

# IN THE UNITED STATES COURT WESTERN DISTRICT OF ARKANSAS

CURTIS J NEELEY JR, MFA

VS

CASE NO. 5:09-cv-05151

NameMedia Inc.  
Network Solutions LLC  
Google Inc.  
Yahoo Inc.  
AOL LLC  
Microsoft Corporation  
IAC  
ICANN Inc.

## COMPLAINT FOR OUTRAGEOUS TORTS INCLUDING TRADEMARK, COPYRIGHT, AND PRIVACY VIOLATIONS RESULTING IN SEVERAL INTENTIONAL DEFAMATIONS AND OTHER TORTS

Comes now the Plaintiff, respectfully to this court and states for his complaint described as concisely as the severely brain-damaged, pro se litigant is able in this extremely complicated intellectual properties case including trademarks, copyrights, harassing communications, and repetitive public defamation. Several instances of harassing communications as codified in Arkansas as a crime against a person in Section A.C.A § 5-71-209 were done. The tortuous actions are so numerous they prohibit concise titling or description. The severely brain injured Plaintiff is outraged by learning of the fraudulent business policies of the Defendants he discovered while researching how his own pre-teen daughter was exposed to his original nude art photos as well as pornography on the Internet. The Courts call this a “new medium” that is apparently exempt from even moderate regulation.

### **I(A) INTENTIONAL INFLICTIONS OF EMOTIONAL DISTRESS**

Defendants NAMEMEDIA INC, Google Inc and Network Solutions LLC created emotional distress to Plaintiff who is a Washington County, AR resident intentionally and after being made aware of the distress they were causing. The other Defendants did nothing to the Plaintiff after acknowledging the Plaintiff’s distress. Those who acted intentionally did so as follows:

- a. **Defendant NAMEMEDIA INC** was aware, or should have been aware, that they were causing emotional distress to Plaintiff as well as harassing the mentally challenged Plaintiff because of numerous recent actions. The following five intentional tortuous actions (ii-vi) below were done since this action begun and none are subject to the limitations ruling:
- i. Ted Olson of Defendant NAMEMEDIA INC first reminded the Plaintiff of their cybersquatting <eartheye.com> around November 29, 2007 with an unsolicited email. Mr Olson alleged a phone call request was made. Plaintiff disputes this claim and it will be an issue for trial. Plaintiff was unable to legally pursue NAMEMEDIA INC at that time due to his disabilities but has continually since their second alert of their cybersquatting. This November 29, 2007 communication was harassing on its face and contrary to ACA. § 5-41-108(a)(1)(A) when the communication was done to make the Plaintiff fear for the destruction of his intellectual property. The entire purpose was to make the Plaintiff fear a loss of <eartheye.com> enough to bid for <eartheye.com>.
  - ii. Esq Erik S. Zilinek, the Defendant's Intellectual Property Matters Manager, stated to the Plaintiff directly via email that the Defendants registered <eartheye.com> in 2003 after realizing the Plaintiff was distressed and severely disabled. Rather than avoiding further distressing the victim of their cybersquatting, Defendant NAMEMEDIA INC continued inflicting distress. They repeatedly made the Plaintiff aware of their Lanham Act trademark violations from 2003. The second time was January 26, 2009. This was noticed by the Court in Docket #97 and discussed by Plaintiff in Docket #69 Exhibits #5, #16. This harassing communication was where the thief waited until three years after the victim of their cybersquatting became competent to ask again if he was still interested in <eartheye.com>. He owned <eartheye.com> for six years before they stole it. This was harassing on its face and prohibited by ACA § 5-41-108(a)(1)(A).
  - iii. Defendant NAMEMEDIA INC demonstrated they took notice of the angry Plaintiff's posting on <Photo.net>. This is in the record and they deleted the Plaintiff's Photo.net user profile due to the Plaintiff's reporting their actions on two domain names they cybersquatted in 2003. They were therefore very aware of both the Plaintiff's disability and his anger. Is it an ironic coincidence they harassed the Plaintiff a second time three years to the day from his regaining competency since protected by limitations and then involved a lawyer? *See* Docket #60 Exhibit #5 labeled Ex. BAN

