

**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.

**MOTION REQUESTING RECONSIDERATION OF ORDER  
DOCKET #97 AND REQUESTING LEAVE TO FILE THIRD  
AMENDED AND REPLACED COMPLAINT**

Pro Se, pauper Plaintiff begs, pleads or prays that the court read Docket #96 and this Motion and then reconsider several portions of the Order Docket #97 and especially reconsider the portions of the ruling that are the exact opposite of the Order Ruling Docket #145 in the Vulcan Golf LLC v Google inc, et. al case and revise the portions of the ruling that now make the Western District of Arkansas a friendlier jurisdiction for serial cybersquatters as is discussed below leading into an apology and request for leave to massively amend and replace the complaint.

**Statute of limitations ruling**

The affidavit by Ms Hausam supports a conclusion that Plaintiff knew of his rights and considered them violated *at some time* while speaking to Ms Hausam. It also indicates the Plaintiff believed he could wait until he was in better shape to do something about it and assumed that his current state of disability would toll the time for bringing suit. The occasion Plaintiff spoke to Ms Hausam was while he was in a hospital and this would likely have been true when speaking to Ms Hausam. The date and time are dangerously close to the claim of Ted Olson of Plaintiff's imaginary call to Separate Defendant NAMEMEDIA INC requesting information about <eartheye.com> that was actually the result of an unsolicited broadcast type email announcement.

The letter to Jason Minor was further evidence that on January 26, 2009, Plaintiff had thought through his claims and conducted research sufficient to formulate a suit due to his distress but had forgotten the domains completely again since first reminded of them by Ted Olson on November 29<sup>th</sup> 2007 after an imaginary alleged phone call requesting information concerning <eartheye.com> on some unreported date. Real evidence can never support imaginary phone calls. Regardless, - Plaintiff has since continually pursued resolution. Plaintiff had completely forgotten <eartheye.com> like so many other more important things he forgot as shown in evidence and supported by several affidavits. Plaintiff did not again remember owning the domain names until reminded again by Separate Defendant NAMEMEDIA INC on January 26<sup>th</sup> 2009 and has pursued them continually since that time. This action now before the court is a result of Separate Defendant NAMEMEDIA INC refusal to resolve this issue out of court.

There are absolutely no “accepted formulas” to judge the abilities to think rationally by people with severe traumatic brain injuries. The quoted sixty-eight-year-old text, "power to think and to plan according to accepted formulas", cannot logically apply to the Plaintiff since no formulas exist to describe the affects of traumatic brain injuries on the abilities of the mind to think and plan and thus no “accepted formula” exists.

The Plaintiff states that his brain injury is permanent and the Plaintiff's abilities to think and plan will never fit any formula or be normal. Plaintiff's spouse disconnected a respirator after six weeks with a DNR order and was told the Plaintiff would expire. Doctors estimated the Plaintiff would be lucky to have the mentality of a toddler at best. Plaintiff required therapy to learn to speak and his speech abilities will never reflect his intelligence. Plaintiff obviously now thinks and plans better than most toddlers. Plaintiff is able to remember seconds of memories no normal human ever will. Plaintiff has forgotten more about photography, mathematics, electronics repair, Perl 5 programming, Mechanical Engineering, as well as commercial truck driving, scuba diving, and the United States Marine Corps than the average person will ever remember. The ironic part that is seen in evidence is that the Plaintiff remembers more of the listed topics than the average person ever will as well. No formula will ever be accepted because the Plaintiff is the only person in this set of circumstances that is alive or has ever lived.

Plaintiff loves his minor daughter yet does not remember her living with the Plaintiff full-time until the wreck of Sept 3, 2002. Plaintiff remembers being the first human to touch his daughter's head with a hand as she was crowning while checking his first wife's dilation on the couch at home at 11823 S Arkansas Hwy 265, Prairie Grove, AR 72753. Plaintiff remembers checking if uterine dilation was sufficient to encourage pushing. Who could forget a daughter almost completely and yet remember the rural address from a portion of life that is otherwise largely absent. Remembering raising a daughter is not a requirement for parental love or outrageous emotional pain as caused by actions described in this suit as outrageous.

