2010)
03/11/2010	<u>107</u>		Cross MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,, by Google Inc.. (Thane, Joshua) (Entered: 03/11/2010)
03/11/2010	<u>108</u>		MEMORANDUM BRIEF in Support of <u>107</u> Cross MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,, by Google Inc.. (Thane, Joshua) (Entered: 03/11/2010)
03/11/2010	<u>109</u>		RESPONSE in Opposition re <u>99</u> MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,, MOTION to Amend/Correct <u>3</u> Complaint MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,, MOTION to Amend/Correct <u>3</u> Complaint (<i>Google Inc.'s Response and Brief in Opposition to Motion for Leave to Amend Complaint (Docket #97)</i>) filed by Google Inc.. (Thane, Joshua) (Entered: 03/11/2010)
03/15/2010	<u>110</u>		RESPONSE to Motion re <u>99</u> MOTION for Reconsideration re <u>97</u> Order on Motion for Summary

		Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,,,, MOTION to Amend/Correct <u>3</u> Complaint MOTION for Reconsideration re <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement,,,,,,,,, MOTION to Amend/Correct <u>3</u> Complaint filed by NameMedia, Inc.. (White, Brooks) (Entered: 03/15/2010)
03/17/2010	<u>111</u>	MOTION for Leave to File Third Amended Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Third Amended Complaint)(src) (Entered: 03/17/2010)
03/17/2010	<u>112</u>	MEMORANDUM BRIEF in Support of <u>111</u> MOTION for Leave to File Third Amended Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit gougul.com, # <u>2</u> Exhibit NS-TM-Traffic, # <u>3</u> Exhibit NS-FRAUD, # <u>4</u> Exhibit Lycos, # <u>5</u> Exhibit Afterimage)(src) (Entered: 03/17/2010)
03/18/2010	<u>113</u>	SUMMONS Returned Executed. Network Solutions Inc. served on 3/5/2010, answer due 3/26/2010. (src) (Entered: 03/18/2010)
03/18/2010	<u>114</u>	ANSWER to <u>53</u> Amended Complaint by Google Inc.. Related document: <u>53</u> Amended Complaint filed by Curtis J Neeley, Jr..(Thane, Joshua) (Entered: 03/18/2010)
03/24/2010	<u>115</u>	RESPONSE in Opposition re <u>111</u> MOTION for Leave to File <i>Third Amended Replacement Complaint</i> filed by Google Inc.. (Thane, Joshua) (Entered: 03/24/2010)
03/24/2010	<u>116</u>	MEMORANDUM BRIEF in Opposition to <u>111</u> MOTION for Leave to File <i>Third Amended Replacement Complaint</i> by Google Inc.. (Thane, Joshua) (Entered: 03/24/2010)
03/26/2010	<u>117</u>	RESPONSE in Opposition re <u>111</u> MOTION for Leave to File <i>Third Amended Replacement Complaint</i> filed by Network Solutions Inc.. (Scott, John) (Entered: 03/26/2010)
03/31/2010	<u>118</u>	RESPONSE in Opposition to <u>104</u> MOTION to Dismiss filed by Curtis J Neeley, Jr. (src) (Entered: 03/31/2010)
03/31/2010	<u>119</u>	MEMORANDUM BRIEF in Support of <u>118</u> Response in Opposition to Motion by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A)(src) (Entered: 03/31/2010)

			03/31/2010)
04/02/2010	<u>120</u>		Second BRIEF in Support of <u>111</u> MOTION for Leave to File Amended Replacement Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Complaint)(src) (Entered: 04/02/2010)
04/06/2010	<u>121</u>		REPLY by Network Solutions Inc. re <u>118</u> Response in Opposition to Motion <i>for Dismissal</i> . (Scott, John) (Entered: 04/06/2010)
04/07/2010	<u>122</u>		Third BRIEF in Support of <u>111</u> MOTION for Leave to File Third Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Complaint)(src) (Entered: 04/07/2010)
04/07/2010	<u>123</u>		Second BRIEF in Support of <u>118</u> Response in Opposition to Motion by Curtis J Neeley, Jr. (src) (Entered: 04/07/2010)
04/13/2010	<u>124</u>		RESPONSE by Network Solutions Inc. re <u>111</u> MOTION for Leave to File, <u>120</u> Memorandum Brief in Support, <u>122</u> Memorandum Brief in Support. (Scott, John) (Entered: 04/13/2010)
05/11/2010			TEXT ONLY ORDER finding as moot <u>95</u> Motion for Extension of Time to File Response/Reply. Signed by Honorable Jimm Larry Hendren on May 11, 2010. (kcg) (Entered: 05/11/2010)
05/20/2010	<u>125</u>		ORDER granting in part and denying in part <u>99</u> Motion for Reconsideration and Motion to Amend/Correct; denying <u>107</u> Motion for Reconsideration ; denying <u>111</u> Motion for Leave to File Third Amended Replacement Complaint. Signed by Honorable Jimm Larry Hendren on May 20, 2010. (src) (Entered: 05/20/2010)
05/20/2010	<u>126</u>		ORDER granting <u>104</u> Motion to Dismiss. Claims against Network Solutions, Inc., are dismissed. Signed by Honorable Jimm Larry Hendren on May 20, 2010. (src) Modified on 5/20/2010 to remove text (src). (Entered: 05/20/2010)
05/20/2010	<u>127</u>		INITIAL SCHEDULING ORDER: Rule 26 Meeting Report due by 6/21/2010. Jury Trial set for 3/21/2011 08:30 AM in Fayetteville 5th flr (Rm 509) before Honorable Jimm Larry Hendren. Signed by Honorable Jimm Larry Hendren on May 20, 2010. (src) (Entered: 05/20/2010)
05/27/2010	<u>128</u>		MOTION for Reconsideration re <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct, Order on Motion for Leave to File by Curtis J Neeley, Jr. (src) (Entered: 05/27/2010)

05/27/2010	<u>129</u>		MEMORANDUM BRIEF in Support of <u>128</u> MOTION for Reconsideration re <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct, Order on Motion for Leave to File by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Replacement, # <u>2</u> Exhibit Ask)(src) (Entered: 05/27/2010)
05/27/2010	<u>130</u>		MOTION for Reconsideration re <u>126</u> Order on Motion to Dismiss, Add and Terminate Parties by Curtis J Neeley, Jr. (src) (Entered: 05/27/2010)
05/27/2010	<u>131</u>		MEMORANDUM BRIEF in Support of <u>130</u> MOTION for Reconsideration re <u>126</u> Order on Motion to Dismiss, Add and Terminate Parties by Curtis J Neeley, Jr. (src) (Entered: 05/27/2010)
05/27/2010	<u>132</u>		MOTION for Leave to File Replacement Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Replacement Complaint)(src) (Entered: 05/27/2010)
05/27/2010	<u>133</u>		MEMORANDUM BRIEF in Support of <u>132</u> MOTION for Leave to File Replacement Complaint by Curtis J Neeley, Jr. (src) (Entered: 05/27/2010)
06/01/2010	<u>134</u>		MOTION for Preliminary Injunction by Curtis J Neeley, Jr. (src) (Entered: 06/01/2010)
06/01/2010	<u>135</u>		MEMORANDUM BRIEF in Support of <u>134</u> MOTION for Preliminary Injunction by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Google Oops, # <u>2</u> Exhibit Google Oops 2, # <u>3</u> Exhibit Replacement 2)(src) (Entered: 06/01/2010)
06/01/2010	<u>136</u>		NOTICE OF APPEAL as to <u>97</u> Order on Motion for Summary Judgment,, Order on Motion for Order, Order on Motion to Dismiss, Order on Motion for Leave, Order on Motion for More Definite Statement <u>126</u> Order on Motion to Dismiss, by Curtis J Neeley, Jr. (cc via CM/ECF: H. Allen, J. Doan, R. Jones, K. Kobbeman, M. Page, J. Scott, J. Thane, B. White, via U.S. Postal Service: C. Neeley) (jn) (Entered: 06/02/2010)
06/01/2010	<u>137</u>		MEMORANDUM BRIEF in Support of <u>136</u> Notice of Appeal, by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit)(jn) (Entered: 06/02/2010)
06/02/2010	<u>138</u>		NOA SUPPLEMENT FORM re <u>136</u> Notice of Appeal, filed by Curtis J Neeley, Jr.. (jn) (Entered: 06/02/2010)
06/03/2010	<u>139</u>		AMENDED NOTICE OF APPEAL as to <u>136</u> Notice of Appeal, by Curtis J Neeley, Jr. cc via CM/ECF: H. Allen, J. Doan, R. Jones, K. Kobbeman, M. Page, J.