- iv. Defendant NAMEMEDIA INC fraudulently revised the “terms of use” after purchasing the domain <Photo.net>. This asserted perpetual license of all user submitted content including the photos that were created and uploaded by the Plaintiff at some time before this alteration and never granting licenses to perpetually display them. NAMEMEDIA INC will obviously allege that the angry post they deleted was a use of the website that accepted the revision of the “Terms of Use”. This is fraudulent per ACA § 16-60-113 and causes outrage. *See* Docket #53 Exhibit #3 labeled Ex. FRAUD
- v. After July 24<sup>th</sup> 2009, Defendant NAMEMEDIA INC finally realized they would face Plaintiff in Court. They then first caused the Plaintiff’s attribution at the Internet Archive Inc “WayBack Machine” for <SleepSpot.com> to be excluded. This action was clearly intentional and done attempting to conceal their theft of <SleepSpot.com>. This was an alteration of the attribution of modified art as well as destruction of art that is prohibited by US Title 17 § 106A(2,3) and are exempted from the “fair-use” allowances of section 107 because “exclusion” causes the publicly displayed artwork to be modified and reported as excluded by the owner instead of returning the attributed archive of <sleepspot.com> from 2003. Defendant NAMEMEDIA INC has no ownership interest in the artwork they excluded and this is another fraud and written public defamation. This destruction of art with stature is prohibited by US Title 17 § 106A(3)(A, B) *See* Docket #47 Exhibit #6 labeled Ex. CIRS or search the “WayBack Machine” now. This is a particularly outrageous and outrageously recent action. The exclusion of Plaintiff’s art alone would sustain a lawsuit. *See* Docket #69 Exhibit #6 labeled SS-2010, *See* Docket #25 Exhibit #28 labeled SS.

- vi. Defendant NAMEMEDIA INC continued to display Plaintiff's nude art photographs to minors after one DMCA agent named Hannah Thiem received a demand that the offending photographs be removed. The message she received numerous times in several venues as can be seen in the record. Defendant NAMEMEDIA continued to sell advertisements while conspiring with Defendant Google to use these photos while fraudulently claiming Plaintiff's permission in writing or while defaming and publicly libeling the Plaintiff and continuing to harm his reputation until late January 2010. Hannah Thiem thereby chose to distress and harass the Plaintiff instead of doing her DMCA agent duties. Ms Thiem's replacement, Robb Rosell, saw that the offending images were finally removed after contacted by the Plaintiff in January 2010. This demonstrates the Plaintiff's continuing distress, but is evidence of his attempting to resolve the attribution issue by any means possible. It is in the record now although Mr Rosell is no longer the DMCA agent for <Photo.net>. Defendant NAMEMEDIA INC, in fact, no longer has a listed DMCA agent at <Photo.net>.
- See Docket #25 Ex. 6, 9, 11, 12, 16, 18, Docket #53 Ex. 1, 4, Docket #69 Ex. 8.

- b. **Network Solutions LLC** distressed the Plaintiff after this action started intentionally with harassing communications as briefly described below.
- i. Krista Quintrell of Network Solutions LLC wrote the Plaintiff and attempted to make him believe Network Solutions LLC was required to "advertise" the expiration dates of domain names registrations by ICANN Inc, as were all registrars. This is a fraud and was in writing and as a reply to an advisement by the Plaintiff that it was not required by ICANN Inc that the expiration dates be advertised or the very claim she purported. She took "license" with the ICANN requirement "*provide free public access*" and bandied this phrase into publish meaning "advertise" although realizing it was a false claim.
- See Docket #58 Ex. 14 labeled Ex. KQ

- ii. Network Solutions LLC has always had a policy of trafficking in any domain name and offered both <EarthEye.com> and <SleepSpot.com> to the Plaintiff in 2010 and will to anyone who asks for any domain currently. Network Solutions LLC will sell instant certified offers for any domain. See Docket #75 Ex. #4 and labeled EE-SS-NS-Traffic. This fraudulent policy was exhibited when Network Solution offered Plaintiff the opportunity to make a certified offer or back order <Google.com> and almost every other Defendant's website in the exhibit included and labeled Ex. NS-FRAUD. This implies a license to make this offer or caused a detrimental reliance on a fraudulently implied claim of license they do not have. This licensure issue will be particularly relevant later in the trademark section.
- c. **Defendant Google Inc** has intentionally distressed the Plaintiff after being made aware that he was distressed by the AdSense for Domains use of <sleepspot.com> since this lawsuit began as briefly described by the harassing communications below.
  - i. On November 05, 2009 AdSense sent the following. Underlining and italics added.

