IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS

Curtis J Neeley Jr., MFA

v.

CASE NO. 5:09CV05151

NameMedia Inc.
Google Inc.

BRIEF SUPPORTING SECOND REQUEST FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT

Comes now Plaintiff, respectfully to the United States Court for the Western District of Arkansas and requests being permitted to file the attached Amended Complaint to add numerous claims as herein described concisely complying with Local Rule 5.5 and other Federal Rules of Civil Procedure as well as prior rulings of Honorable Jimm Larry Hendren.

The attached complaint desires to replace the prior litigation entirely. This Brief will describe all claims and this attempt to amend is in keeping with the Court order rejecting of the prior Motion to Amend. Plaintiff seeks only to add claims in this action that have transpired since the initial filing and are supported by US Rules of CP Rule 15(a)(2) and one party.

Claims

Claims added follow Defendant's named to better organize this complicated and unique action. The initial claims recognized as recently as October 27, 2010 by this Court are repeated herein. This Amended complaint seeks to replace the prior complaint completely. Only one Defendant is now sought added and that is the Federal Communications Commission as described.

NameMedia Inc.

I. Initial Title 17 violations or defamation by NameMedia Inc.

1. NameMedia Inc initiated the realization of the need for this litigation. NameMedia Inc initially attributed nude images truthfully to the Plaintiff to persons who logged in to the <photo.net> website and asserted being an adult and foregoing anonymity. This was and is an acceptable requirement for the Plaintiff that assured the original figurenude art would not be displayed to anonymous viewers. At some indeterminate date in 2007, NameMedia Inc purchased <photo.net> and altered the business policies and "terms of use" to assert permanent licensure of all uploaded art to the domain. At this time NameMedia Inc also began to allow anonymous access to all content already uploaded regardless of the desires of the original artist.

2. NameMedia Inc used <photo.net> and conspired with Google Inc and began attributing Plaintiff to nudes truthfully but then no longer allowed the Plaintiff to remove the original figurenude images. On December 26, 2008 the continued truthful attribution of original figurenudes created by the Plaintiff became an extreme source of distress because Google Inc and <photo.net> had begun causing six original nude images to be correctly attributed to the Plaintiff during image searches at <photo.net> and at <google.com>.

3. These disparaging results were displayed while alleging specifically that the Plaintiff caused this intentionally as was untrue and prohibited by Arkansas laws regarding libel and defamation and US Title 18 § 1343. Plaintiff attempted to cause the figurenude photographs to be deleted after his minor child expressed outrage because a parent's name caused nudes to be returned in search engines causing the minor child distress at school as is seen redacted but in the record.

See Docket 53 Ex. Child <curtisneeley.com/NameMedia/docketPDFs/CHILD.pdf >

DMCA Liability Limitations Carefully Removed

4. In 2008 the Plaintiff had recovered enough intellect to survive on his own with minimal assistance. The Plaintiff continued to establish and publish original figurenude art in 2008 while attempting to exclusively control attribution.

5. The Plaintiff first politely requested and then demanded that Hannah Thiem, the Digital Millennium Copyrite Agent (DMCA) for NameMedia Inc, delete the Plaintiff's figurenude art in early 2009 soon after the distressing communication from the Plaintiff's minor child. Ms Thiem was notified using IP tracking beacons as well as via several community websites. Notifications via <flickr.com> and <myspace.com> are in the record. These DMCA notifications were carefully monitored and NameMedia Inc continued to violate the moral rights of the Plaintiff not adequately secured for American citizens but recognized for visiting Berne Country Citizens because of the Berne Compact Implementation Act of 1988.

See <curtisneeley.com/NameMedia/Mandamus/Exhibits/Berne.pdf >

6. NameMedia Inc counsel claimed these monitored notifications violated Ms Thiem's privacy but NameMedia Inc continued to display the figurenude art of the Plaintiff maliciously during this very litigation until after January 24, 2010. This tort was alleged initially and is noted in Docket 192 by Honorable Jimm Larry Hendren.

II. First US Title 1125(d) tort by NameMedia Inc.

7. Plaintiff had begun to attempt to exclusively morally control publication of his original figurenude art and this attempt caused research into past creations of the nude form. Plaintiff discovered a truthful historical record of nude art being attributed to the Plaintiff at <web.archive.org/web/20020815143411/www.eartheye.com/nudes.html>. These nude photos are the early work of an obvious master photographer developing an absolute use of the nude human form as figure displayed exclusively as an OBJECT of art and not as a person.