			Scott, J. Thane, B. White. (jn) (Entered: 06/03/2010)
06/03/2010	<u>140</u>		MEMORANDUM BRIEF in Support of <u>139</u> Amended Notice of Appeal by Curtis J Neeley, Jr. (jn) (Entered: 06/03/2010)
06/03/2010	<u>141</u>		RESPONSE in Opposition re <u>128</u> MOTION for Reconsideration re <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct,, Order on Motion for Leave to File,,,, <i>Google Inc.'s Response In Opposition To Motion Requesting Reconsideration Of Order In Docket #125 Denying Appeal To Amend</i> filed by Google Inc.. (Thane, Joshua) (Entered: 06/03/2010)
06/03/2010	<u>142</u>		RESPONSE in Opposition re <u>132</u> MOTION for Leave to File <i>Replacement Complaint</i> filed by Google Inc.. (Thane, Joshua) (Entered: 06/03/2010)
06/07/2010	<u>143</u>		USCA Case Number 10-2255, 8th Circuit Court of Appeals for <u>136</u> Notice of Appeal, filed by Curtis J Neeley, Jr., <u>139</u> Amended Notice of Appeal filed by Curtis J Neeley, Jr.. (jn) (Entered: 06/07/2010)
06/10/2010	<u>144</u>		JOINT REPORT of Rule 26(f) Planning Meeting by Google Inc., NameMedia, Inc., Curtis J Neeley, Jr. (Thane, Joshua) (Entered: 06/10/2010)
06/11/2010	<u>145</u>		RESPONSE in Opposition re <u>128</u> MOTION for Reconsideration re <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct,, Order on Motion for Leave to File,,,, filed by Network Solutions Inc.. (Scott, John) (Entered: 06/11/2010)
06/11/2010	<u>146</u>		RESPONSE in Opposition re <u>130</u> MOTION for Reconsideration re <u>126</u> Order on Motion to Dismiss, Add and Terminate Parties filed by Network Solutions Inc.. (Attachments: # <u>1</u> Exhibit 1 – Declaration of N. Sterling, # <u>2</u> Exhibit 1A-1 – Service Agreement (Part 1, Pages 1-50), # <u>3</u> Exhibit 1A-2 – Service Agreement (Part 2, Pages 51-97), # <u>4</u> Exhibit 1B – Service Agreement Acceptance)(Scott, John) (Entered: 06/11/2010)
06/11/2010	<u>147</u>		RESPONSE in Opposition re <u>132</u> MOTION for Leave to File <i>Replacement Complaint</i> filed by Network Solutions Inc.. (Attachments: # <u>1</u> Exhibit 1 – Declaration of N. Sterling, # <u>2</u> Exhibit 1A-1 – Service Agreement (Part 1, Pages 1-50), # <u>3</u> Exhibit 1A-2 – Service Agreement (Part 2, Pages 51-97), # <u>4</u> Exhibit 1B – Service Agreement Acceptance)(Scott, John) (Entered: 06/11/2010)
06/16/2010	<u>148</u>		RESPONSE in Opposition re <u>134</u> MOTION for Preliminary Injunction filed by Network Solutions

			Inc.. (Scott, John) (Entered: 06/16/2010)
06/18/2010	<u>149</u>		RESPONSE in Opposition re <u>134</u> MOTION for Preliminary Injunction filed by Google Inc.. (Thane, Joshua) (Entered: 06/18/2010)
06/23/2010	<u>150</u>		USCA Scheduling Order as to <u>136</u> Notice of Appeal, filed by Curtis J Neeley, Jr., <u>139</u> Amended Notice of Appeal filed by Curtis J Neeley, Jr.. Case Appealed to 8th Circuit Court of Appeals Case Number 10-2255. (Attachments: # <u>1</u> USCA Letter)(jn) (Entered: 06/23/2010)
07/02/2010	<u>151</u>		PRETRIAL/PREHEARING Information Sheet by Curtis J Neeley, Jr. (jas) (Entered: 07/02/2010)
07/06/2010	<u>152</u>		MOTION to Continue by Curtis J Neeley, Jr. (jas) (Entered: 07/06/2010)
07/06/2010	<u>153</u>		MEMORANDUM BRIEF in Support of <u>152</u> MOTION to Continue by Curtis J Neeley, Jr. (jas) (Entered: 07/06/2010)
07/07/2010	<u>154</u>		RESPONSE by NameMedia, Inc. re <u>134</u> MOTION for Preliminary Injunction to Stop Defamations and Title 15 Sec. 1125 Violations. (White, Brooks) (Entered: 07/07/2010)
07/07/2010	<u>155</u>		RESPONSE by NameMedia, Inc. re <u>128</u> MOTION for Reconsideration re <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct,, Order on Motion for Leave to File,,,,. (White, Brooks) (Entered: 07/07/2010)
07/07/2010	<u>156</u>		RESPONSE by NameMedia, Inc. re <u>132</u> MOTION for Leave to File <i>Replacement Complaint</i> . (White, Brooks) (Entered: 07/07/2010)
07/19/2010	<u>157</u>		PRETRIAL Information Sheet by Curtis J Neeley, Jr. (src) (Entered: 07/19/2010)
07/19/2010	<u>158</u>		MOTION to Become a CM/ECF Party by Curtis J Neeley, Jr. (src) (Entered: 07/19/2010)
07/19/2010	<u>159</u>		MEMORANDUM BRIEF in Support of <u>158</u> MOTION to Become a CM/ECF Party by Curtis J Neeley, Jr. (src) (Entered: 07/19/2010)
07/19/2010	<u>160</u>		MOTION to Compel Namemedia Inc. to Remove Spider.txt File by Curtis J Neeley, Jr. (src) (Entered: 07/19/2010)
07/19/2010	<u>161</u>		MEMORANDUM BRIEF in Support of <u>160</u> MOTION to Compel by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit SleepSpot.com)(src) (Entered: 07/19/2010)

07/26/2010			TEXT ONLY ORDER granting <u>152</u> Motion to Continue Jury Trial RESET for 3/28/2011 08:30 AM in Fayetteville -- 5th flr (Rm 509) before Honorable Jimm Larry Hendren. Signed by Honorable Jimm Larry Hendren on July 26, 2010. THIS COURT'S PREVIOUS SCHEDULING ORDER REMAINS IN EFFECT.(gg) (Entered: 07/26/2010)
07/30/2010	<u>162</u>		RESPONSE in Opposition re <u>160</u> MOTION to Compel filed by NameMedia, Inc.. (White, Brooks) (Entered: 07/30/2010)
08/02/2010	<u>163</u>		MOTION for Order by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A Complaint)(tg) (Entered: 08/02/2010)
08/16/2010			TEXT ONLY NOTICE TO USCA of subsequent case activity re USCA No. 10-2255. Related entry(s): <u>140</u> Memorandum Brief in Support filed by Curtis J Neeley, Jr., <u>139</u> Amended Notice of Appeal filed by Curtis J Neeley, Jr. (src) (Entered: 08/16/2010)
08/18/2010	<u>164</u>		Letter from plaintiff, Curtis Neeley, to the court. (tg) (Entered: 08/18/2010)
08/30/2010	<u>165</u>		NOTICE: Rule 7.3(a) Ex Parte Communication with the Court and Listed Parties by Curtis J Neeley, Jr (jn) (Entered: 08/30/2010)
09/03/2010	<u>166</u>		MANDATE of USCA: judgment of the district court in this cause is affirmed in part, the motion to dismiss is granted in part and denied in part. <u>136</u> Notice of Appeal, filed by Curtis J Neeley, Jr., <u>139</u> Amended Notice of Appeal filed by Curtis J Neeley, Jr. (Attachments: # <u>1</u> 8USCA Opinion, # <u>2</u> 8USCA Judgment)(cnn) (Entered: 09/03/2010)
09/28/2010	<u>167</u>		MOTION for Leave to File Fourth Amended Complaint by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A Amended Complaint)(tg) (Entered: 09/28/2010)
09/28/2010	<u>168</u>		MEMORANDUM BRIEF in Support of <u>167</u> MOTION for Leave to File by Curtis J Neeley, Jr. (tg) (Entered: 09/28/2010)
09/30/2010	<u>169</u>		RESPONSE to Motion re <u>167</u> MOTION for Leave to File <i>Fourth Amended Complaint</i> filed by NameMedia, Inc.. (White, Brooks) (Entered: 09/30/2010)
10/05/2010	<u>170</u>		RESPONSE in Opposition re <u>167</u> MOTION for Leave to File <i>Fourth Amended Complaint</i> filed by Google Inc.. (Thane, Joshua) (Entered: 10/05/2010)
10/05/2010	<u>171</u>		Cross MOTION for Protective Order by Google Inc..