Plaintiff now respectfully questions the Court's decision to interpret the legislation as meaning multiple disabilities described as 1) minority, 2) insanity, and 3) imprisonment outside the Arkansas once being the reason for stating "all disabilities" when amending the statute to use less offensive language. Was this then to provide for insane minors, insane prisoners, or minor prisoners? This interpretation does not consider that it was perhaps left plural to include mental deficiencies that perhaps did not fit under the specified allegedly less offensive language of "insane".

Plaintiff states initially having been insufficient in stating that the statute was revised while considering language that was particularly offensive like "dimwit" or "idiot" and likely did not mean to narrow the specified disabilities to the ones now specifically listed and leaving the term "all" instead of "both" accidentally. While revising the statute to make the mental disabilities described less offensive, it is hard to then to believe legislators in 1999 wished them to narrowly limit the statutory basis for a disability tolling limitations to only their new choice of language. Plaintiff believes the legislature meant "all disabilities" to mean all disabilities regardless of their currently accepted polite title whereby "the activities of normal life" were prevented. The Plaintiff believes it "insane" to think that when amending the statute and removing "dimwit" and "idiot" they did not leave "all disabilities" to describe all disabilities that prevented the normal activities of life as described in *Waggoner v Atkins* from 1942.

Re-interpreting this quoted text in the light most favorable to the Plaintiff, and giving the Plaintiff the benefit of all reasonable processes of logical conclusions from premises known or assumed to be true and using only the dictionary meanings of words besides “contracepted” the ruling could be read as follows.

The Plaintiff’s brain had become so affected without respect to cause that his power to reason was prevented. This as a consequence, removed the consistent ability to eat, speak, or remember having children as well as sleeping in a bed to prevent pressure wounds. It is generally agreed that the impulse to act was not a consistent result of his intellectual motivation. Therefore, the infirmity without respect to the cause affecting the Plaintiff’s brain protected the Plaintiff by tolling the limitations for a claim of outrage because the power to think and to plan enough to react normally was nonexistent.

“Contracept” alludes to prevention of pregnancy. Plaintiff left it meaning prevent since a prevention of insemination was obviously not the intention of the ancient language. A jury will likely agree that Plaintiff’s claims for the old tortuous acts causing outrage from 2003 are tolled but will now never get a chance for preponderance of this issue whereby legislators who voted on the issues are still available to expound on their intent if asked to testify in contrast to the death of ever involved party from 1942. The Plaintiff must plead that this Court assert jurisprudence and reconsider the claim of outrage for the actions from 2003 that were dismissed due to limitations and potentially interview people who were involved in the 1999 revision and are still alive.

## **Claims of Outrage**

The Plaintiff greatly appreciates the obvious consideration given the legally confused and mentally challenged *pro se* Plaintiff. Although the Plaintiff feels limitations were acceptably tolled for the actions alleged initially from 2003. Plaintiff accepts that the Ruling may not change since it was prejudicially decided. The Lanham Act violation claim and copyright claim are not the only acts described in the Amended Filing Docket#53 that support a claim of outrage. These are actions also subject to three-year and one-year limitations periods but that have occurred since after this lawsuit was filed and need neither tolling nor a copyright registration.

The outrage claim does not cling only to the initial alleged actions from 2003 that the court has summarily dismissed because of limitations. These were alleged in the Amended Complaint Docket #53 initially although perhaps not sufficiently. Plaintiff alleged that in Docket #53 ¶24 that “NAMEMEDIA INC and Google Inc conspire to furnish minors access to nude photographs while fraudulently alleging displaying these with permission from Plaintiff.” This action occurred since this lawsuit was filed and has absolutely nothing to do with copyrights or trademark or any federal statute but rests in statutes of Arkansas law that describe Defamation by Slander with limitations of a year and Defamation by Libel with a limitation of three years. On their face these tortuous actions can be seen printed in the record and one their face provide a solid ground for claims of outrageous conduct. Plaintiff realizes that Courts are slow to recognize claims of outrage but alleging a granted permission for display of nude art to minors with no age verification will sustain a claim of outrage especially after also refusing to delete the nude photographs after Ms Thiem or the listed DMCA agent was first notified or “harassed”, as Separate Defendant NAMEMEDIA INC now calls a monitored notification, with a solicited request to delete the nude photographs as demonstrated in the record.