*"We have reviewed your complaint. Please note that we will not be able to investigate your complaint at this time because: These domains are comprised of generic or descriptive terms. Descriptive and generic terms are free for all to use, and therefore we do not take action against domains comprised of descriptive or generic terms.*

*In addition, please note that these terms are not actively registered in the country indicated. If you would like us to investigate further, please send us information showing that you own active registrations for these terms. Alternatively, if the country recognizes common law rights, please confirm that you own common law rights for your trademark, and send us proof that you are using that trademark in that country."*
  - ii. After Plaintiff's reply, - on November 06, 2009 AdSense sent the following message:

*"Thank you for your email. However, we will not be able to investigate your complaint until you send us information showing that you own active registrations for the terms you are claiming rights to. Alternatively, if you are claiming trademark rights acquired by use, please send us proof that you are using that trademark in the United States."*

iii The first email described above in (i) is a claim that generic words are “free for all to use” and this meant especially for Google Inc AdSense for Domains. The second email described above in (ii) is a demand for free legal research regarding a common law trademark claim and a question that implies a requirement of current usage of the trademark. This is not required of any trademark whether registered or not and implies the fraud of anticipatory repudiation.

iv. Finally ceasing to use <sleepspot.com> in “AdSense for Domains”, Google Inc admits being aware of Plaintiff’s distress caused by their actions. Google Inc may still profit from the “parked” domain or fraudulent domain <sleepspot.com>. Defendant NAMEMEDIA INC is “stealth” profiting with undisclosed sponsorship of their ads by redirecting it to their “monitized” searches. Plaintiff invites the Court to visit <sleepspot.com> and identify who is profiting besides Defendant NAMEMEDIA INC. It is nearly impossible to do. This type concealed profiting will be particularly relevant in the trademark section. *See* Docket #69 Exhibit #18, Labeled Ex. KQ.

## **Conclusion regarding the intentional acts**

Reading the three sections (a, b, c) above and looking through the record make it clear that each Defendant listed above took tortuous actions against the Plaintiff intentionally and after this lawsuit was started that are not subject to limitations. The brain-injured and pro se Plaintiff will attempt to briefly elaborate on the trademark violations, copyright violations as well as violations of privacy and defamation that are also not subject to limitations. These are harassing actions taking advantage of a mentally disabled person and are subject to the punitive damages like allowed for hate crimes in ACA § 16-223-106 (a)(1) and also entitled to Punitive damages for discrimination offences listed in ACA § 16-123-107. Defendant NAMEMEDIA INC prevented the mentally disabled Plaintiff from enjoying using the Internet at public libraries and seeing his <sleepspot.com> artwork in the otherwise publicly accessible archive attributed properly. Plaintiff is both severely mentally disabled and a pauper. The complaint will conclude with what might be the most outrageous actions. Several actions subject the Plaintiff and his father to public defamation in violation of A.C.A. § 16-63-207 regarding libel and slander. These are occurring presently.

## **II(B) Trademark violations of each Defendant**

### **1. Network Solutions LLC**

a. Network Solutions LLC made an offer to the Plaintiff in 2010 to sell certified offers to register the domains once his or back order the domains <eartheye.com> and <sleepspot.com>. The Court has ruled these as trespassed so long ago that they are subject to the Limitations Ruling in Docket #97 and this action is hereby restated as harassing communications.

**b.** Network Solutions LLC made an offer to the Plaintiff in 2010 to sell certified offers to register domains that are now his “marks” or back-order them. Plaintiff hereby grants Defendant Network Solutions LLC a license to offer the following domains if Plaintiff decides not to renew them, dies, or if Network Solutions LLC is able to sell them for more than one million dollars and retaining only a forty percent commission.

These domains are <curtisneeley.com>, <master-of-photography.us>, <ozarkphotos.net>, <groupf16.org>, and <figurenude.com>.