8. While researching the historical use of <eartheye.com> for art, the domain was offered to the Plaintiff contrary to US Title 15 § 1125(d) repeatedly but was then sold to EDATS Inc in FL allegedly for $2,300, as seen in the record. The Plaintiff had advised NameMedia Inc that the domain had once been used for commerce and was rightly owned already by Curtis J Neeley Jr. from 1996 until 2003. The Plaintiff was then practically dared to pursue NameMedia Inc before domain name resolution panelists. This is the HOAX or excuse for law called DNRP by those regulating the Ponzi scheme called the "domain-name" economy.

III. Second US Title 1125(d) tort by NameMedia Inc.

9. Plaintiff researched his prior use of the Internet and discovered that <sleepspot.com> was archived at the Internet Archive just as <eartheye.com> is now. Since NameMedia still owns and licenses <sleepspot.com> they were and are able to use the robots exclusion protocol "REP" to cause the historical archives of this artwork to be hidden. Before the archive files were hidden, the Plaintiff was able to refresh his traumatically injured mind's recollections and realizes that <sleepspot.com> was once an extreme use of the Internet to sell hospitality reservations. <sleepspot.com> involved more productive, reliable, and scalable uses of the Internet to sell reservations of "Spots to Sleep" than exists anywhere else to this date.

10. The distress and anger caused by the original figurenude photographs being shown against the Plaintiff's desires caused the user profile to be banned due to angry posts at <photo.net> and allowed NameMedia Inc to realize the <sleepspot.com> historical records were *prima facia* evidence that NameMedia Inc had violated US Title 15 § 1125(d) when offering <sleepspot.com> to the Plaintiff as can be seen in the record for $2,788. *See* Docket 25 Ex#2 "2788".

< curtisneeley.com/NameMedia/docketPDFs/2788.pdf >

Counter-claim and Rational for URL Use

12. Had <eartheye.com> and <sleepspot.com> never been offered to the Plaintiff, the First Amendment protest use of <NameMedias.com> would never have been needed. It was used in an attempt to cause NameMedia Inc to recognize distress being caused by the display of original figurenude art and the distress caused by otherwise negatively impacting the Plaintiff's legacy. Every year when NameMedia Inc renewed the domain registration for <eartheye.com> and for <sleepspot.com>, they repeated the violation of US Title 15 § 1125(d) by conspiring with Google Inc or another party to USE each domain.

13. On roughly January 24, 2010, a new DMCA agent named Rob Rosell was discovered as "listed" by NameMedia Inc for <photo.net>. Rather than rely exclusively on the overworked and overloaded Federal Courts the Plaintiff elected to repeat the monitored DMCA notifications of Mr Rosell. Using unregulated wire communications, Mr Neeley was able to notify EVERY disclosed former website design client of Mr Rosell's and request that the original figurenude photographs be no longer displayed to minors. The images were DELETED nearly overnight as most of Mr Rosell's clientele had, ironically, been church personnel.

14. One moral DMCA agent caused the kidnapped art to be deleted after nearly half a year of unsuccessful Federal litigation. Unable to understand the rational and no longer having a valid First Amendment protest use of <namemedias.com>, the Plaintiff forwarded the domain to NameMedia Inc and did not renew the protest USE of the domain on October 15, 2010 because NameMedia Inc deleted the original figurenude art as requested although the counterclaim helps assure that no settlement opportunity besides a JURY ruling now exists.

15. NameMedia Inc is hoping DMCA limitations to liability will in some way magically limit liability to the six images kidnapped and displayed many times at <photo.net>. No actual DMCA was listed at <photo.net> on September 26, 2010. NameMedia Inc hopes that limitations of liability can be established by assigning an employee the title and this hope is outrageous, humorous, and idiotic. Plaintiff hopes opposing Counsel remain as illogical about common law as it appears they are while allowing <photo.net> to operate with having a listed DMCA parachute bearer. <photo.net/info/dmca-agent> is nothing but a fraudulent claim that only underscores the complete invalidity of the DMCA hope and certifies the solid dishonesty of NameMedia Inc. The Arkansas JURY in March 2011 is not likely to consider this HOAX to be humorous or the absurd Ponzi scheme called "domain-name industry" to be permissible.