## **The Copyright Ruling**

Plaintiff brought a claim for violating copyrights that also need no tolling or registration to be considered as a cause for outrage. The copyrights of the Plaintiff to <SleepSpot.com> were violated after this lawsuit began with the placement of a file to prevent the Plaintiff’s artwork from being properly attributed. This was shown in evidence and can be seen now online. Separate Defendant NAMEMEDIA blatantly violated the exclusive rights of Title 17 § 106A in order to prevent an otherwise publicly accessible and free attribution of the Plaintiff’s artwork at <SleepSpot.com> to be excluded. It was attributed to the Plaintiff on July 22, 2009 and the first violation of this exclusive copyright occurred after July 24, 2009 after Separate Defendant NAMEMEDIA INC became aware of this lawsuit and needs no tolling or registration to support an outrage claim due to violation of rights to copyright that existed from creation of the art and do not expire till seventy years after the Plaintiff completely dies. Separate

Defendant NAMEMEDIA prevented an uninterested nonprofit third party archive from attributing <SleepSpot.com> to the Plaintiff and did this action first after July 24, 2009 or actually two days after this action was filed and this malicious act is outrageous and prevents the Plaintiff from accessing the previously posted yearly fees charged for providing room reservations to estimate damages. This data was publicly accessible prior to the Separate Defendant NAMEMEDIA INC actions on or after July 24<sup>th</sup> 2009.

Plaintiff reaffirms that he will never register a copyright and does not state this again to offend the Ruling Judge or express any combative or malicious attitude or bad tenor or improper purpose. The Google Inc CEO Eric Schmidt said in a televised interview with CNBC further outraging the Plaintiff by saying, "If you have something you don't want anyone to know, maybe you shouldn't be doing it", since this case began. The Plaintiff asserts that doing fine art nude photos does not mean that the Plaintiff's name must result in attribution of nude images in image search engine requests. This exposure of even children to nude images attributed to the Plaintiff would not be allowed in television or in "PG" movies and is outrageously offensive to the Plaintiff as well as Rachel A. Neeley as shown in an affidavit as well as the Plaintiff's father. This forced endorsement of an outrageous act is an outrageous tortuous act that distorts the manner of display without respect to age and with no provision for viewer reportage.

This belief, when taken in a light most favorable to the Plaintiff, is prohibited by Title 17 § 106A and this particular copyright exclusivity does not require registration to sustain outrage for violation of a right given by the Creator. Further sustaining this outrage for a clear copyright violation the Plaintiff's nude art was attributed by name while displayed to children in a clear violation of Title 17 § 106A(2).

Attributing nude art to the Plaintiff when presenting no age verification to children is outrageous and had a severe impact to the Plaintiffs own relationship with his minor daughter as expressed December 26 2008 in an email now in the record. *See* Docket # 53, Exhibit #1, and labeled CHILD. US Law prevents children from encountering most nudity on television or in a movie. As recently as after the preceding Super Bowl there was a massive Internet search for Ms Jackson's nipple being shown for a fraction of a second due to an "alleged" wardrobe malfunction. Plaintiff believes this became the most searched for phrase in the history of the Internet. A child can search for Ms Jackson's nipple photo in an image search today and find a close up of Ms Jackson's

nipple jewelry. It is not shown on the record out of respect to the Court, the unnamed artist, and Ms Jackson.

Pursuant to Title 17 106A(2), the Plaintiff shall have the exclusive right to prevent the use of his name as the author of a work of visual art in the event of a distortion, mutilation, or other modification of the work which would be prejudicial to his honor or reputation. These are subject to the limitations of exclusivity of section 107 for “fair-use” and the attribution of a search engine is a commercial use that clearly could not be a “fair-use” because a thumbnail is equivalent to the visual artwork and display of an adult or nude photograph with no age verification can never be a section 107 exemption of exclusive rights enumerated in Title 17 106A(2) for modified art.

