

**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.

**Supplemental Reply Brief Opposing NAMEMEDIA INC  
Motion for Partial Summary Judgment**

Plaintiff is severely brain injured as shown in exhibits. *See Ex D, T, and R.* Plaintiff will attempt to properly apply logic while educating Defendant NAMEMEDIA INC in a form similar to their replies to the earlier Plaintiff objections.

Plaintiff will type exceptionally slowly with one normal arm while hoping not to once again demonstrate idiotic tendencies to misapply logic like an idiot or insane person like was unfortunately done in the Motion Seeking Rule 11 Sanctions while violating the very same Rule 11. It is equally *ironic* that Defendant NAMEMEDIA INC appears to cite cases without reading them first. The Plaintiff appreciates cited legal research and will explain why Summary Judgments are now inappropriate as follows as a matter of logical law.

## **I. Plaintiffs claims of outrage are not barred by limitations**

The parties appear to agree that the limitation period set out in Arkansas Code Ann. 16-56-116 regarding “a person under disabilities at time of accrual of action” applies in this case. Arkansas Code 16-56-116 provides where a person suffers from a disability a person may bring suit within three years after the all disabilities are removed.

Plaintiff agrees with the cited case that it falls to the plaintiff to prove by a preponderance of evidence that the statute of limitations was tolled as was determined in *Reed v. Guard*, 374 Ark.

Plaintiff asserts this has already been done on the record but will type more slowly and attempt to explain in a less complicated and completely logical way. The case *Barre v Hoffman*, 2009 ark 373 is particularly relevant as first cited by Defendant NAMEMEDIA INC. Cited case was where the Court quoted from a prior decision and quoting of sixty-one year old case is shown here in italics: “The Court in *Barre* observed that insanity exists where ‘*the brain has become so affected, irrespective of cause, as to appreciably contract a person’s power to reason, and in consequence the ordinary affairs of life are but dimly reflected on that mirror called mind.*’ In such cases, insanity ‘*intervenes and protects one so afflicted from the penalty of conduct in respect of which the power to think and to plan according to accepted formulas is non-existent.*’ See *Barre v Hoffman*, 2009 ark 373

where here again the quoted portion of *Waggoner v. Atkins*, 204 Ark. at 271, 162S.W.2d 55, 58 (1942) is in single quotes and italics.

Most notably the Court advised less than three months ago in a case ironically first cited by the Defendant NAMEMEDIA INC saying, “If such factual showings are made by a future plaintiff, the Court may re-examine the issue of whether RMS may qualify as insanity and contracept the running of a statute of limitations”, and encouraged the disallowed type of tolling to be resubmitted for a preponderance of evidence. Plaintiff feels that the Court will recognize the Plaintiff to be the medically diagnosed “future Plaintiff” whose mental disabilities “contracept[ed] the running of the statute of limitations.”

Plaintiff feels it impossible to offer evidence to support invented mental illness like Plaintiff feels repressed memory syndrome (RMS) may be since it will likely never be proved. Plaintiff feels most mental illness allegations are fraudulent. The Plaintiff memories were not repressed. The memories of the Plaintiff are completely contraverted by a physical injury affecting the brain. The Court will readily find that being unable to remember communication, nourishment, and sleeping in a bed combined with being unable to recall having children or wives profound disabilities. Not remembering delivering a daughter with the aid of a midwife or having either of two sons is a memory that was completely removed and not simply repressed. Evidence of how idiotic many of the Plaintiff distraught actions were until June 30, 2009 was not disclosed other than vicariously in the Rachel Neeley affidavit where extreme mental illness was disclosed and described as resulting in behavior similar to a minor child. *See Ex R.*

It is impolite to describe idiotic actions regularly done by the Plaintiff. The Plaintiff has incontrovertibly proven idiocy several times since even June 30, 2008. Since Plaintiff learned to talk and communicate more appropriately and live in the community with a Medicaid waiver, the Plaintiff remains extremely brain injured. Plaintiff realizes it is not polite to describe this supplemental reply as educational or overuse the term *ironic*, but hopes the Defendant NAMEMEDIA INC finds it ironically remedial education. Plaintiff assumes Council for the Defendant NAMEMEDIA INC values educational experiences as an adjunct law professor in Arkansas law school.