IV. NameMedia Inc Malicious Destruction of Original Art.

16. December 18, 2009 in Docket #27 p.2 ¶ #2 it was disclosed as follows.

> *2. NAMEMEDIA INC denied the allegations in paragraph 2 of the Complaint while using a robots.txt file to hide evidence that was once publicly available at the Internet Archive Inc that indisputably shows that they lie to further harass Plaintiff. See Ex. SS, Ex. EE.*

Plaintiff regrets using the three-letter colloquial terminology for misleading as is seen above but even attorneys must have recognized by now that placement of the robots.txt file compounds Plaintiff's distress. This filing was before Prof. Kevin Lemley Esq had yet decided NameMedia Inc representation required too much of a "Devil's advocate" position and left. Despite this departure, it would appear that Brooks Christopher White Esq would recognize the motion to compel now pending but opposing was not an attempt to mitigate damages. Allowing the archive of the art to remain hidden/destroyed is an outrageous failure to mitigate damages and does, in fact, increase damages now sought.

Google Inc

I. Google Inc Title 15 torts

17. Google Inc licensed <eartheye.com> and <sleepspot.com> in direct violation of US Title 15 § 1125(d) and USED both of these domains while splitting profits due to the license with NameMedia Inc exclusively using them both to sell exclusively Google Inc advertisement. This USE of a domain in AdSense for Domains created two torts every year when the domain use was continued rather than being allowed to cease to resolve. *See* Lewis v Chicago, (08-974)

II. The Google Inc first six malicious defamation torts

18. Google Inc initially ran the image search engine at <photo.net> and still run it. This is how Google makes money while tax-exempt. Google Inc correctly attributed Mr Neeley to his original figurenude art that was displayed against his desires for almost a year during protests and litigation. Google Inc continually claimed specific permission to display original nudes before minors in violation of the Communications Act of 1934 as amended and un-enforced although even a common person in the jury will realize it was always illegal.

19. Google Inc also displayed the Plaintiff's original figurenude art to children and the conspiracy with NameMedia Inc to continue this defamation while ignoring DMCA notifications for the six nude images shown is nothing short of outrageous in forcing a parent to display nude art to their children. Google Inc CEO, Eric Schmidt, said in a CNBC interview as follows.

> **"If you have something that you don't want anyone to know, maybe you shouldn't be doing it in the first place."**

The richest man in the history of the Earth has absolutely no right to disclose art in a way that shames the artist in violation of US Title 17. Plaintiff's outrage at Eric Schmidt is unbounded.

III. Google Inc malicious defamatory library book re-publication tort in 2010

20. Google Inc was advised during this litigation that the Plaintiff did not wish his original figurenude art to be digitally published and especially not while using a search for his name by anonymous viewers. This can be seen in the record already in this action. Plaintiff warned Google Inc that the Plaintiff was published in a book that was in libraries and opposing Google Inc Counselor commented on this already. The Plaintiff noticed in March 2010 that several original nudes published exclusively in a library book in 2006 were scanned and re-published by Google Inc digitally while removing the disclosure of outrage posted at Google Inc Books. Google Inc announced creation of new US Title 17 alternatives via an unapproved class action settlement in the Southern District of New York as follows. "Google has reached a groundbreaking agreement with authors and publishers." *See* <books.google.com/googlebooks/agreement>

21. The Plaintiff's original figurenude art was scanned and re-published during this lawsuit and statutory awards are 450,000 for the three images stolen if done just once. Display of them was malicious and the JURY award will easily support a punitive demand for a significant percentage of the company value for Google Inc for these three nude image re-publications.