These five marks were and are being trafficked to the Plaintiff as well as anyone who visits their site and requests them along with fifteen similar domains. This one page of trafficking would result in 500,000 dollars statutory civil liability pursuant to US Title 15 § 1125(d) and does not require they own the domains they traffic but only be an authorized licensee by the registrant. Network Solutions LLC is hereby an authorized licensee of the current registrant. US Title 15 § 1125(d) only specifies that the license be authorized. The Court has interpreted the Limitations Statutes of Arkansas law exactly as written. This interpretation places Network Solution LLC in the specific position of trafficking all five listed domains to Plaintiff and hoping the Courts find serial trafficking allowed.

*See Ex. NS-TM-Traffic.*

## **2. NAMEMEDIA INC**

**a.** NAMEMEDIA INC did not traffic any of Plaintiff’s domains not subject to the Limitations Ruling Order in Docket #97. It is outrageous harassing communication when thieves offer stolen property to the victim and especially a disabled victim.

**b.** NAMEMEDIA INC trafficked in each domain to the Plaintiff repeatedly thereby alerting the Plaintiff to their cybersquatting constantly. These offers are well documented in the record but are allowed no Lanham Act liability since the Plaintiff has not owned these domains since 2003. It is obviously harassing communications to offer either domain during litigation.

c. Plaintiff discussed his distress and disability as well as his history with each domain and hereby states NAMEMEDIA INC was unjustly enriched when they sold <eartheye.com> in 2009 for \$2,300 instead of accepting Plaintiff's offer of <ozarkphotos.net>. This was an outrageous result of schemes to defraud whereby they used Plaintiff's obvious interest in domains that were his previously to inflate bidding without also communicating immanent legal action to the other bidder. They advised Plaintiff another party was interested and he thought this a bluff to provoke a bid and the impact of this is mentioned in Ms Hausam's affidavit.

### **3. Google Inc**

a. Google Inc has never had any "trademark" exposure due to the Limitations Ruling Order in Docket #97 for the actions from 2003. Google Inc is a principle motivator for fraudulent advertising that causes "parked" pages to exist and the Plaintiff has purchased advertising on "parked" pages while using Google Inc AdWords and thereby detrimentally relying on Google Inc to display the ads he bought on search pages and not on sites they had licensed to exclusively sell Google Inc ads. This is an outrageous fraudulent act.

*See Docket #58 Ex #3 labeled Ex. ADWORDS*

b. Google concealed their licensure of <Eartheye.com> and <Sleepspot.com> and therefore the Plaintiff was unable to discover their liability until this action began. There are no applicable limitations ruling for actions that were concealed and undiscovered until this lawsuit began. Google is a serial "cybersquatter" concealing their profiteering by policy. "Sponsored Links" or "Sponsored Results" is often the only hint of the advertisement when they hide their actions. This concealment is further highlighted below where the Plaintiff is unable to identify the profiteer and invites the Court to try. Google has such a deeply ingrained policy of contributory cybersquatting that the Plaintiff found a particularly revealing example warranting a more detailed disclosure as follows to illustrate the direction of contribution as was discussed in the Court Order of Docket #97 ¶(6)(c). Plaintiff appreciates the diligence shown by the Court in this order. The concealment of the licensure tolled limitation to the date of discovery as demonstrated by the concealed licensure discovered in 2009 and causing the first of the "four or five" amendments needed to finally reach three. Google has a pattern of concealed licensure. Plaintiff's trademarked domains were not spelling errors but were the exact domains that were once used in commerce. This is outrageous and this leads into the example of concealed licensure just found besides the <Priceline.com> Google Inc sponsor licensures that are also concealed licensures and briefly discussed below in (ii).