Plaintiff believes that RMS is a fictional mental illness with as much a probability of being found solely an invention of psychologists wishing to take advantage of pedophiles, patients, and sympathetic juries, as there is a probability of RMS being true in the case Defendant NAMEMEDIA INC cites. The Plaintiff commends the Court for recently desiring more evidence of a factual disability than the pseudoscience given by psychologists and counselors. RMS will likely never be admitted to toll a statute because a memory loss would need to be proven from a Plaintiff at the time of accrual of the tort it is tolling. Proving a lack of a memory is difficult and the Plaintiff will rejoice if contraverted memories somehow reappear and miraculously turn out somehow repressed instead of extinguished.

Plaintiff was once estimated to have the mental abilities of a toddler at best and can introduce evidence of attempts to teach the Plaintiff the basic normal features in the dimly existing facts reflected in a mind. This involved years of counseling and psychoactive medication. Plaintiff lost abilities to see normally present facts such as

identity, history and family names, identities, and birthdays in a dimmed mirror the Court once called the mind. Plaintiff can provide additional evidence of severely idiotic actions, but does not wish to advertise these idiotic communications. The Fifth Amendment does not protect this repeated idiotic behavior besides the few idiotic criminal activities that exist and will never be repeated or disclosed. Plaintiff would seek to disclose evidence of idiotic behavior more privately under seal if the currently filed record is found to be insufficient. The record should already establish the Plaintiff has a severe medically diagnosed mental illness where the normal affairs of life like speech, remembering children, and conducting socially appropriate communications as well as other fairly normal affairs were mostly absent prior to June 30, 2008. The Plaintiff has since learned to secure nourishment regularly and mimic normal sleep cycles. Plaintiff never gets hungry or need regular amounts of sleep due in part to severe physical disability as well as the resulting severe traumatic brain injury. Obviously current mental fixation is regularly symptoms of traumatic brain injuries.

The traumatic brain injury once left Plaintiff in a coma and on a respirator for over six weeks. Plaintiff was not responsive and Rachel Neeley removed the respirator to let Plaintiff finish expiring with a signed DNR order. *See Ex R* Plaintiff does not need to invent a repressed memory syndrome like *Barre* might have invented in the cited case. *Barre* may yet prove RMS and provide the encouraged evidence of the disability existing when the allegation accrued. Psychologist may even prove to be scientists instead of the charlatan pseudoscientist the Plaintiff feels them to be now on the record.

This case would not exist if Plaintiff had not forgotten to renew the domains the Defendants have each conspired to take. Separate Defendant NAMEMEDIA INC ironically reminded Plaintiff of the domain eartheye.com with a direct offer for the domain. Plaintiff forgot millions of things that were “dimly reflected in the mirror of the mind” quoting the case cited from three months ago by Defendant NAMEMEDIA where the Court recently quoted from sixty-one years ago.

This was typed very slowly and should now be educational. Plaintiff reaffirms and reasserts a belief that law is either logical or wrong and hopes this is not another obvious logical error induced by traumatic brain injury like the Motion for C P Rule 11 Sanctions recently made while violating the very same rule like a common idiot. The Rules of C P are illegal in Arkansas s detailed further in Plaintiff Notice of Constitutional Challenge to a Statute filed simultaneously.

## **II Claims of Copyright Violations are Never Barred Because Not Registered**

Defendants NAMEMEDIA INC took an action preventing the Plaintiff from deleting the images of the book “*Figure nude*” personally and thereby halting photo.net from displaying them with no warning to minors. At the same time Defendants NAMEMEDIA INC and Google Inc are fraudulently alleging a permission and approval of this type display. *See* Ex R, Ex. E-K. Defendant NAMEMEDI INC is thereby violating exclusive copyrights provided by USC 17 § 106(a) for which a registration is **NOT** required for a legal protection as provided in USC 17 § 411 as indicated by the

Defendant NAMEMEDIA INC in a glaring error. Citing a case as controlling without reading the case cited is ironic. The case cited as controlling is a recent decision by the Honorable Judge Hendren who is now ruling and where a Summary Judgment for vicarious copyright infringement was denied where a copyright registration was never sought and where the lack of registration claim should have been addressed if required. Here Honorable Judge Hendren recognized the USC 17 § 411 exceptions for crediting artwork was allowed exclusively to the copyright owner.