			(Thane, Joshua) (Entered: 10/05/2010)
10/05/2010	<u>172</u>		MEMORANDUM BRIEF in Support of <u>171</u> Cross MOTION for Protective Order by Google Inc.. (Thane, Joshua) (Entered: 10/05/2010)
10/06/2010	<u>173</u>		PLAINTIFF'S RESPONSE to Motion re <u>171</u> Cross MOTION for Protective Order filed by Curtis J Neeley, Jr. (jas) (Entered: 10/06/2010)
10/06/2010	<u>174</u>		OBJECTION(S) by Network Solutions Inc. re <u>167</u> MOTION for Leave to File <i>Fourth Amended Complaint</i> . (Attachments: # <u>1</u> Exhibit A – Per Curiam Order, # <u>2</u> Exhibit B – Judgment, # <u>3</u> Exhibit C – Mandate)(Scott, John) (Entered: 10/06/2010)
10/06/2010	<u>175</u>		MOTION for Protective Order by Network Solutions Inc.. (Scott, John) (Entered: 10/06/2010)
10/06/2010	<u>176</u>		MEMORANDUM BRIEF in Support of <u>175</u> MOTION for Protective Order by Network Solutions Inc.. (Scott, John) (Entered: 10/06/2010)
10/07/2010	<u>177</u>		RESPONSE in Opposition re <u>175</u> MOTION for Protective Order filed by Curtis J Neeley, Jr. (src) (Entered: 10/07/2010)
10/20/2010	<u>178</u>		ORDER Setting Hearing: Settlement Conference set for 3/2/2011 09:00 AM in Fayetteville — 2nd flr (Rm 213) before Honorable Erin L. Setser. Signed by Honorable Erin L. Setser on October 20, 2010. (gh) (Entered: 10/20/2010)
10/25/2010	<u>179</u>		MOTION to Dismiss Several Pending Motions by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/25/2010	<u>180</u>		MOTION for Federal Communications Commission Injunction by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/25/2010	<u>181</u>		MEMORANDUM BRIEF in Support of <u>180</u> MOTION for Federal Communications Commission Injunction by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/25/2010	<u>182</u>		MOTION for Domain Name Party Injunction by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/25/2010	<u>183</u>		MEMORANDUM BRIEF in Support of <u>182</u> MOTION for Domain Name Party Injunction by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/25/2010	<u>184</u>		MOTION for Search Engine Party Injunction by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/25/2010	<u>185</u>		MEMORANDUM BRIEF in Support of <u>184</u>

			MOTION for Search Engine Party Injunction by Curtis J Neeley, Jr. (tg) (Entered: 10/25/2010)
10/27/2010	<u>186</u>		ORDER denying <u>167</u> Motion for Leave to File Fourth Amended Complaint. Signed by Honorable Jimm Larry Hendren on October 27, 2010. (tg) (Entered: 10/27/2010)
10/27/2010	<u>187</u>		ORDER granting <u>179</u> Motion to Dismiss several pending motions; Motions terminated: <u>158 132 128 134 160</u> . Signed by Honorable Jimm Larry Hendren on October 27, 2010. (tg) (Entered: 10/27/2010)
10/27/2010	<u>188</u>		FINAL SCHEDULING ORDER: Jury Trial set for 7/11/2011 08:30 AM in Fayetteville -- 5th flr (Rm 509) before Honorable Jimm Larry Hendren. Signed by Honorable Jimm Larry Hendren on October 27, 2010. (tg) (Entered: 10/27/2010)
10/27/2010	<u>189</u>		ORDER denying <u>171</u> Motion for Protective Order; denying <u>175</u> Motion for Protective Order. Signed by Honorable Jimm Larry Hendren on October 27, 2010. (tg) (Entered: 10/27/2010)
10/27/2010	<u>190</u>		ORDER denying <u>180</u> Motion for injunctive relief against the Federal Communications Commission. Signed by Honorable Jimm Larry Hendren on October 27, 2010. (tg) (Entered: 10/27/2010)
10/27/2010	<u>191</u>		ORDER denying <u>182</u> Motion for Domain Name Party Injunction. Signed by Honorable Jimm Larry Hendren on October 27, 2010. (tg) (Entered: 10/27/2010)
10/27/2010	<u>192</u>		ORDER denying <u>184</u> Motion for Search Engine Party insofar as it addresses conduct of Yahoo, Inc.; Microsoft Corporation; and IAC/InterActiveCorp and ORDER REFERRING MOTION: <u>184</u> MOTION for Search Engine Party Injunction filed by Curtis J Neeley, Jr. Signed by Honorable Jimm Larry Hendren on October 27, 2010. Motions referred to Erin L. Setser.(tg) (Entered: 10/27/2010)
10/29/2010	<u>193</u>		Second Request for MOTION for Leave to File Fourth Amended Complaint by Curtis J Neeley, Jr. (tg) (Entered: 10/29/2010)
10/29/2010	<u>194</u>		MEMORANDUM BRIEF in Support of <u>193</u> MOTION for Leave to File Fourth Amended Complaint by Curtis J Neeley, Jr. (tg) (Entered: 10/29/2010)
11/01/2010	<u>195</u>		ORDER denying <u>193</u> Motion for Leave to File Fourth Amended Complaint. Signed by Honorable Jimm Larry Hendren on November 1, 2010. (src) (Entered: 11/01/2010)

11/02/2010	<u>196</u>		MOTION to Certify <i>Preventing Plaintiff from Proceeding In Forma Pauperis on Appeal</i> by NameMedia, Inc.. (Attachments: # <u>1</u> Exhibit)(White, Brooks) (Entered: 11/02/2010)
11/02/2010	<u>197</u>		MEMORANDUM BRIEF in Support of <i>Motion for Certification Preventing Plaintiff from Proceeding In Forma Pauperis on Appeal</i> by NameMedia, Inc.. (White, Brooks) (Entered: 11/02/2010)
11/02/2010	<u>198</u>		MOTION for Joining of Claims and Joinder of the FCC as Another Party by Curtis J Neeley, Jr. (src) (Entered: 11/02/2010)
11/02/2010	<u>199</u>		MEMORANDUM BRIEF in Support of <u>198</u> MOTION for Joinder by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A Supplemental Pleading)(src) (Entered: 11/02/2010)
11/02/2010	<u>200</u>		RESPONSE to Motion re <u>198</u> MOTION for Joinder of Claims and Jonder of the FCC as Another Party filed by NameMedia, Inc.. (White, Brooks) (Entered: 11/02/2010)
11/03/2010	<u>201</u>		OBJECTION by Curtis J Neeley, Jr re <u>196</u> MOTION to Certify Preventing Plaintiff from Proceeding In Forma Pauperis on Appeal. (tg) (Entered: 11/03/2010)
11/04/2010	<u>202</u>		PETITION FOR WRIT OF CERTIORARI was filed with the Supreme Court on 8/23/10 and placed on the docket on 8/26/10 as case number 10-6091. (Attachments: # <u>1</u> USCA Letter dated 11/4/10)(jn) (Entered: 11/04/2010)
11/04/2010	<u>203</u>		SUPREME COURT RULING denies the Petition for Writ of Certorari. (Attachments: # <u>1</u> USCA Letter)(jn) (Entered: 11/04/2010)
11/05/2010	<u>204</u>		SUPPLEMENTAL MEMORANDUM BRIEF in Support of <u>201</u> Objection(s) by Curtis J Neeley, Jr. (jas) (Entered: 11/05/2010)
11/06/2010	<u>205</u>		RESPONSE in Opposition re <u>184</u> MOTION for Search Engine Party Injunction filed by Google Inc.. (Attachments: # <u>1</u> Exhibit A)(Doan, Jennifer) (Entered: 11/06/2010)
11/09/2010	<u>206</u>		SECOND MEMORANDUM BRIEF in Support of <u>184</u> MOTION for Search Engine Party Injunction by Curtis J Neeley, Jr. (tg) Modified on 11/10/2010 to correct link per telephone call from plaintiff and to resend NEF.(jn). (Entered: 11/09/2010)
11/12/2010	<u>207</u>		FINAL MEMORANDUM BRIEF in Support of <u>184</u> MOTION for Search Engine Party Injunction by

			Curtis J Neeley, Jr. (tg) (Entered: 11/12/2010)
11/12/2010	<u>208</u>		FINAL MEMORANDUM BRIEF in Support of <u>198</u> MOTION for Joinder by Curtis J Neeley, Jr. (tg) (Entered: 11/12/2010)
11/17/2010	<u>209</u>		ORDER denying <u>198</u> Motion for Joinder. Signed by Honorable Jimm Larry Hendren on November 17, 2010. (tg) (Entered: 11/17/2010)
11/23/2010	<u>210</u>		ORDER Setting Hearing on Motion re: <u>184</u> MOTION for Search Engine Party Injunction. Motion Hearing set for 12/6/2010 09:00 AM in Fayetteville — 4th floor (Rm 416) before Honorable Erin L. Setser. Signed by Honorable Erin L. Setser on November 23, 2010. (jn) Modified on 11/24/2010 (src). (Entered: 11/23/2010)
11/24/2010	<u>211</u>		RESPONSE by Google Inc. re <u>207</u> Memorandum Brief in Support (<i>Google Inc.'s Response to Plaintiff's Final Brief Supporting Motion for Docket 184 Preliminary Injunction</i>). (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Doan, Jennifer) (Entered: 11/24/2010)
12/02/2010	<u>212</u>		ORDER re <u>208</u> Memorandum Brief in Support filed by Curtis J Neeley, Jr., (In Court Hearing set for 12/9/2010 01:30 PM in Fayetteville — 5th flr (Rm 509) before Honorable Jimm Larry Hendren.) Signed by Honorable Jimm Larry Hendren on December 2, 2010. (tg) (Entered: 12/02/2010)
12/06/2010	<u>213</u>		Minute Entry for proceedings held before Honorable Erin L. Setser: Motion Hearing [Doc 184] held on 12/6/2010. (Court Reporter Rick Congdon) (Attachments: # <u>1</u> Witness/Exhibit List) (gh) (Entered: 12/06/2010)
12/06/2010	<u>214</u>		NOTICE by Google Inc. (<i>Defendant Google Inc.'s Notice of Exhibits to Motion Hearing [Re: 184] For Injunctive Relief</i>) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Thane, Joshua) (Entered: 12/06/2010)
12/08/2010	<u>215</u>		RESPONSE by Google Inc., NameMedia, Inc. re <u>208</u> Memorandum Brief in Support (<i>Defendants' Response to Plaintiff's Suggestion for Recusal</i>). (Doan, Jennifer) (Entered: 12/08/2010)
12/09/2010	<u>216</u>		NOTICE OF FILING OFFICIAL TRANSCRIPT of Motion Hearing held on December 6, 2010, before Judge Erin L. Setser. Court Reporter/Transcriber: Rick Congdon, Telephone number 479-782-2898. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber. After the Release of Transcript Restriction deadline, it, or a redacted transcript, may be obtained through

			the Court Reporter/Transcriber or PACER A Notice of Intent to Request Redaction of the Transcript <u>MUST</u> be filed within 7 calendar days of the filing of the transcript and served manually on the court reporter/transcriber. Redaction Request due 12/30/2010. Redacted Transcript Deadline set for 1/9/2011. Release of Transcript Restriction set for 3/9/2011. (tg) (Entered: 12/09/2010)
12/09/2010			TEXT ONLY Minute Entry for proceedings held before Honorable Jimm Larry Hendren: In Court Hearing held on 12/9/2010. (Court Reporter Theresa Sawyer) (gg) (Entered: 12/09/2010)
12/09/2010	<u>217</u>		SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>184</u> MOTION for Search Engine Party Injunction. (jas) (Entered: 12/09/2010)
12/09/2010	<u>218</u>		ORDER re <u>208</u> Memorandum Brief in Support filed by Curtis J. Neeley, Jr. Plaintiff's request for recusal moot. Signed by Honorable Jimm Larry Hendren on December 9, 2010. (jas) (Entered: 12/09/2010)
12/13/2010	<u>219</u>		MOTION for Extension of Time to File court order settlement statement by Curtis J Neeley, Jr. (tg) (Entered: 12/13/2010)
12/13/2010	<u>220</u>		***PLEASE DISREGARD REDOCKETED TO LINK TO CORRECT DOCUMENT*** MEMORANDUM BRIEF in Support of <u>219</u> MOTION for Extension of Time to File court ordered settlement statement by Curtis J Neeley, Jr. (tg) Modified on 12/13/2010 (tg). (Entered: 12/13/2010)
12/13/2010	<u>221</u>		MEMORANDUM BRIEF in Support of <u>184</u> MOTION for Search Engine Party Injunction by Curtis J Neeley, Jr. (tg) (Entered: 12/13/2010)
12/15/2010	<u>222</u>		FINAL SUPPLEMENTAL BRIEF in Support of <u>184</u> MOTION for Search Engine Party Injunction by Curtis J Neeley, Jr. (tg) (Entered: 12/15/2010)
12/15/2010	<u>223</u>		NOTICE OF FILING OFFICIAL TRANSCRIPT of Motion Hearing held on 12/09/10, before Judge Jimm Larry Hendren. Court Reporter/Transcriber: Theresa Sawyer, Telephone number 479-444-7876. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber. After the Release of Transcript Restriction deadline, it, or a redacted transcript, may be obtained through the Court Reporter/Transcriber or PACER A Notice of Intent to Request Redaction of the Transcript <u>MUST</u> be filed within 7 calendar days of the filing of the transcript and served manually on the court

		reporter/transcriber. Redaction Request due 1/5/2011. Redacted Transcript Deadline set for 1/15/2011. Release of Transcript Restriction set for 3/15/2011. (tg) (Entered: 12/15/2010)
12/16/2010	<u>224</u>	ORDER granting <u>219</u> Motion for Extension of Time to File settlement statement. Signed by Honorable Erin L. Setser on December 16, 2010. (tg) (Entered: 12/16/2010)
12/16/2010	<u>225</u>	REPORT AND RECOMMENDATIONS re <u>184</u> MOTION for Search Engine Party Injunction filed by Curtis J Neeley, Jr. Objections to RRdue by 1/2/2011. Signed by Honorable Erin L. Setser on December 16, 2010. (tg) (Entered: 12/16/2010)
12/27/2010	<u>226</u>	OBJECTION to <u>225</u> Report and Recommendations by Curtis J Neeley, Jr. (jas) (Entered: 12/27/2010)
01/12/2011		Set/Reset Transcript Deadlines re <u>216</u> Transcript. Redacted Transcript Deadline reset for 1/10/2011. (jn) (Entered: 01/12/2011)
01/12/2011		RE-SET Transcript Deadlines re <u>223</u> Transcript. Redacted Transcript Deadline re-set for 1/18/2011. (jas) (Entered: 01/12/2011)
01/12/2011	<u>227</u>	MOTION Seeking Leave for Interrogatories by Curtis J. Neeley, Jr. (jas) (Entered: 01/12/2011)
01/12/2011	<u>228</u>	MEMORANDUM BRIEF in Support of <u>227</u> MOTION Seeking Leave for Interrogatories by Curtis J. Neeley, Jr. (jas) (Entered: 01/12/2011)
01/13/2011	<u>229</u>	RESPONSE by Google Inc. re <u>226</u> Objection to Report and Recommendations (<i>Google Inc.'s Response in Opposition to Plaintiff's Objection to Report and Recommendation of Docket 225</i>). (Attachments: # <u>1</u> Exhibit A)(Thane, Joshua) (Entered: 01/13/2011)
01/21/2011	<u>230</u>	RESPONSE by NameMedia, Inc. re <u>227</u> MOTION for Discovery. (Attachments: # <u>1</u> Exhibit A)(White, Brooks) (Entered: 01/21/2011)
01/25/2011	<u>231</u>	ORDER denying <u>196</u> Motion to Certify. Signed by Honorable Jimm Larry Hendren on January 25, 2011. (tg) (Entered: 01/25/2011)
01/25/2011	<u>232</u>	SUPPLEMENT by Plaintiff Curtis J Neeley, Jr to <u>226</u> Objection to Report and Recommendations. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit D, # <u>4</u> Exhibit E)(tg) (Entered: 01/25/2011)
01/31/2011	<u>233</u>	ORDER denying <u>184</u> Motion for Search Engine Party Injunction and ORDER ADOPTING REPORT AND

			RECOMMENDATIONS. Signed by Honorable Jimm Larry Hendren on January 31, 2011. (tg) (Entered: 01/31/2011)
01/31/2011	<u>234</u>		ORDER denying <u>227</u> Motion for Discovery. Signed by Honorable Jimm Larry Hendren on January 31, 2011. (tg) (Entered: 01/31/2011)
01/31/2011	<u>235</u>		RESPONSE in Opposition re <u>227</u> MOTION for Discovery (<i>Google Inc.'s Opposition to Motion For Leave to Serve One Hundred Interrogatories</i>) filed by Google Inc.. (Attachments: # <u>1</u> Exhibit A)(Thane, Joshua) (Entered: 01/31/2011)
01/31/2011	<u>236</u>		MOTION for Summary Judgment by Google Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D)(Thane, Joshua) (Entered: 01/31/2011)
01/31/2011	<u>237</u>		MEMORANDUM BRIEF in Support of <u>236</u> MOTION for Summary Judgment by Google Inc.. (Thane, Joshua) (Entered: 01/31/2011)
01/31/2011	<u>238</u>		STATEMENT OF FACTS in support of <u>236</u> MOTION for Summary Judgment by Google Inc.. (Thane, Joshua) (Entered: 01/31/2011)
02/07/2011	<u>239</u>		MOTION for Reconsideration re <u>233</u> Order on Motion for Search Engine Party Injunction, Order on Report and Recommendations, <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct, Order on Motion for Leave to File by Curtis J Neeley, Jr. (src) (Entered: 02/07/2011)
02/07/2011	<u>240</u>		MEMORANDUM BRIEF in Support of <u>239</u> MOTION for Reconsideration re <u>233</u> Order on Motion for Search Engine Party Injunction, Order on Report and Recommendations, <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct by Curtis J Neeley, Jr. (src) (Entered: 02/07/2011)
02/07/2011	<u>241</u>		Opposition and cross re <u>236</u> MOTION for Summary Judgment filed by Curtis J Neeley, Jr. (src) (Entered: 02/07/2011)
02/07/2011	<u>242</u>		BRIEF in Support of <u>241</u> Opposition and cross to Summary Judgment Motion by Curtis J Neeley, Jr. (src) (Entered: 02/07/2011)
02/11/2011	<u>243</u>		REPLY to Response to Motion re <u>236</u> MOTION for Summary Judgment (<i>Google Inc.'s Reply Brief In Support Of Its Motion For Summary Judgment</i>) filed by Google Inc.. (Thane, Joshua) (Entered: 02/11/2011)

