

**IN THE UNITED STATES COURT
WESTERN DISTRICT OF ARKANSAS**

CURTIS J NEELEY JR, MFA

VS

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

NameMedia Inc.
Network Solutions Inc.
Google Inc.

**BRIEF SUPPORTING MOTION SEEKING SUMMARY
JUDGMENT AGAINST NAMEMEDIA COUNTERCLAIM**

Curtis J Neeley Jr. MFA pursuant to Fed. R. Civ. P. 56(d)(2) moves the Court for Summary Judgment to the counter claim of NAMEMEDIA INC leaving damages for this action left to a jury. This will be extremely brief and will be supported by a list of undisputable facts that are concurrently filed as quickly explained as follows:

1. Defendant has a duty as represented by counsel when asserting affirmative defenses of understanding the affirmative defenses being used.
2. Defendant should have been aware the "Unclean Hands" affirmative defense was outrageous to be brought as well as realizing the counterclaim was frivolous for the same reason.
3. The severely brain injured *Pro Se* Plaintiff was able to figure out that "unclean hands" legal doctrine results in links to the Wikipedia® online encyclopedia where it defines it as follows. "Doctrine of Unclean Hands is a defense used by a defendant against a law suit when the complainant him self has done a wrong thing in the subject matter in which the plaintiff is seeking courts assistance." Brain injured *Pro Se* Plaintiff is offended that NAMEMEDIA INC brought a frivolous counterclaim after first violating US Title 15 § 1125(d) as listed in undisputable facts at #10, #20, #31 that accompanies this brief. The Plaintiff started using a domain to get NAMEMEDIA INC to notice Plaintiff distress but not until #29 on the list of undisputable facts or six years-four months and two days after NAMEMEDIA INC violated the domain eartheye.com of the Plaintiff.

4. Plaintiff will still not rely on only the doctrine of “unclean hands” and Jurisprudence. Plaintiff has Constitutional Immunity to the malicious counter claim. The First Amendment Rights of the Plaintiff make the use of the domain a valid Free Speech issue as explained more in the next numbered paragraph. A use like PayPals.com uses is described.
5. US Title 15 § 1125(d) 1B(ii) states that bad faith intent shall not be found in any case in which the court determines that the person believed and had reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful. The First Amendment is the reasonable ground the Plaintiff uses.
6. Plaintiff has been careful to always disclaim that the domain is not the NAMEMEDIA INC site. Google, Bing, and Yahoo return the disclaimers after searching for the name specifically reporting they are not listed as the corporate site of NAMEMEDIA INC. (See Docket #30 Ex. #12, #32, #4)
7. NAMEMEDIA INC communicated many times after Plaintiff started using the NAMEMEDIAS.COM domain. NAMEMEDIA INC granted a waiver realizing the NAMEMEDIAS.COM use was acceptable. NAMEMEDIA INC did not object while regularly making offers of sleepspot.com at the same time. (See #31 in Undisputable Facts filed concurrently)

Whereas, the counterclaim has been shown to be without merit and demonstrates to have been brought for the exclusive purpose of additionally distressing the Plaintiff, the Plaintiff prays that the counterclaim of NAMEMEDIA INC be prejudicially dismissed. Plaintiff prays NAMEMEDIA INC be ordered to delete all photographs they are attributing to the Plaintiff and therefore violating copyright. Plaintiff prays a jury be allowed to take this malicious act into consideration when awarding damages in the original claim. Plaintiff seeks for this and all other proper relief and hopes five million dollars for harassing a Pro Se Plaintiff for only this harassing counterclaim would be found proper relief to discourage future malicious harassing actions for the sole purpose of causing the legal process to be abused.

Respectfully submitted,

Curtis J Neeley Jr, MFA

CERTIFICATE OF SERVICE

I hereby certify that, on this ____day of _____, 2010, I plan to mail a copy of the foregoing to the attorney representing NAMEMEDIA INC at the following address:

H. WILLIAM ALLEN (ABN 69001)
KEVIN M. LEMLEY (ABN 2005034)
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/s/Curtis J Neeley Jr, MFA
Curtis J Neeley Jr, MFA