To make the ironically cited case particularly relevant to the current case the Defendant NAMEMEDIA INC currently violates copyrights to nude photographs from “Figure nude” containing images done by the Plaintiff during Hawaiian Tropics Bikini competition at Club West of a model met by the Plaintiff as a winner of the very competition series that resulted in the copyright infringement case cited. The model photographed is not shown nude in prior exhibits but is in the book “*Figure nude*”. She can be seen in the Hawaiian Tropics Bikini Winner Photo submitted as an exhibit concurrently. Model winning placement is not disclosed and model wears bikini swimsuit contrasting and reaffirming the principle of “*Figure nude*”. This principle being that a nude can be presented in a way that is not erotic requiring coining the term ‘*figure nude*’. The model appears more erotically presented in the exhibit. *See Ex. HT*

The Plaintiff feels this misapplied case law decided by the ruling Judge on now is as “*ironic*” as the Plaintiff motion for improper Sanctions misapplying Rule 11 for Rule 11 sanctions.

USC 17 § 408 labeled “**Copyright registration in general**” states in the relevant part that, “such registration is not a condition of copyright protection”, explicitly describing registration to not be a condition for copyright protection. Subsequently, in the relevant portion of USC 17 § 411 titled “**Registration and civil infringement actions**”, it is stated that except for USC 17 § 106(a), registration is required to file a suit. The excepted section grants authors the exclusive rights of attribution and integrity of a work of art. Plaintiff contends that USC 17 § 411 is now of significant relevance to the case at hand because the Plaintiff copyrights that Defendant NAMEMEDIA INC is violating are exclusive rights given in USC 17 § 106(a). These rights are the exceptions noted in USC 17 § 411. This is the section Defendant NAMEMEDIA INC ironically wishes to see this Court now stretch far enough to bar the copyright claims of the Plaintiff that are given by USC 17 § 106(a) although they are excluded in USC 17 § 411 and do not bar the Plaintiff claim ironically as a matter of logically applied law.

Adding insult to this self-inflicted injury of misinterpreted case law the *Action Tapes Inc. v Mattson* case mistakenly also cited as controlling case law is another flagrant error. *Mattson* involved a computer program registered as a visual work of art improperly. This case has absolutely no controlling similarity to the current case. The cited but obviously unread case describes a program treated as registered to be a set of instructions not satisfying a registration requirement for the designs the set of instructions sew when these instructions are then followed. For this case to be relevant or controlling or even coloring the present case it would need to involve a similar situation.

Defendant NAMEMEDIA INC could arguably cling tightly to this type failure to register if they were publishing Plaintiff artwork without attribution. Their tenuous claim of required registration before suit would require avoiding plagiarism being claimed that would be raised as a violation of rights for attribution given by the same statute ironically.

This case resolution will redefine copyrights for visual art in a more straightforward way as well as clarifying the misunderstood principles of copyrights for photographs that Defendant NAMEMEDIA INC ironically now purports as owner of an online photographic community.

The Plaintiff never plans to register a copyright and feels that copyright protections will now be ruled a fundamental right like free speech. The era where one needed to pay for a self-evident right is outrageously stretched by Defendant NAMEMEDIA INC and does not fit the logical requirements of the millennium. Plaintiff repeats that laws are either logical or wrong. Statutes cannot allow one to pay for a license to plagiarize or kill an intellectual property. The statute that Defendant NAMEMEDIA INC wants this Court to assert improperly for a Summary Judgment would be stating that the Plaintiff has not purchased a license to sue and is neither logical nor right.

