

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

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No. 10-2255

Curtis J. Neeley, Jr.,

Appellant,

v.

NameMedia, Inc.; Network
Solutions, Inc.; Google, Inc.,

Appellees.

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* Appeal from the United States
* District Court for the
* Western District of Arkansas.
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* [UNPUBLISHED]
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Submitted: July 26, 2010
Filed: August 12, 2010

Before COLLOTON, HANSEN and GRUENDER, Circuit Judges.

PER CURIAM.

Curtis Neeley, Jr., filed this interlocutory appeal from the district court’s¹ grant of the defendants’ motions to dismiss and for partial summary judgment. Neeley brought suit alleging a conspiracy by the defendants to “cybersquat” on two domain names that he had previously registered. *See* 15 U.S.C. § 1125(d)(1)(A). Neeley’s domain registrations expired in 2003, while he was hospitalized, and NameMedia, Inc., purchased the domain names on the day the registrations expired. He further

¹The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.

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alleges that the defendants ignored his alleged trademark rights. *See* 17 U.S.C. § 106. Neeley seeks injunctive relief and monetary damages. NameMedia has counterclaimed, alleging that Neeley’s registration of namemedias.com constitutes cybersquatting. *See* § 11 U.S.C. § 1125(d).

On March 1, 2010, the district court granted summary judgment for NameMedia on some, but not all, of Neeley’s claims and dismissed certain claims against Google, Inc. On May 20, 2010, the court dismissed Neeley’s claims against Network Solutions, Inc., including his claims for injunctive relief.² Neeley filed this appeal from the March 1 and May 20 orders. The defendants filed a motion to dismiss the appeal, arguing that we lack jurisdiction because the appeal is interlocutory in nature.

Subject to certain limited exceptions, federal courts of appeals only have jurisdiction over “final decisions of the district courts of the United States.” 28 U.S.C. § 1291. “A final decision generally is one that ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” *Clos v. Corr. Corp. of America*, 597 F.3d 925, 928 (8th Cir. 2010) (quoting *McAdams v. McCord*, 533 F.3d 924, 927 (8th Cir. 2008)). One exception to the final judgment rule is set out in 28 U.S.C. § 1292(a)(1), which grants the courts of appeals jurisdiction over interlocutory appeals from orders refusing to grant an injunction.

The orders from which Neeley appeals are indisputably not final decisions under § 1291. *See Huggins v. FedEx Ground Package Sys., Inc.*, 566 F.3d 771, 773 (8th Cir. 2009) (“[W]e generally consider only orders that dispose of all claims as final and appealable under § 1291.”). However, the district court’s denial of Neeley’s claims for injunctive relief falls within § 1292’s exception to the final judgment rule.

²In a separate order on the same day, the district court reconsidered parts of its March 1 order and reinstated some of Neeley’s claims.

We therefore have jurisdiction over Neeley's appeal of that portion of the district court's order. *See Izaak Walton League of Am., Inc. v. Kimbell*, 558 F.3d 751, 763 (8th Cir. 2009). To the extent Neeley appeals other portions of the district court's orders, we grant the defendants' motion to dismiss. We review the district court's denial of Neeley's claims for injunctive relief for abuse of discretion. *See Coyne's & Co., Inc. v. Enesco, LLC*, 553 F.3d 1128, 1131 (8th Cir. 2009). We agree with the district court that Neeley has not shown irreparable harm or any likelihood of success on the merits. *See General Motors Corp. v. Harry Brown's, LLC*, 563 F.3d 312, 316 (8th Cir. 2009) (outlining the requirements for injunctive relief). We find no abuse of discretion and affirm. *See* 8th Cir. R. 47B.

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Plaintiff - Appellant

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Defendants - Appellees

Appeal from U.S. District Court for the Western District of Arkansas - Fayetteville
(5:09-cv-05151-JLH)

JUDGMENT

This appeal from the United States District Court was submitted on the record of the district court, briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in part, the motion to dismiss is granted in part and denied in part in accordance with the opinion of this Court.

August 12, 2010

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans