

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 LLC
Google Inc.

BRIEF SUPPORTING MOTION REQUESTING RECONSIDERATION OF DOCKET #125 DENYING THE APPEAL TO AMEND OF DOCKET #111

1. Plaintiff asks the Court to reconsider Docket #111 and use this Brief and reconsider several portions of Docket #125 and especially the portions regarding violation of rights to “attribution” and the defamations of the Plaintiff and his father that were originally not described sufficiently, if at all. The NAMEMEDIA INC defamatory “attributions” have now ceased and a host of defamatory “attributions” are continuing. The Plaintiff sought addition of the FCC for ongoing nonfeasance and all other search engines besides Lycos Inc. These issues should be reconsidered for the very same outrageous defamation action approved in Docket #125 for trial against Google Inc and NAMEMEDIA INC. The other Search Engine Defendants “attribute” pornography to the Plaintiff’s personal name before minors. The United States should also be added because the moral “rights to attribution” that are granted to South Koreans, Canadians, and other foreigners by US Treaty are not recognized for US Citizens. These unrecognized rights were alleged as covered by other US laws like defamation during debate of the Berne Convention Implementation Act of 1988 and were alleged as not requiring a revision of Title 17 in an error now impacting the Plaintiff specifically as well as every American artist.

2. The US Courts in New York now face fallout from this error under the continued misnomer of violations of “copyright” by Defendant Google Inc in ASMP, et al v Google Inc and The Author’s Guild et al v Google Inc. Neither case is resolved and a US Attorney and the Plaintiff here have both objected to the settlement in the second. Google Inc announces the case as both settled and groundbreaking. See <books.google.com/googlebooks/agreement>

3. The unconstitutional Title 17 is commonly called by the deceptive title of “*The Copyright Act*”, although not recognizing a single fundamental moral right. This license or rule was introduced by a lawyer, Benjamin Huntington, as written by a textbook author, Noel Webster, around June 23, 1789 as HR10. This “license to sue” was a modified Statute of Anne plagiarized from April 10, 1709. This was copied but modified for HR10 and finally passed as HR 43 on March 31, 1790 and now supports the FCC in nonfeasance by obviously lacking the moral right to be attributed for original art. The FCC nonfeasance is indisputably why pornography is the most profitable thing on the Internet today is without any question whatsoever.

4 There is a constitutional right to Free Speech. This right did not need Court precedence like the “right to pornography” did. Pornography is a right only when it can be based on Free Speech or clings to other rights like “right to privacy”. Prominent findings assert that income from the pornography industry is, in fact, larger than all mainstream media incomes combined. *Violent Pornography and Abuse of Women: Theory to Practice* Cramer, McFarlane, Parker, Soeken, Silva and Reel (1998)

5. The recent “SEC” investigations that revealed several salaried SEC attorneys using Defendant Google Inc search engine broadcasts to bypass government filters and “surf” for porn as much as eight hours a day was nearly ignored by the media. December 2009, the Defendant Google Inc CEO, Eric Schmidt, tried to reinforce the misperception that everything on the Internet will be found by search engines and trafficked. He implied this was in some way automatic on CNBC. No search engine “spider” is automatic or wrote itself. This is a false allegation altogether. Viewers will not find nudity that is not allowed broadcast by the FCC while searching at <lycos.com>. The FCC is utterly nonfeasant and does not regulate communications by wire at all and is not the reason <lycos.com> does not traffic in pornography like every United States Search Engine. The moral right to attribution that is intentionally missing in the United States in Title 17 exists in South Korea where Lycos Inc is headquartered.

6. Attributing a person with pornography, whether the person does pornography or does not do pornography, is immoral in the United States as well as South Korea if attribution is undesired. In the United States, however, there is no moral right to attribution in US Title 17. The Third Circuit Injunction that prevented the enforcement of “COPA” illustrated how insufficiently the Third Circuit Court understood the Internet as well as revealing the malfeasance of Legislators who intentionally wrote an overbroad Statute. Plaintiff alleges this was done to later ensure invalidation of the law. The United States has the most obscene standards allowed on the Internet because the moral rights to attribution are intentionally missing from Title 17. The unconstitutional Title 17 is the reason Google Inc and the other Search Engine Defendants make hundreds of millions of dollars trafficking pornography every year. Each added Search Engine Defendant attributes images that could not be broadcast on television to the Plaintiff and to his father as can be seen in the record and this “attribution” is a factual and continuing outrageous defamation that was insufficiently pled but is hoped now sufficiently done.

7. The Hon Hendren stated in Docket #125 on page eight, “[the Plaintiff] does not give any factual clue to his meaning”, while considering libel and slander that are contrary to A.C.A. § 16-63-207. The facts given by the Plaintiff were presented insufficiently but are hopefully herein clarified. This error is hoped to be understandable given the size of the record in an intellectual properties action by a pro se. These defamations are shown in the record repeatedly except for the <ask.com> search engine broadcast of IAC. The Plaintiff and his father share the same name and image searches for this personal name attribute nude photographs to the Plaintiff and his father. These attributions are defamatory because neither the Plaintiff, nor his father, would ever approve of these nude photos being shown to minors as they are now. *See* Docket #73 Attachments: # 1 Exhibit CHIN, # 2 Exhibit YAHOO, # 3 Exhibit AOL, # 4 Exhibit BING. These exhibits are printouts from each proposed added Search Engine Defendant website of image searches that outrageously defame the Plaintiff and his father by being made available to minors in a way abhorrent to them both. These “attributions” are obviously intentional when compared to Docket #112 Exhibit #4 labeled LYCOS where for exactly the same search <lycos.com> does not attribute even one single nude photograph in its response broadcast for the Plaintiff’s name.

8. The ten pages of <lycos.com> search engine results in the record show beyond any doubt that the moral right to attribution recognized in South Korea is ignored for profit by every United States search engine and allowed by the nonfeasant FCC. The negative impact on the Plaintiff for this can be seen in an email to the Plaintiff from his minor child as redacted and in the record at Docket #53 Exhibit # 1 Labeled CHILD as numerous witnesses will further support in trial.

9. Defendant NAMEMEDIA INC destroyed art with stature after this lawsuit began when they caused the “Internet Archive” to no longer return the indisputably original <SleepSpot.com> artwork. This can be seen in the record and was brought as a destruction of art as prohibited by Title 17 or should have been. This action was also intentional defamation and has been brought timely since it currently alleges the owner of the artwork sought its removal thereby hiding discoverable evidence preventing accurate damages estimation for the Lanham Act violations tollled to the most recent trafficking.

Concise Request for Reconsideration

Plaintiff admits the following issues were stated unacceptably in Docket #111. The Plaintiff asks the Court to reconsider the following specific issues that were inadequately alleged and believes them now properly pled.

- I. The addition of Search Engine Defendants Yahoo Inc, Microsoft Corporation, AOL LLC, IAC and “Search Engine Doe” for attributing pornography to the Plaintiff while alleging that the Plaintiff endorses it or the exact claim Google Inc and NAMEMEDIA INC will face now before a jury.
- II. The addition of the FCC for the nonfeasance of failing to regulate communications by wire like they do acceptably now for other broadcast media.
- III. The addition of the United States for recognizing moral rights for attribution for South Korean artists and others but not for the Plaintiff due to the Berne Compact Implementation Act of 1988. These rights were alleged as adequately protected by other laws incorrectly. The US Congress did not require the revising of the deceptively titled US Title 17 due to this error.
- IV. The detrimental reliance on Defendant Google Inc for the scheme to defraud that occurred when Defendant Google Inc sold the Plaintiff advertising on domains Google Inc had licensed for AdSense for Domains while treating them as bona-fide search pages.
- V. The destruction of art by Defendant NAMEMEDIA INC for destruction of the original <sleepspot.com> artwork in 2009.

VI. The addition of ICANN Inc for not allowing domains to be registered for as long as desired and not requiring all similar domains to be included and not requiring a proof of bona-fide product, service, or free speech use to establish a domain and thereby creating a domain name Ponzi scheme. A transfer of registration requires no release of the domain by the original registrar to transfer the TM all domains establish if used in commerce.

10. The preceding concise issues I, II, and III, describe joining parties in exactly the same approved action as in Docket #125. They were difficult to follow at best and potentially impossible to follow in Docket #111 given the awkward manner they were brought or thought to be brought by a severely brain injured Plaintiff.

11. The Plaintiff prays they now be reconsidered and permitted for exactly the same defamation charges displayed already in the record for all proposed Defendants besides <ask.com> of IAC. These actions were insufficiently factually pled till this time. The Court may just do an image search at any image search or see in the included exhibit. *See Ex. ASK*. Image searches by name are attributions to the common person. No search engine has any disclaimer that a search using a personal name is not an attribution of the name entered.

12. The *pro se in forma pauperis* Plaintiff will otherwise be required to begin separate actions for each proposed Search Engine Defendant to halt the continued defamations although Defendant NAMEMEDIA INC stopped the defamation around January 24, 2010 after the second allegedly harassing *monitored* DMCA notice since this suit began. *See* Docket 69 Exhibit #8 labeled R-HIDE. The stopping of this attribution warranted giving <Namemedias.com> to Counter-Plaintiff NAMEMEDIA INC as well as revealing the need to add all American Search engines for their continuing attribution. Adding them now would be simpler than separate actions. Notice of Constitutional Challenge of Federal Statutes has been on the record since Jan 5, 2010 or Docket #36.