02/14/2011			CLERK'S NOTICE re Multiple Attorneys Listed on Pleading directed to Defendant Google Inc. Reply to Response to Motion <u>243</u> lists multiple attorneys appearing for the filer. The following attorney(s), who did not sign the pleading, must enter a separate Notice of Appearance in order to receive electronic notification of future activity in the case: Durie Tangri . TEXT ONLY ENTRY, NO DOCUMENT ATTACHED. (tg) (Entered: 02/14/2011)
02/18/2011			TEXT ONLY ENTRY. ORDER Resetting Hearing: Settlement Conference set for 6/7/2011 09:00 AM in Fayetteville -- 2nd flr (Rm 213) before Honorable Erin L. Setser. Concise statement due on or before 6/1/11. Signed by Honorable Erin L. Setser on February 18, 2011. (gh) (Entered: 02/18/2011)
02/23/2011	<u>244</u>		RESPONSE in Opposition re <u>239</u> MOTION for Reconsideration re <u>233</u> Order on Motion for Miscellaneous Relief, Order on Report and Recommendations, Order Adopting Report and Recommendations, <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct,, Order on Motion MOTION for Reconsideration re <u>233</u> Order on Motion for Miscellaneous Relief, Order on Report and Recommendations, Order Adopting Report and Recommendations, <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct,, Order on Motion (<i>Google Inc.'s Response In Opposition to Motion for Reconsideration of Dockets 233 and 125</i>) filed by Google Inc.. (Thane, Joshua) (Entered: 02/23/2011)
03/17/2011	<u>245</u>		NOTICE by Curtis J Neeley, Jr (jn) (Entered: 03/17/2011)
03/22/2011	<u>246</u>		MEMORANDUM BRIEF in Support of <u>239</u> MOTION for Reconsideration by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A Various pictures, # <u>2</u> Exhibit B Various pictures)(tg) (Entered: 03/23/2011)
03/29/2011	<u>247</u>		MEMORANDUM BRIEF in Support of <u>239</u> MOTION for Reconsideration re <u>233</u> Order on Motion for Miscellaneous Relief, Order on Report and Recommendations, Order Adopting Report and Recommendations, <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct,, Order on Motion MOTION for Reconsideration re <u>233</u> Order on Motion for Miscellaneous Relief, Order on Report and Recommendations, Order Adopting Report and Recommendations, <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct, by Curtis J Neeley, Jr. (tg) (Entered: 03/29/2011)

			03/29/2011)
04/01/2011	<u>248</u>		MEMORANDUM BRIEF in Support of <u>239</u> MOTION for Reconsideration re <u>233</u> Order on Motion for Search Engine Party Injunction, Order on Report and Recommendations <u>125</u> Order on Motion for Reconsideration, Order on Motion to Amend/Correct by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit Why)(src) (Entered: 04/01/2011)
04/27/2011	<u>249</u>		MOTION for Partial Summary Judgment by NameMedia, Inc.. (White, Brooks) (Entered: 04/27/2011)
04/27/2011	<u>250</u>		MEMORANDUM BRIEF in Support of <u>249</u> MOTION for Partial Summary Judgment by NameMedia, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N, # <u>15</u> Exhibit O, # <u>16</u> Exhibit P, # <u>17</u> Exhibit Q, # <u>18</u> Exhibit R, # <u>19</u> Exhibit S, # <u>20</u> Exhibit T, # <u>21</u> Exhibit U, # <u>22</u> Exhibit V, # <u>23</u> Exhibit W, # <u>24</u> Exhibit X, # <u>25</u> Exhibit Y)(White, Brooks) (Entered: 04/27/2011)
04/27/2011	<u>251</u>		STATEMENT OF FACTS in support of <u>249</u> MOTION for Partial Summary Judgment by NameMedia, Inc.. (White, Brooks) (Entered: 04/27/2011)
05/06/2011	<u>252</u>		RESPONSE in Opposition re <u>249</u> MOTION for Partial Summary Judgment filed by Curtis J Neeley, Jr. (src) (Entered: 05/06/2011)
05/06/2011	<u>253</u>		MEMORANDUM BRIEF in Support of <u>252</u> Response in Opposition to Motion by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit E, # <u>2</u> Exhibit D, # <u>3</u> Exhibit C, # <u>4</u> Exhibit B, # <u>5</u> Exhibit A, # <u>6</u> Exhibit G, # <u>7</u> Exhibit F)(src) (Entered: 05/06/2011)
05/06/2011	<u>254</u>		Formerly Undisputed Facts Admitted and/or Denied re: <u>252</u> Response in Opposition to Motion by Curtis J Neeley, Jr. (src) (Entered: 05/06/2011)
05/11/2011	<u>255</u>		MOTION for Joinder of Claims by Curtis J Neeley, Jr. (tg) (Entered: 05/11/2011)
05/11/2011	<u>256</u>		MEMORANDUM BRIEF in Support of <u>255</u> MOTION for Joinder of Claims by Curtis J Neeley, Jr. (tg) (Entered: 05/11/2011)
05/16/2011	<u>257</u>		REPLY to Response to Motion re <u>249</u> MOTION for Partial Summary Judgment filed by NameMedia, Inc.. (White, Brooks) (Entered: 05/16/2011)

05/17/2011	<u>258</u>		MOTION for Joinder and MOTION for Relief by Curtis J Neeley, Jr. (tg) (Entered: 05/17/2011)
05/17/2011	<u>259</u>		***DISREGARD REDOCKETED TO ATTACH CORRECT EXHIBITS***MEMORANDUM BRIEF in Support of <u>258</u> MOTION for Joinder and MOTION for Relief by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit G1, # <u>4</u> Exhibit Perl, # <u>5</u> Exhibit Comscore)(tg) Modified on 5/19/2011 (tg). (Entered: 05/17/2011)
05/19/2011	<u>260</u>		MEMORANDUM BRIEF in Support of <u>258</u> MOTION for Joinder MOTION for Relief by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit GI, # <u>4</u> Exhibit Perl, # <u>5</u> Exhibit Comscore)(tg) (Entered: 05/19/2011)
05/31/2011	<u>261</u>		RESPONSE in Opposition re <u>255</u> MOTION for Joinder filed by Google Inc.. (Thane, Joshua) (Entered: 05/31/2011)
05/31/2011	<u>262</u>		NOTICE by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A)(tg) (Entered: 05/31/2011)
06/01/2011	<u>263</u>		MOTION to Cancel, or Alternatively, to Postpone Settlement Conference by NameMedia, Inc.. (Attachments: # <u>1</u> Exhibit A)(White, Brooks) (Entered: 06/01/2011)
06/01/2011	<u>264</u>		MEMORANDUM BRIEF in Support of <u>263</u> MOTION to Cancel, or Alternatively, to Postpone Settlement Conference by NameMedia, Inc.. (White, Brooks) (Entered: 06/01/2011)
06/01/2011	<u>265</u>		ORDER granting <u>263</u> Motion to cancel or postpone settlement conference. Signed by Honorable Erin L. Setser on June 1, 2011. (tg) (Entered: 06/01/2011)
06/03/2011	<u>266</u>		RESPONSE in Opposition re <u>258</u> MOTION for Joinder MOTION for Relief filed by Google Inc.. (Thane, Joshua) (Entered: 06/03/2011)
06/07/2011	<u>267</u>		ORDER denying <u>239</u> Motion for Reconsideration ; denying <u>255</u> Motion for Joinder; denying <u>258</u> Motion for Joinder; denying <u>258</u> Motion for Relief. Signed by Honorable Jimm Larry Hendren on June 7, 2011. (tg) (Entered: 06/07/2011)
06/07/2011	<u>268</u>	34	ORDER granting <u>236</u> Motion for Summary Judgment; granting <u>249</u> Motion for Partial Summary Judgment; Defendants Google Inc. and NameMedia, Inc. terminated. Signed by Honorable Jimm Larry Hendren on June 7, 2011. (tg) (Entered: 06/07/2011)
06/07/2011	<u>269</u>	52	ORDER denying <u>258</u> MOTION for Joinder MOTION

