

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

**CURTIS J. NEELEY, Jr.**

**PLAINTIFF**

**VS.**

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

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

**DEFENDANTS**

**BRIEF IN SUPPORT OF NAMEMEDIA'S MOTION TO STRIKE  
PLAINTIFF'S SUPPLEMENTAL REPLY BRIEF OPPOSING NAMEMEDIA'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

NameMedia, Inc. ("NameMedia") moves the Court to strike Plaintiff's Supplemental Reply Brief Opposing NameMedia's Motion for Partial Summary Judgment (Docket # 33), and states as follows:

1. Plaintiff's Supplemental Reply is essentially a sur-reply to NameMedia's Motion for Partial Summary Judgment. A sur-reply is not permitted under Fed. R. Civ. P. 56, and Plaintiff did not obtain leave from the Court to file the sur-reply.
2. Additionally, Plaintiff's sur-reply seeks to amend his copyright claim to a claim exclusively under the rights provided in 17 U.S.C. § 106A. *See* Docket # 33 at p. 6.
3. In Plaintiff's First Amended Complaint, the copyright claim is stated under 17 U.S.C. § 106 and seeks to enforce rights provided by 17 U.S.C. § 106. *See* Docket # 14 at ¶¶ 7, 24.
4. Because Docket # 33 was filed without leave and raises new allegations not contained in the First Amended Complaint, the Court should strike this filing.

WHEREFORE, NameMedia requests the Court strike Docket # 33.

Respectfully submitted,

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By: /s/ H. William Allen  
H. William Allen

By: /s/ Kevin M. Lemley  
Kevin M. Lemley

Attorneys for Defendant NameMedia, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of January, 2010, I mailed a copy of the foregoing to the following *pro se* plaintiff:

Mr. Curtis J. Neeley, Jr.  
2619 N. Quality Lane, Apt. 123  
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/s/ Kevin M. Lemley  
Kevin M. Lemley