IV. The Google Inc malicious disparaging erect penis defamations of 2010

22. Google Inc was advised continually that attribution to Michael Peven's erect penis photograph was no less than outrageously incensing and improper. Curtis J Neeley Jr., MFA has never seen Michael Peven's penis and believes Michael Peven is the reason Arkansas is not considered when photographic art is mentioned in America. Mr Peven has less artistic photography accumulated over thirty-plus years as head of one school's photography department than Mr Neeley has created in the last five years from a wheelchair and with one arm. The printout of the improper and defamatory image search at <google.com> with the claim that Michael Peven's erect penis photo is from the wire communications that use <open.salon.com> for broadcast is not done but can

be seen in the Supreme Court record. When the Brief appendix was first created and filed at the Eighth Circuit and printed for the two Supreme Court petition appendixes, the claim was that the erect penis was on <curtisneeley.com>. It has never been on either wire communication location and the image is actually still visible over a year after first protested from <vampandtramp.com/finepress/p/primitive-manmade-blueL.jpg>. Plaintiff hopes to use a tiny portion of the massively PUNITIVE award to establish secondary photographic art education in AR and counteract the negative Michael Peven impact.

V. The Google Inc 2009 AdWords detrimental reliance

23. Google Inc sold the Plaintiff advertising on AdWords that ran on domains exclusively licensed to sell Google Inc AdSense for Domains. In other words, Google AdSense for Domains sold advertisement on domains actively USED by Google Inc in violation of US Title 15 § 1125(d). When sold these advertisements, the Plaintiff was led to believe these purchases were a result of *bona fide* search terms and not licensed US Title 15 § 1125(d) FRAUDS or "parked" sites.

The "FCC"

I. Federal Communications Commission Nonfeasance

24. The Plaintiff wishes to add the Federal Communications Commission (FCC) rather than again attempt to add all search engine parties to this action until an appeal of the "final" ruling. The addition of the FCC is supported by Rules of CP Rule (2)(a) because the FCC failed to regulate wire communications during this very action. Every exhibit that displays a nude would not be allowed broadcast on public television due to indecency. The exhibit entered at the Eighth Circuit displayed Michael Peven's erect penis photo and caused the Docket entry to be locked by the Eighth Circuit and the Plaintiff was admonished for including nudes in an exhibit. *See* <curtisneeley.com/NameMedia/Mandamus/Exhibits/Ex.%20Peven-Penis.pdf>.

25. The UnReguLated (URL) wire communications broadcast above is indecent as are most commercial uses of wire communications as defined in the Communications Act of 1934 or the very act that created the FCC as can be seen in the first two docket entries below. The others are already in the record as exhibits attached to Docket 25. The last displays distress caused to plaintiff's minor child by the failure of the FCC to regulate wire communications.

See <curtisneeley.com/NameMedia/Mandamus/Exhibits/1934_p8.pdf>
See <curtisneeley.com/NameMedia/Mandamus/Exhibits/1934_p90.pdf>
See <curtisneeley.com/NameMedia/docketPDFs/E.pdf>
See <curtisneeley.com/NameMedia/docketPDFs/F.pdf>
See <curtisneeley.com/NameMedia/docketPDFs/G.pdf>
See <curtisneeley.com/NameMedia/docketPDFs/K.pdf>
See <curtisneeley.com/NameMedia/docketPDFs/CHILD.pdf>

26. The Plaintiff will not reprint the exhibits because the UnReguLated (URL) wire communication broadcasts listed above are locations of the actual files printed and are vastly superior to the ARWD Docket and are linked from <curtisneeley.com/5-09-cv-05151/Docket>, as is every docket entry and every exhibit since December 18, 2009. Dismissed party Network Solutions once claimed to respect the docket in Docket 176. The Plaintiff is very familiar with the insufficient docket entries in describing the exhibits that were actually printed and submitted.

Dropped or dismissed claims

27. Honorable Jimm Larry Hendren dismissed Network Solutions LLC entirely and in keeping with this order Network Solutions LLC is no longer named and Plaintiff will await a final ruling for an appeal instead of another Interlocutory Appeal to add them or others.

CONCLUSION

WHEREAS; The Plaintiff is a distressed and mentally disabled pauper dedicating himself to not ceasing litigation until wire communications are regulated and NameMedia Inc no longer exists profitably and Google Inc stops trafficing in indecent art to the entire Earth via wire, denial of this Motion to Amend will violate logical reading of Fed Rules of CP (a)(2) and will be immediately appealed if not granted and will therefore render Docket 188 moot. Statutory liabilities are so extreme already that Rule 11 sanctions filed as liens against the settlement have the same fiscal impact to the Plaintiff as they would on anyone else. The Plaintiff will no longer be a pauper after resolution as is now obvious to any uninterested observer.

Respectfully submitted by hand,

Curtis J. Neeley Jr., MFA