			for Relief filed by Curtis J Neeley, Jr., denying <u>255</u> MOTION for Joinder filed by Curtis J Neeley, Jr. Signed by Honorable Jimm Larry Hendren on June 7, 2011. (tg) (Entered: 06/07/2011)
06/08/2011	<u>270</u>		Rule 59 MOTION for New Trial by Curtis J Neeley, Jr. (aw) (Entered: 06/08/2011)
06/08/2011	<u>271</u>		BRIEF in Support of <u>270</u> MOTION for New Trial by Curtis J Neeley, Jr. (Attachments: # <u>1</u> Exhibit A)(aw) (Entered: 06/08/2011)
06/15/2011	<u>272</u>	53	NOTICE OF APPEAL as to <u>268</u> Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment <u>267</u> Order on Motion for Reconsideration, Order on Motion for Joinder, Order on Motion for Relief by Curtis J Neeley, Jr. (cc via CM/ECF: H. William Allen, Jennifer H. Doan, Robert Jones,III, Kerri Kobbeman, Michael Page, John Scott, Joshua Thane, Brooks White, via U.S. Postal Service: Curtis Neeley) (jn) (Entered: 06/15/2011)
06/15/2011	<u>273</u>		APPEAL NOTICE to Counsel and Pro Se Parties re <u>272</u> Notice of Appeal, filed by Curtis J Neeley, Jr.. (jn) (Entered: 06/15/2011)
06/15/2011	<u>274</u>	54	NOA SUPPLEMENT FORM re <u>272</u> Notice of Appeal, filed by Curtis J Neeley, Jr.. (jn) (Entered: 06/15/2011)

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CURTIS J. NEELEY, JR.

PLAINTIFF

v.

Civil No. 09-5151

NAMEMEDIA, INC., NETWORK
SOLUTIONS, INC.; and
GOOGLE INC.

DEFENDANTS

O R D E R

Now on this 7th day of June, 2011, come on for consideration **Google Inc.'s Motion For Summary Judgment** (document #236), and NameMedia, Inc.'s **Motion For Partial Summary Judgment** (document #249), and from said motions, and the responses thereto, the Court finds and orders as follows:

1. Plaintiff Curtis Neeley ("Neeley") alleges that defendants NameMedia, Inc. ("NameMedia") and Google Inc. ("Google") violated his trademark rights. His contention is that NameMedia registered two internet domain names, eartheye.com and sleepspot.com, and licensed them to Google, in violation of the anti-cybersquatting provisions of **15 U.S.C. § 1125(d)**. Neeley further alleges that NameMedia and Google conspired to cybersquat the two domain names. This conduct is said to violate his trademark rights.¹

Neeley also alleges, as against Google, a claim for intentional infliction of emotional distress under Arkansas law.

NameMedia asserted a Counterclaim against Neeley under

¹Neeley's claims against defendant Network Solutions, Inc., were dismissed with prejudice on May 20, 2010.

§ 1125(d).

Both defendants now move for summary judgment on Neeley's claims against them. The motions are fully briefed and ripe for decision.

2. Summary judgment should be granted when the record, viewed in the light most favorable to the nonmoving party, and giving that party the benefit of all reasonable inferences, shows that there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. **Walsh v. United States, 31 F.3d 696 (8th Cir. 1994)**. Summary judgment is not appropriate unless all the evidence points toward one conclusion, and is susceptible of no reasonable inferences sustaining the position of the nonmoving party. **Hardin v. Hussmann Corp., 45 F.3d 262 (8th Cir. 1995)**. The burden is on the moving party to demonstrate the non-existence of a genuine factual dispute; however, once the moving party has met that burden, the nonmoving party cannot rest on its pleadings, but must come forward with facts showing the existence of a genuine dispute. **City of Mt. Pleasant, Iowa v. Associated Electric Co-op, Inc., 838 F.2d 268 (8th Cir. 1988)**.

3. Pursuant to **Local Rule 56.1**, Google and NameMedia filed statements of facts which they contend are not in dispute. Disregarding those to which Neeley objected, the Court finds the following facts are undisputed:

* Neeley first registered the domain name eartheye.com on April 17, 1997.

* NameMedia registered eartheye.com on July 2, 2003. At that time, Neeley's registration of this domain name had expired.

* Neeley first registered the domain name sleepspot.com on July 30, 1999.

* NameMedia registered sleepspot.com on October 15, 2003. At that time, Neeley's registration of this domain name had expired.

* A domain name consultant at NameMedia sent an e-mail to Neeley on November 29, 2007, requesting that Neeley submit documentation substantiating his claim to eartheye.com. Neeley did not comply with the request for documentation. At that time, NameMedia knew nothing of any trademarks owned or claimed by Neeley.

* Neeley sent an e-mail to NameMedia on January 26, 2009, in response to a mass-mailed e-mail advertisement announcing a "Winter Sales Event" being held by NameMedia's advertising department. The mass-mailed advertisement bore the name and e-mail address of Jason Miner ("Miner"), Vice President of Sales for BuyDomains, NameMedia's domain sales division, but it was automatically generated to thousands of recipients from NameMedia's sales database. Miner knew nothing about Neeley, or any trademarks owned or claimed by him. Neeley received the e-mail because on February 7, 2008, he had registered with NameMedia via its online interface to receive information regarding eartheye.com.

* In his January 26, 2009, e-mail, Neeley stated no facts

except that his registration of eartheye.com had expired while he was in a coma.

* On February 13, 2009, Erik Zilinek ("Zilinek"), Legal Counsel for NameMedia, wrote Neeley, telling him that if he wanted to negotiate a mutually-agreeable price for the registration of eartheye.com, he should contact NameMedia's sales team.

* Neeley's only use of sleepspot.com was for an online hotel reservation service. The domain name was intended to convey the message that the service provided a "spot to sleep," and the name is descriptive of the service which it was used to identify or advertise.

* NameMedia had no business relationship with Google prior to November, 2006.

* No Google advertisements appeared on eartheye.com or sleepspot.com before April, 2006. The last time any Google ads appeared on eartheye.com was April 1, 2009. The last time any Google ads appeared on sleepspot.com was January 15, 2010. In response to Neeley's lawsuit, Google placed both domains on its "fail list," which prevents any Google ads from being served to those domains.

4. Both NameMedia and Google move for summary judgment on Neeley's claims under the Anti-Cybersquatting Consumer Protection Act ("ACPA"), **15 U.S.C. § 1125(d)**. NameMedia contends that Neeley cannot prove it had a bad faith intent to profit from any trademark he owned; cannot establish his claim as to sleepspot.com because it

is not a distinctive mark; and cannot establish his claim as to eartheye.com because he abandoned any common law trademark he may once have had in that name. NameMedia further contends that, if it is not entitled to summary judgment on this claim, it is entitled to summary judgment limiting Neeley's damages to the statutory minimum of \$1,000 per claim.

Google contends that it had no relationship with NameMedia at the time of the wrongs alleged by Neeley, and thus cannot have conspired with NameMedia to cybersquat the domain names.

5. The statute in question, **15 U.S.C. § 1125(d)**, provides in relevant part as follows:

A person shall be liable in a civil action by the owner of a mark. . . if, without regard to the goods or services of the parties, that person . . . has a bad faith intent to profit from that mark . . . and . . . registers, traffics in, or uses a domain name that . . . in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark. . . .

As can be seen from its text, this statute protect marks², not domain names. A trademark is "any word, name, symbol, or device, or any combination thereof -- (1) used by a person . . . to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown." **11 U.S.C. § 1127**. A domain name is "the 'address' at which a computer user accesses a website on the Internet." **Coca-Cola v. Purdy, 382**

²"Marks" includes both trademarks and service marks.

F.3d 774, 777 fn. 2 (8th Cir. 2004).

It is only where a domain name infringes on a mark that the ACPA comes into play, as explained in Purdy:

Both the common law and Congress have provided protection to the holders of recognized trademarks to prevent others from appropriating or copying them and taking advantage of the owner's good will for their own benefit. Congress enacted the Lanham Act over fifty years ago to protect the value of trademarks by encouraging their registration and to provide a federal cause of action to prevent their misappropriation. One legislative purpose of that act was to ensure that "where the owner of a trade-mark has spent energy, time, and money in presenting to the public the product, he is protected in his investment from its misappropriation by pirates and cheats."