- i. Misspellings of trademarks are common targets for “cybersquatting” and one would assume there was absolutely no chance a 200-billion dollar trademark like Google Inc has now developed at <google.com>, being a target of “cybersquatting”. <Gougul.com> has been used as a “parked”/fraud site since 2004 or right after Google Inc potentially began their concealed licensing of the Plaintiff’s trademarks. The date Google Inc began “concealed cybersquatting” is now an issue for trial. <Gougul.com> is currently licensed to “AdSense for Domains”, although not discovered until this suit began. *See* Ex. gougul.com attached.
- ii. <Gougul.com> illustrates how much Defendant Google values cybersquatting. Instead of using a redirected URL alias like their sponsor <Priceline.com> does for scores of common misspelling of their URLs to prevent cybersquatting by Google Inc. “Adsense for Domains” has chosen to license <Gougul.com> like done at <oriceline.com>, < pricelike.com > and < pipeline.com>. Google Inc is outrageously contributing to the cybersquatting of their advertiser <Priceline.com>. <Gougul.com> reveals that Google Inc values a visit to a “parked” site as much as a visit to <Google.com>. This is on its face outrageous conspiring with the domain name defendants to give cybersquatting value. Monetizing is in the dictionary but is what the Plaintiff calls the verb for giving monetary value to and item with no intrinsic value. It sounds better than “Ponzizing” but is exactly how the “Domain Real Estate” Ponzi schemes exist. *Id*
- iii. This illustrates how badly Google Inc wants to “broadcast” a page of ads and try to use some proprietary software to guess what ads will appeal to the “idiot” who thinks “Google” is spelled “Gougul” or enters <pricelike.com> instead of <priceline.com> after watching a late night television ad. Google Inc would rather “broadcast” ads they can bill for than show their own website as a result of a phonetic misspelling. They are “contributory” cybersquatters of their very own domain. Google Inc contributes or partners with registrants giving fraudulent values to millions of cybersquatted “Ponzi domains”. They split the profits they make on “idiots” who click an ad with the cybersquatters. *Id*

- iv. It is a simple deduction to see that Google Inc would like to “broadcast” ads that might appeal to the same “idiot” typing in <SleepSpot.com> when looking for spots to buy sleeping medication. The direction of the contribution is therefore almost irrelevant. They license “cybersquatting” of their very own trademark and value it the same or more than their own “mark”. Users click ads quicker and type less. *Id*
- v. This “conspiracy” or partnership with ICANN Inc, et al is the Ponzi scheme that gives <priviline.com>, < prixline.com >, <pruceline.com>, and literally scores of other similar domains a value to <Priceline.com> to prevent cybersquatting by Google Inc or another search engine defendant competitor who conceals their rampant licensure. *Id*

4. **ICANN Inc.**

- a. ICANN Inc does not allow registration for as long as desired or require a bona fide product, service, or free speech use for registration. This creates a potential that all of the Plaintiff’s current domains might be subject to the same fate as <sleepspot.com> and <eartheye.com> were in 2003. This is a detrimental reliance on a scheme to defraud. Registration of a domain for commerce should include all similar domains.
- b. ICANN Inc does not require “registrars” to require that registering a previously registered domain requires a claim of licensure to use the domain. Coupled with the short lengths of time domains may be registered, these acts promote cybersquatting and “parked” or ad domains and is done to encourage fraudulent “domain portfolios” and ICANN Inc allows millions of worthless domains to have values licensed to Defendant Google “AdSense for Domains” or others.

## **5. Other Search Engines**

- a. The other Search Engine Defendants have absolutely no trademark exposure the Plaintiff is aware of although they also license “parked” or otherwise fraudulent domains and thereby conspire to create a fraudulent domain scheme that encourages cybersquatting. The Plaintiff is unable to identify which search engine is now cybersquatting <sleepspot.com>. Regarding “Legislative history” comments by Defendant Google recently quoting Sen. Leahy and Sen. Hatch only revealed how innocent search engines appear while “licensing” or “limited partnerships”. Plaintiff again “bandies about” the term licensing and will inquire about how much Google Inc paid Sen. Hatch to attempt to exempt their licensure of domains? Donations to Sen. Hatch will now be revealed as license fees. The statements he made that were highlighted in Docket #105 are not in the statute as passed and the fact that they were mentioned but then not included gives weight to the Plaintiff’s claim that there were enough Senators apposed to Google’s licensure of Sen. Hatch to prevent it.

## **III(C) Copyright Violations or Defamations**

### **1. Network Solutions LLC**

- a. Due to the Ruling Order Docket #97 regarding Limitations, Network Solutions LLC has no exposure for violating the Plaintiff’s copyrights.