Plaintiff feels that display of nude work attributed to the Plaintiff to children especially qualifies as a listed “other modification” that is not allowed and a cause of outrage specifically prejudicial to the Plaintiffs honor or reputation to the public and particularly impacting the daughter of the Plaintiff. The fact that the Plaintiff is a photographer of the nude figure as an object of art does not mean the Plaintiff is therefore required, as Eric Schmidt of Defendant Google now claims, to be attributed to showing nudes to minor children. Every Defendant besides Network Solutions Inc does this and this is not an allowed distortion and is otherwise prohibited pursuant to Title 17 106A(2). Court can type the Plaintiff’s name in any search engine image search and see them attribute nude images with no age verification whatsoever. Typing “Curtis Neeley” in an image search and adding the term “nude” to see nude art displayed and attributed to the Plaintiff without verification of age. Printouts of this are in the record. The Plaintiff’s father Curtis Neeley Sr is impacted by this as well and as a Missionary Baptist deacon the careless attribution of modified art to the Plaintiff is further outrageous.

Lawyers and Courts are trying to revise copyright law in New York and establish a copyright “alternative”. Although not ruled yet as fair and objected to by numerous governments besides the US as well as the Plaintiff, Google Inc already announces it as a monumental settlement. The Plaintiff will never register a copyright because it is not required to anchor the rights of Title 106A(2). This is not typed yet again to express any belligerent ideal. Plaintiff is the creator of photographic artwork in books in libraries already with registered copyrights and Plaintiff is thus already an outraged member of the proposed class in New York.

The Court here has not yet recognized the Title 17 106A(2) claims like from Docket #53 ¶ 24 like those in New York appear to now be doing. Exclusive control of attribution to display of modified visual art was the Plaintiff's understanding of copyright law that at least once existed.

Plaintiff is not just some guy with a nice camera but a former professional commercial photographer with an advanced degree in photography and extremely well versed in the commercial needs for attribution of a copyright or a model release. Violation of this right was intentional and should be understood to cause outrage due to violation of Title 17 §106A(2) and none of the "fair use" allowances cover this manner of distorted art attribution. This upsets the Plaintiff outrageously as well as the former spouse and guardian who is the mother of the Plaintiff's minor son. Ms Neeley has shown her aversion to nudes displayed to minors while credited to the Plaintiff in evidence.

### **Google's Free Contributory Trademark Violation**

There is no class here and no army of lawyers to face in this Court. Here there is just one disabled, pro se, defendant who refuses to allow his privacy, trademarks, or copyrights be brushed away by even the mighty Defendant Google Inc. The Courts in Illinois already found that providing an incentive for parked or fraudulent pages potentially falls within the scope of trafficking in domain names as prohibited in the Lanham Act even when Google did not actually register them. This is exactly like this claim is. Providing an incentive would include contributory infringement as the Plaintiff already mentioned and as was dismissed by this Court because the final Supplement to the objection or Docket #96 had not been filed timely.

It is outrageous that Separate Defendant Counsel has obviously not even skimmed over the case in Illinois. There are thousands of pages but it is much less reading ignoring the RICO and class action portions, which Plaintiff did to save reading irrelevant filings. Although the Court in this case took a great deal of time comparing the direction of the contribution and cited cases. The Court finds itself now to be providing a jurisdiction-shopping situation for Google Inc.