13. The Court should find several items discussed succinctly here that explain the extremely confused Plaintiff's Docket #111 request to amend. Plaintiff believes these sustain reconsideration. An updated Replacement Complaint will be filed to illustrate that the Court should perhaps appoint competent counsel to coach the Plaintiff although the Plaintiff's proposal is attached for provisional approval. The separate issue of limitations will be appealed if allowed to stand and will certainly be overruled. The severely brain damaged pauper apologizes for doing so poorly in Docket #111. The Plaintiff assures the Court that these actions in no way seek revenge as noted to be the appearance in the Order from March 1, 2010 quoted two months and twenty days later in Docket #125 p. 7. Plaintiff is rightly upset about the policy of continual defamation supported by US Title 17 and has acted with bad tenor in the past. No frivolous motions were filed in order simply to be withdrawn to increase expense. If there were frivolous motions, the pro se Plaintiff should be assessed sanctions to join filing fees as liens against the settlement. Plaintiff warrants no special benefit to file frivolously. Once motions became obviously in error or wrong to the Plaintiff, the Plaintiff withdrew them rather than wasting Court time and further embarrassing the pro se Plaintiff. This lawsuit will be studied in law schools perpetually. There exists no in forma pauperis mechanism for the purchase of a "license to sue" that is deceptively named in US Title 17. This makes US Title 17 only available to those who can afford it and has therefore been unconstitutional since March 31, 1790 or the day President Washington signed it. The Plaintiff refuses to even use the oxymoronic term again for a "rite" that is called a "right" to deceive and preserve the *status quo*, since first used around 1720-1735.

14. The reconsidered yet remaining limitations ruling will certainly be overruled on appeal if it remains given the May 24, 2010 Supreme Court ruling regarding statutory limitations tolling for continued discriminatory testing of black firemen. Continuing to repeat tortuous acts was found to reset limitations to begin to accrue when the last tortuous act was done. Lewis v. Chicago, (08-974) Every year when NAMEMEDIA INC renewed the registrations they repeated the Lanham Act violations tolling limitations to begin running till July 02, 2009 or the date <eartheye.com> sold to <EDATS.com> now known as Eartheye LLC. The limitations regarding <sleepspot.com> are thereby tolled to Oct 15, 2009 and will again be tolled to Oct 15, 2010 before the trial date. The great deal of time spent by Hon Judge Hendren is appreciated but the Supreme Court ruling has clearly settled tolling of limitations for continued acts. The trafficking of Plaintiff's owned domains is renewed daily by Network Solutions LLC and is therefore tolled continuously. Each time Network Solutions LLC offers domains to the owner of the domain they cybersquat yet again. One of Network Solutions LLC business policies is cybersquatting.

15. Unfortunately, no amount of money can return the lost honor of the Plaintiff or purchase the lost pleasant time with his children. Plaintiff will try to reestablish the damaged relationship with his children. Plaintiff's relationships were damaged severely by each of the Defendants and a sizable fiscal judgment will obviously aid that effort. Money can't buy love but can make love easier to express and to enjoy.

16. Statutes never grant fundamental rights because only the alleged Creator can. Rights are simply recognized and regulated by statutes such as the right to “free speech” or the right to “self-defense”. US Title 17, the Plaintiff now declares or alleges as unconstitutional on its face for never recognizing the exclusive moral rights to attribution or allowing use by a pauper and thereby violating the Ninth Amendment by disparaging a fundamental right while also denying “Due Process” and “Equal Protection of the Laws” to everyone including this Plaintiff.

Whereas the Plaintiff herein states facts regarding acts done or being done by each of the added parties as amended currently, the Plaintiff begs that they be added to this action. The FCC nonfeasance allows continual defamation of the Plaintiff and the US Title 17 unconstitutionality does not allow Title 17 to apply equally for even a pauper like the Plaintiff or recognize the fundamental exclusive moral rights to attribution recognized by Treaty. Plaintiff requests a Court ordered attorney to coach him because this intellectual property litigation is obviously beyond the Plaintiff’s intellectual ability and has been since the start. Plaintiff confused Summary Judgment Standards with statutory interpretation standards recently and thereby demonstrated being totally intellectually overwhelmed. Plaintiff accepts the Limitations as a ruling that he believes warrants an appeal but requests granting the Motion to Amend of Docket #111 as last supported by Docket #122 and the Supreme Court ruling of March 24, 2010 regarding limitations. Plaintiff prays the replacement complaint be provisionally approved till Court appointed counselor can coach or review the Plaintiff like is done for law students. A much shorter and more direct proposed replacement complaint is attached now that the ruling of the Supreme Court resolved limitations May 24, 2010. *See* Ex. REPLACEMENT.

Respectfully and humbly submitted,

Curtis J Neeley Jr, MFA