### **2. NAMEMEDIA INC**

- a. Due to the Ruling Order Docket #97 regarding Limitations NAMEMEDIA INC has no exposure for violating the Plaintiff’s copyrights to <eartheye.com> besides repeatedly offering to sell a domain reflected as copyright the Plaintiff in the Internet Archive Inc “WayBack Machine”. The actions to harass the Plaintiff were done although aware of the Plaintiff’s disability. These were harassing communications whereby the thief from 2003 waits till the day of the three year passage to avoid Lanham charges or outrage charges due to limitations but then notifies the prior owner who is sure to still be interested in the domain since he owned <eartheye.com> for six years before they took it.

b. NAMEMEDIA INC has *exquisitely current exposure* for violating the Plaintiff's copyrights to the visual art for <sleepspot.com> by preventing it from being attributed to the Plaintiff by taking actions after July 24<sup>th</sup> 2009 that caused modification and reporting only as excluded by the owner. The owner of the copyright to the visual artwork shown did not request that it be excluded. This defames the Plaintiff and is a modification of publicly displayed and properly attributed artwork that is not allowed pursuant to portions US Title 17 § 106A that pertain to destruction of art and is not subject to Title 17 § 107 allowances for "fair-use". It is also outrageous abuse of a mentally challenged person. Plaintiff had rights to attribution that originated when the art was created that will not expire until seventy years after his death. Plaintiff will be able to reassemble and operate his reservation software but would need to find another domain to start assisting with selling "Spots to Sleep" until this Court restores <sleepspot.com> to the original owner.

c. When NAMEMEDIA INC purchased <Photo.net> they fraudulently modified the "terms of use" to require perpetually licensing all visual art submitted. Plaintiff felt he was not allowed to delete the nude photos after discovering that NAMEMEDIA INC allows photos that are not allowed being broadcast by the FCC to be shown to minors. This attribution is illegal in the United States and further abhorrent to the Plaintiff as well as prohibited by US Title 17 § 106A and not subject to allowances for "fair-use" or registration.

d. The Plaintiff notified the DMCA agent Hannah Thiem and another employee "David" at a NamePro forum that images were being used in violation of copyright in 2009. NAMEMEDIA INC and the two notified "employees" refused to delete the Plaintiff's artwork after viewing the complaint and "demand" to delete. This inaction was outrageous and done in 2009 and is not subject to Ruling in Order in Docket #97 regarding Limitations. This refusal to delete the photographs when first notified also does not limit punitive damages to \$100,000 per displayed image pursuant the "Digital Millennium Copyright Act". They were deleted the second time the Plaintiff notified the "new" DMCA agent, Robb Rosell, almost enough be considered harassing. *See* Docket #69 Ex# 8, #15. This flies in the face of the entire purpose for having DMCA Agents. Besides being on their face copyright violations, this subjected the Plaintiff to being attributed to photos not allowed as broadcast by the FCC displayed to minors and subjected him to outrageous distress as seen repeatedly in the record. Rights of a parent to exclude pornography exposure were thereby violated resulting in extreme loss of the regular pleasure of parenting .  
*See* Docket #25 Ex. 6, 9, 11, 12, 16, 18, Docket #53 Ex. 1, 4. Docket #58 Ex. 25

### 3. Google Inc

a. NAMEMEDIA INC purchased <Photo.net> and modified the terms of use to perpetually license all visual art submitted as likely requested by Google Inc. Plaintiff was not allowed to delete the nude photos after discovering that NAMEMEDIA INC and Google Inc allowed them to be shown to minors in a Google Inc site search, This manner of nude art attribution is against the laws in the United States according to the Child Online Pornography Act “COPA” and until Supreme Court failed to review District Appellate Court on January 21<sup>st</sup> 2009 it would be illegal. This display of nudity online to children of photos not allowed being broadcast by the FCC is abhorrent to the Plaintiff as well as prohibited by US Title 17 § 106A and is not subject to Title 17 § 107 allowances for “fair use” because it is a modified manner of publicly displayed art. The plaintiff notified Google by filing a Federal Lawsuit and Defendant Google has not ceased attributing nude photos not allowed being broadcast by the FCC to the Plaintiff. The nude photos were “harvested” from across the Internet besides from Photo.net so the Google Inc image search for “Curtis Neeley” even with “strict safe” search enabled attributes nude photos not allowed being broadcast by the FCC. *See Docket #69 Ex. #22 labeled G-SS-2010 or search live now as was seen while speaking to the Ethics Committee at the Southern Baptist Conference in March 2010.*