The development of the Internet created new areas of concern, and in 1999 Congress passed the Anticybersquatting Consumer Protection Act (ACPA) in order to prevent misappropriation of trademarks by stopping conduct known as "cybersquatting." In the ACPA Congress added section 43(d) to the Lanham Act and defined cybersquatting as registering or using with a bad faith intent to profit a domain name that is confusingly similar to a registered or unregistered mark or dilutive of a famous mark.

382 F.3d at 778 (internal citations omitted).

6. In order to determine whether there is a genuine issue of disputed material fact on Neeley's cybersquatting claims, the first issue to be addressed is whether his trademarks were distinctive -- and, therefore, protectible -- when NameMedia registered the domain names associated with them.

Trademarks are categorized as generic, descriptive, suggestive, or arbitrary. "Generic and descriptive marks are generally not protectible. Suggestive and arbitrary marks are

inherently distinctive and protectible." Schwan's IP, LLC v. Kraft Pizza Co., 460 F.3d 971, 974 (8th Cir. 2006).

These different classifications of marks have been explained as follows:

A generic mark refers to the common name or nature of an article, and is therefore not entitled to trademark protection. A term is descriptive if it conveys an "immediate idea of the ingredients, qualities or characteristics of the goods," and is protectible only if shown to have acquired a secondary meaning. Suggestive marks, which require imagination, thought, and perception to reach a conclusion as to the nature of the goods, and arbitrary or fanciful marks, are entitled to protection regardless of whether they have acquired secondary meaning.

Frosty Treats, Inc. v. Sony Computer Entertainment America, Inc., 426 F.3d 1001, 1005 (8th Cir. 2005) (internal citations omitted).

7. It is undisputed that "sleepspot" is descriptive of the service which it was used to identify or advertise, and it is, therefore, not protectible unless it has acquired secondary meaning. Secondary meaning can be proven "by showing that through 'long and exclusive use in the sale of the user's goods, the mark has become so associated in the public mind with such goods that the mark serves to identify the source of the goods and to distinguish them from those of others'." B & B Hardware, Inc. v. Hargis Industries, Inc., 569 F.3d 383, 389 (8th Cir. 2009).

In his Amended Complaint, Neeley contends that "SleepSpot.com was going to be the next great Internet place to find a 'Spot to Sleep' and would make celebrities feel embarrassed to advertise for

a competitor. SleepSpot.com *was poised* to earn millions each year as will be shown in evidence." (Document #14, italics added). In his deposition, Neeley testified that "I was *wanting to use it to sell spots to sleep,*" "*it will change* the way reservations are done online," and "*it could overnight be* the answer to how to reserve a room online." (Document #250-5, italics added.)

The future tense of both Neeley's allegations and his testimony indicates that "sleepspot" had not yet reached the level of recognition necessary to create a jury issue as to secondary meaning. "Sleepspot" was, therefore, not distinctive or protectible when NameMedia registered sleepspot.com.

8. With regard to "eartheye," neither defendant offers any evidence as to its status as a trademark, and the Court finds that a jury issue exists as to whether it was protectible when NameMedia registered eartheye.com.

9. The Court next considers whether there is a genuine dispute about whether NameMedia or Google had a bad faith intent to profit from the registration, trafficking, or use of the mark "eartheye."

The ACPA lists nine nonexclusive facts that bear on the bad faith issue, five of which are indicia of bad faith. They are:

(a) intent to divert customers from the mark owner's online location for improper purposes;

(b) an offer to transfer the domain name for financial gain without having used it for the bona fide offering of goods or

services;

(c) the giving of false or misleading information when applying for registration of the domain name, or failure to maintain accurate contact information;

(d) the registration or acquisition of multiple domain names known to be identical or confusingly similar to distinctive or famous marks, without regard to the goods or services of the parties; and

(e) the extent to which the mark in question is distinctive or famous.

15 U.S.C. § 1125 (d) (1) (B) .

10. The evidence relating to the bad faith issue is as follows:

* Neeley first registered the domain name eartheye.com on April 17, 1997. According to the "domain history" maintained by Domain Tools, LLC, the Registrant was Earth Eye Images, whose Technical Contact was Neeley. (Document #250-3)

* In his Complaint, Neeley alleged that eartheye.com "was widely used in an identifying sense in relation to the Plaintiff's photographic art and commercial photography." (Document #3)

* In the Addendum to his Complaint, Neeley alleged that he "had used eartheye.com since the [sic] 1997 for his photo studio." (Document #8)

* Neeley was involved in a catastrophic automobile accident on September 3, 2002. He has done only a few photography jobs

since the accident. (Document #250-5)

* NameMedia registered eartheye.com on July 2, 2003. At that time, Neeley's registration had expired.

* On January 26, 2009, Miner of BuyDomains sent an e-mail to Neeley, advertising "spectacular discounts" at a "Winter Savings Event," and suggesting "call us now to get eartheye.com or any other domain in our inventory!" (Documents #250-4 & 250-7)

* A letter from Zilinek, Legal Counsel for NameMedia, to Neeley, dated January 30, 2009, stated that "NameMedia and its subsidiaries register and offer for sale domain names that have expired and/or have become available to the public and they do so in good faith. NameMedia's policy is to register and maintain only domain names that incorporate common acronyms, words, or phrases and/or descriptive terms for which the available evidence suggests no single party has exclusive rights." The letter further states that searches of databases maintained by the United States Patent and Trademark Office, the World Intellectual Property Organization, and the Office for Harmonization in the Internal Market did not reveal any registration for a trademark spelled "earth eye" or "eartheye." (Document #250-13)

* In an e-mail from Neeley to Zilinek, dated February 3, 2009, and apparently in response to Zilinek's letter, Neeley stated "<eartheye.com> is listed on my business letterhead and was included on invoices I used to bill Wal-Mart. . . . The use of Earth Eye Images by myself can be traced uncontrovertibly to

5/5/1992." Neeley made then, and makes now, no representation that "eartheye" was registered with any trademark registration organization. (Document #250-14)

* On April 6, 2009, eartheye.com was sold to a company that does topographical mapping and aerial photography. (Document #250-5)

* Neeley testified that he considered eartheye.com of value to himself now only as "part of my -- my ancient history," and wanted to have it back "as a forwarding domain, but I do not intend to use it to further my art." He plans to use "Curtis Neeley" or "the Curtis Neeley Foundation" to advertise his photographic art, and to use "eartheye" "as an alias also, but -- as a historical perspective on the art I do, but other than that, no." He does not intend to use "eartheye" to advertise any photography services in the future. (Document #250-5)

* No Google advertisements appeared on eartheye.com before April, 2006, or after April 1, 2009.

11. The foregoing evidence, even when viewed in the light most favorable to Neeley, does not favor a finding of bad faith on the part of NameMedia.

(a) There is no evidence of intent to divert customers from Neeley's website, eartheye.com. Because it was used only in Neeley's photography business, it would not have been in use starting from the date of Neeley's catastrophic accident in September, 2002, and Neeley's registration of the domain had lapsed

when NameMedia acquired it in July, 2003.

(b) There was an offer to transfer the domain name for financial gain without having used it for the bona fide offering of goods or services. This is not indicative of bad faith, however, in light of evidence that NameMedia is in the business of buying and selling domain names. The evidence shows that NameMedia seeks to profit from such buying and selling, not from the fact that any protectible trademarks are associated with the domain names it trades in.

(c) There is no evidence that NameMedia gave false information when applying for registration of the domain name, or failed to maintain accurate contact information with regard to it.

(d) There is no evidence of NameMedia registering multiple domain names known to be confusingly similar to distinctive or famous marks. NameMedia's stated policy -- and there is no evidence to suggest this is not its actual policy -- is to register only domain names that have expired or become publicly available, and only domain names that incorporate common acronyms, words, or phrases and/or descriptive terms for which the available evidence suggests no single party has exclusive rights.

(e) There is no evidence one way or the other about whether the mark "eartheye" is distinctive.

Courts that have found bad faith under the ACPA have been presented with conduct much more egregious than that shown by the evidence here. For example, in Purdy, the defendant registered

domain names like drinkcoke.org and mypepsi.org, then used them to distribute anti-abortion propaganda. In DSPT International, Inc. v. Nahum, 624 F.3d 1213 (9th Cir. 2010), the defendant held a former employer's domain name hostage to leverage favorable resolution of a business dispute. In Newport News Holdings Corp. v. Virtual City Vision, Inc. --- F.3d ---, 2011 WL 1467183 (4th Cir. 2011), the defendant stopped using its domain name newportnews.com to carry information and advertising about the town of Newport News, Virginia, and started using it to carry advertising about women's clothing, thus profiting from its similarity to the domain name newport-news.com used for many years by the plaintiff women's clothing company.

Unlike these cases, in the case at bar the statutory factors relevant to a finding of bad faith with regard to NameMedia are either absent or completely neutral. The Court finds that there is no genuine issue of disputed fact with regard to whether NameMedia had a bad faith intent to profit from the mark "eartheye" when it purchased eartheye.com. That being the case, Neeley's cybersquatting claim against NameMedia fails, and the Court will grant the motion for summary judgment as to that claim.

12. There is likewise no genuine dispute of material fact with regard to the issue of whether Google showed a bad faith intent to profit from use of the mark "eartheye." (Neeley does not allege that Google registered or trafficked in the domain name eartheye.com.)

(a) There is no evidence that Google intended to divert customers from Neeley's website, eartheye.com. The evidence with regard to Google's use of the website is that it placed ads there between April, 2006, and April, 2009, long after Neeley had ceased using the domain name.

(b) Google did not offer to transfer the domain name for financial gain without having used it for the bona fide offering of goods or services.

(c) Google did not register the domain name.

(d) There is no evidence of Google registering -- or trafficking in or using -- multiple domain names known to be confusingly similar to distinctive or famous marks.

(e) There is no evidence one way or the other about whether the mark "eartheye" is distinctive.

The paucity of evidence here simply would not support a cybersquatting claim against Google.

13. Under Arkansas law, a civil conspiracy is a combination of two or more persons to achieve a purpose that is unlawful or oppressive, or to accomplish some purpose, not in itself unlawful, oppressive or immoral, by unlawful, oppressive or immoral means, to the injury of another. **Chambers v. Stern, 347 Ark. 395, 404, 64 S.W.3d 737, 743 (Ark. 2002)**. Civil conspiracy is an intentional tort, "requiring a specific intent to accomplish the contemplated wrong." ***Id.***

In the case at bar, Neeley contends that the unlawful purpose

of the alleged conspiracy was cybersquatting the domain names eartheye.com and sleepspot.com. Because the Court has determined that Neeley has no valid claim that either NameMedia or Google violated the ACPA, it follows that there can have been no conspiracy to do so. Google's motion for summary judgment on this claim will be granted.

14. Google has also moved for summary judgment on Neeley's claim of intentional infliction of emotional distress, contending that such a claim is pre-empted by the Communications Decency Act ("CDC"), **47 U.S.C. § 230(c)(1)**, and that it fails as a matter of law.

Intentional infliction of emotional distress, otherwise known as "outrage," is an Arkansas tort, the elements of which are as follows:

(1) the actor intended to inflict emotional distress or knew or should have known that emotional distress was the likely result of his conduct; (2) the conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community; (3) the action of the defendant were the cause of the plaintiff's distress; (4) the emotional distress sustained by the plaintiff was so severe that no reasonable person could be expected to endure it.

Key v. Coryell, 86 Ark.App. 334, 343, 185 S.W.3d 98, 105 (Ark.App. 2004). The Arkansas courts take a "narrow view" of the tort, and require "clear-cut proof" to establish each element. **Cesena v. Gray, 2009 Ark. App. 143, 316 S.W.3d 257, 259 (Ark.App. 2009)**.

Section 230(c)(1) states that "[n]o 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." **Subsection (e) (3)** provides that "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section." Google's argument appears to be that it is an interactive computer service provider, and that for it to be liable for outrage, it would have to be deemed the publisher of the information of which Neeley complains, which would violate **§ 230 (c) (1)** and **(e) (3)**.

The difficulty with this argument is that Google failed to offer the Court any evidence that it is an interactive computer service provider. It relied entirely on the holdings of several cases, which of course are not evidence. The Court turns, therefore, to the argument that this claim fails as a matter of law.

Neeley's outrage claim is based on allegations that NameMedia and Google have conspired to allow, and are currently allowing, minors to have access to nude photographs taken by Neeley, while contending that such access was allowed by Neeley himself.

Magistrate Judge Erin L. Setser conducted an evidentiary hearing on a motion in which Neeley sought injunctive relief related to his outrage claim. Following that hearing, Judge Setser filed a Report And Recommendation in which she reported that Neeley testified (a) that he took the photos in question; (b) that he uploaded them to the internet; and (c) that they are accessible to

minors on sites other than Google because of actions taken by him. She reported that Neeley conceded that he could remove the photographs himself, but had chosen not to do so.

Neeley made various objections to Judge Setser's Report And Recommendation, but he did not object to her report of this testimony, which is fatal to his outrage claim. Neeley can hardly be heard to complain that the conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community, when he engaged in it himself. Nor can he convincingly claim that Google caused any distress he suffered as a result. And -- given that he could cure the problem by his own conduct -- there is no genuine dispute about whether any emotional distress he sustained was so severe that no reasonable person could be expected to endure it.

Because there is no genuine dispute about several of the material facts necessary to prove Neeley's outrage claim, the Court will grant summary judgment to Google on that claim.

15. For the reasons set forth in this Order, Neeley's claims against Google and NameMedia will be dismissed with prejudice, leaving for trial the week of July 11, 2011, only NameMedia's counterclaim against Neeley. The Court's Final Scheduling Order remains in effect with respect to the trial of this claim.

IT IS THEREFORE ORDERED that **Google Inc.'s Motion For Summary Judgment** (document #236) is **granted**, and Neeley's claims against Google Inc. are **dismissed with prejudice**.

IT IS FURTHER ORDERED that NameMedia, Inc.'s **Motion For Partial Summary Judgment** (document #249) is **granted**, and Neeley's claims against NameMedia, Inc., are **dismissed with prejudice**.

IT IS SO ORDERED.

 /s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CURTIS J. NEELEY, JR.

PLAINTIFF

v.

Civil No. 09-5151

NAMEMEDIA, INC., NETWORK
SOLUTIONS, INC.; and
GOOGLE INC.

DEFENDANTS

O R D E R

Now on this 7th day of June, 2011, come on for consideration plaintiff's **Motion For Joinder Of Claims** (document #255), and **Motion For Required Joinder And (Rule 60) Plea For Relief** (document #258). The Court has considered these motions, and finds them without merit. They either rehash arguments already rejected, or complain about the workings of the Court's electronic filing system. Both motions will be denied.

IT IS THEREFORE ORDERED that plaintiff's **Motion For Joinder Of Claims** (document #255) is **denied**.

IT IS FURTHER ORDERED that plaintiff's **Motion For Required Joinder And (Rule 60) Plea For Relief** (document #258) is **denied**.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

CURTIS J. NEELEY Jr., MFA

PLAINTIFF

VS.

CASE NO. 5:09-CV-05151-JLH

**U. S. DISTRICT COURT
WESTERN DISTRICT ARKANSAS
FILED**

NAMEMEDIA, INC.;

JUN 15 2011

NETWORK SOLUTIONS, INC.;

CHRIS R. JOHNSON, CLERK

and GOOGLE, INC.

DEFENDANTS

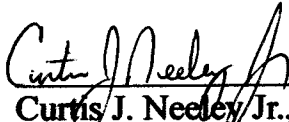
DEPUTY CLERK

NOTICE OF APPEAL

The pro se Plaintiff in the above action entered a Motion for a New Trial in the United States Court for the Western District of Arkansas or amend several of the prejudicial judgments of Dkt. 267 and Dkt. 268 wherein various claims against Defendants Google Inc and NameMedia Inc were dismissed leaving only the counterclaim for trial and failing to address 17 USC § 106A claims except with the outlandish rational that display of original, visual art photographs online against the wishes of the artist does not violate (VARA) or 17 USC § 106A. The obvious malfeasance of the Federal Communications Commission in enforcement of the Communications Act of 1934 was also not allowed though brought for timely addition.

Rational for this appeal to the Eighth Circuit Court is explained more in the NOTICE OF APPEAL SUPPORT BRIEF filed concurrently in keeping with Local Rules.

Respectfully Submitted,


Curtis J. Neeley Jr., MFA

U.S. COURT OF APPEALS - EIGHTH CIRCUIT

NOA SUPPLEMENT

Please note any additions or deletions to the style of the case from the style listed on the docket sheet or attach an amended docket sheet with the final style of the case.

09-5151 CURTIS NEELEY, JR. vs. NAMEMEDIA, et al.

Length of Trial: **2 hearings - 1 day each**

Financial Status: Fee Paid? Yes No **XX**

If NO, has IFP been granted? Yes **XX** No

Is there a pending motion for IFP? Yes No

Are there any other post-judgment motions? Yes **XX** No

Please identify the court reporter.

If no court reporter, please check

Name **THERESA SAWYER**
Address **35 E. MOUNTAIN, ROOM 559**
FAYETTEVILLE, AR 72701
Telephone Number **479-444-7876**

CRIMINAL CASES ONLY:

Is the defendant incarcerated? Yes No

Place of confinement, if known:

Please list all other defendants in this case, if there were multiple defendants.

SPECIAL COMMENTS: **NO FINAL JUDGMENT**