Google has been charged for cybersquatting Vulcan Golf LLC while actually paying Vulcan Golf LLC for violating a domain that is a “typosquat” of the Vulcan Golf LLC trademark. The Court in Illinois has already denied a motion to dismiss almost identical to the portion that the Court here has now here granted. The pro se Plaintiff cited a website where the case the Court diligently used to explain partially denying the Plaintiff’s claim of conspiratorial trademark infringement was listed. Rather than pointing the Court to another website for research, Plaintiff cites Vulcan Golf, LLC v. Google Inc. et al - Document No.145 that is an available order decided and settled that creates precedence that this Court is likely to have followed had the pro se Plaintiff been able to supplement the motion to deny as easily as a represented party by electronically filing as is now in the record as Docket #96 or exactly before the Order Docket #97 now supporting jurisdiction-shopping. Defendant Google Inc argued unsuccessfully there that they did not use plaintiff marks in commerce, but “merely facilitat[ed] providing a marketplace for the par[k]ing of domain names”. This fifty-two page order is particularly relevant and pro se, brain-injured Plaintiff now prays, pleads, petitions, or begs the Court to reconsider granting a Motion to Dismiss in Western Arkansas that makes this a friendlier jurisdiction than Southern Illinois for the serial cybersquatter Google Inc by having granted exactly the same Motion Google Inc was denied in the cited order. It is around pages 21 and 22 of the 52-page order. This case has been in litigation there since 1995 and the referenced Order is Docket #145 there and can be access online via PACER or on at <[curtisneeley.com/5-09-cv-05151/Docket](http://curtisneeley.com/5-09-cv-05151/Docket)> listed below the last docket entry on the docket there clearly marked as from a currently pending case in Illinois in red.

Google Inc hereby has filed a frivolous Motion to Dismiss that was founded on a known act of jurisdiction shopping that Google Inc Counsel should have been aware of instead of frivolously seeking a “new law” as prohibited by Rules of CP Rule 11(b)(2).

Whereas, the severely brain injured pro se Plaintiff asks, prays, pleads, or begs the Court reconsider the issue of Limitations, the Plaintiff sadly accepts the ruling of the Court as with prejudice yet begs the Court to reconsider. The offer to use a speakerphone at the Court was a gracious offer that the Plaintiff would like to accept. Plaintiff's heavily modified wheelchair van is now inoperable for several weeks. The Plaintiff's father will try to have it working in time to travel to the Rule 26(f) meeting and probably can.

Plaintiff hereby apologizes to the Little Rock counsel and believes his severe brain injury contributed to the improper communications but is no true justification. Plaintiff takes note of the overly gracious notice of this Court and will never repeat these improper actions. Plaintiff believes the Little Rock Counsel to have honestly misunderstood the email that was not a Motion but an angry rant intentionally misleading the Counsel. Still the Plaintiff should have not overreacted so.

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Regardless of whether or not the requests to reconsider are granted, the pro se Plaintiff seeks leave to file an amended and substituted complaint that will describe violations of privacy by the Defendants besides Network Solutions not again mistakenly anchored to Title 5 and several outrageous actions of defamation by Defendants besides Network Solutions including every search engine Defendant that will be added. The Plaintiff will appropriately alter the Lanham Act claim against Network Solutions to the trafficking they did to the Plaintiff in 2010 exclusively if the Court maintains Limitations still applying. *See* Docket #75 Exhibit #4 Labeled EE-SS-NS-Traffic. These 2010 actions of trafficking each domain to the Plaintiff while facing a lawsuit and having accepted the Second Amended Complaint will maintain them as a Defendant although the initial complaints would be subject to Summary Judgment due to the same Limitations as the claims of Defendant NAMEMEDIA INC and would be dismissed as untimely claims based on Claims now Subject to Limitations. Plaintiff is on notice of the former improper and offensive actions and will file only proper modifications. Plaintiff will use Title 17 § 106A violations coupled with defamation claims whereby Plaintiff's privacy and attribution copyrights were trespassed and his honor defamed. Google Inc will also face a detrimental reliance claim for advertising purchased by Plaintiff to undisclosed "parked" pages. The complaint can't be attached because it depends on the Ruling on this Motion to prepare. The order to amend could be granted pending a request fully complying with Local Rule 5.5(e) completely though proceeding pro se and thereby ensuring not again introducing anything improper. The Third Amended Complaint would completely replace this action.

Respectfully and humbly submitted,

Curtis J Neeley Jr, MFA