**III Punitive Damages were recently supported for intentional outrageous actions when created by copyright violations although they are neither provided nor precluded by USC 15 or USC 17.**

It was recently found that punitive damages are allowed for copyright violations by the Second Circuit Court of Appeals *Tvt Records Tvt v. The Island Def Jam Music Group Umg Cohe* 412 F3d 82

We see punitive damages for copyright claims there discussed by Judge Stanton when he explained, “the determination [of] whether punitive damages are available for copyright infringement cases must be made in a case where the issue is squarely presented: where the jury could find malice or willful infringement, and the plaintiff is not seeking (or is barred from obtaining) statutory damages”, describing a potential need for punitive damages due to copyright violations. *Id.* The Defendant NAMEMEDIA INC does not wish for punitive damages to be allowed as a matter of misapplied law. Plaintiff agrees that it was once commonly held that punitive damages are not allowed for copyright or trademark violations.

Defendant NAMEMEDIA INC deleted the Plaintiff photo.net user profile after becoming aware of the distress of Plaintiff due to unacceptably idiotic venting of anger in a photo.net forum where Plaintiff wrote about the NAMEMEDIA INC cybersquatting. The Defendant NAMEMEDIA INC took an action the jury will recognize as outrageously violating copyright and libel after becoming aware of the impact of the outrageous act of cybersquatting. Evidence will show further although already shown incontrovertibly in the record.

The legislative intent of the copyright statutes is to encourage purchasing registration. This intent is a violation of Constitutional Due Process. This is described more fully in Plaintiff Notice of Constitutional Challenge to Statutes filed concurrently.

There are many recent cases where punitive damages have been allowed. The Defendant NAMEMEDIA INC outrageously violated the Plaintiff's copyrights and trademarks after becoming aware Plaintiff was extremely disabled and disturbed by cybersquatting. Plaintiff asserts the punitive damages needed to punish these violations ironically could not be more squarely presented. The Defendants chose a Plaintiff they thought would never complain in what is now an ironic error the Plaintiff asks the Court to see as an attempt to judge Plaintiff a permanent incompetent who would never again bring a lawsuit or register a domain name.

Plaintiff reminds Defendants a commonly held truth was once that the Earth was flat. Commonly held beliefs should never prevent factual claims from advancing. The Plaintiff should similarly be allowed to present punitive damages claims because Courts are beginning to realize needs for them in unconstitutional Copyright and Trademark Titles.

The intentions of copyright and trademark protection is archaic and unconstitutionally vague and violate Constitutional rights of the Plaintiff as will be described further in separately and concurrently filed C P Rule 5 Plaintiff Notice of Constitutional Challenges to Statutes more thoroughly.

*The rest of this page is left blank intentionally by the brain damaged Pro Se Plaintiff so that the conclusion to the ironically remedial and supplemental educating brief appears intact on the final page completely.*

## CONCLUSION

For the preceding reasons, Plaintiff prays the Court find NAMEMEDIA INC not entitled to Summary Judgment. The Plaintiff prays the claim for copyright violations of the Defendants besides Network Solutions Inc for “*Figure nude*” proceed as a separate action. Defendant Network Solutions Inc played no part in the malicious actions of the Defendants NAMEMEDIA INC and Google Inc in violating copyrights for the book “*Figure nude*”. Independently trying the book copyright violations and website copyright and domain name trademark violations will better serve justice. Plaintiff prays Court grant leave for amending action to proceed separately against Defendants NAMEMEDIA INC and Google Inc for violating copyright to images from “*Figure nude*”.

Defendant Network Solution Inc has no exposure for violating the “*Figure nude*” copyrights. Plaintiff has actually paid Defendant Google Inc for advertising “*Figure nude*” on the Defendant NAMEMEDIA INC website that is currently violating copyrights of the “*Figure nude*”. Plaintiff directly paid Defendant Google Inc. and vicariously paid Defendant NAMEMEDIA INC for violating copyrights of Plaintiff. Evidence will prove this to be outrageous. No questions of law remain in the claim for the violation of copyrights to “*Figure nude*” against Defendants NAMEMEDIA INC and Google Inc.

Ironically and respectfully submitted,

Curtis J Neeley Jr, MFA

### **CERTIFICATE OF SERVICE**

I hereby certify that, by the \_\_\_ day of \_\_\_\_\_ 2010, I plan to mailed a copy of the foregoing to the attorney representing NAMEMEDIA INC at the following address:

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/s/Curtis J Neeley Jr, MFA  
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