b. Google Inc image searches for “Curtis Neeley +nude” on a normal search or a search not checking for the submitter’s age, results in a page full of fine art nudes attributed to the Plaintiff even for photos not allowed being broadcast by the FCC. The Plaintiff did not create all the photos not allowed being broadcast by the FCC that are returned. Defendant Google Inc thereby violates exclusive rights per US Title 17 § 106A. The Defendant Google Inc CEO Eric Schmidt said in an interview with CNBC, “[i]f you have something you don't want anyone to know, maybe you shouldn't be doing it”, since this case began. Plaintiff does nude art images that are photos not allowed being broadcast by the FCC. Despite what Mr Schmidt feels entitled to attribute to the Plaintiff before unsuspecting children and Muslims, Plaintiff believes it violation of “COPA” and potential violation of Title 18 § 1465 as well as certainly defamation. Plaintiff has contacted the United States Attorney and asked they enter a “Friend of the Court” brief to support the Plaintiff’s claim that no personal name should be allowed to cause such search results or photos not allowed being broadcast by the FCC. It is the same issue that several laws tried to resolve that were not allowed enforcement by Courts.

c. Plaintiff was fraudulently alleged as having given Photo.net permission to display the photos not allowed being broadcast by the FCC to minors in a Google Inc site search and this permission was never given as well as being abhorrent and potentially causing an outrageous libelous impact on the Plaintiff’s daughter. Defendant Google Inc encouraged this fraud and profited. *See Docket #25 Ex. 6, 9, 11, 12, 16, and 18. See Docket #53 Ex. #1 Labeled CHILD*

d. The attribution above violated US title 17 § 106A as well as being an outrageous defamation to the honor of the Plaintiff not subject to the rulings in Order Docket #97 regarding Limitations on their face because of happening after the filing of this very action. These defamations are outrageous and copyrights are therefore completely irrelevant whether registered or unregistered.

e. Google Inc as recently as Document 107 expressed a complete disrespect for copyrights to photographs by saying, “does not offer any basis to conclude that his online photographs qualify as original works of art under Section 106A: *they plainly do not.*” Italics added. Surely Google Inc should realize that photographs of the human figure exclusively as an object of art and lit very professionally are original art. Perhaps Google Inc feels photographs, like those done by Edward Weston that look amateur compared to the Plaintiff’s online figure nude art, are also plainly not original? Dallas Afterimage Gallery owner, Ben Breard, says they regularly sell for well over \$10,000 and this makes his latest offering of \$6,000 a superb buy. Google must not consider these photos original art either since obviously only a “snapshot” compared to any of the Plaintiff’s original art photographs? The print shown is already sold, as the photography collecting public is “plainly” not as confused about photography as original art as Google Inc demonstrates being. The public values such photography. The public recognizes good art even when not up to the quality and originality of the Plaintiff’s aesthetic standard. *See Ex. Afterimage.* There you see a nude photo by Edward Weston that is “plainly” inferior to every online photograph that the Plaintiff ever shows. Call a gallery owner with 38 years experience selling photography and he will probably agree. He might not but you will have to ask. Juries best give these issues preponderance at trial. The email was severely redacted to respect copyright including the contact information as this was only announced due to special circumstances and is not representative of the Afterimage Gallery’s normal offerings.

#### 4. Microsoft Corporation

a. Attribution by <Bing.com> as described above violated US Title 17 § 106A as well as being an outrageous defamation to the honor of the Plaintiff not subject to the rulings in Order Docket #97 regarding Limitations on their face because of realization of happening after the filing of this action. Try searching for “Terrie Weegul” on <Bing.com> image search engine and see pornography easily prohibited or against Title 18 § 1465 just asking to be found. Each Defendant Search Engine besides <AOL.com> will broadcast advice about spelling Teri’s name correctly but none will require your age! Outrageous! *See Docket #73 Ex. 4 Titled Ex. BING*

5. Yahoo Inc.

a. Attribution by <Yahoo.com> as described above violated US title 17 § 106A as well as being an outrageous defamation to the honor of the Plaintiff not subject to the rulings in Order Docket #97 regarding Limitations on their face because of realization of happening after the filing of this action. Until January 21<sup>st</sup> 2009 it was against “COPA” and is to this date although the Third Circuit, July 22, 2008, No. 07-2539 chose to allow an injunction to prevent enforcement. Additionally, search <Yahoo.com> for “tery wiegal”. For this non-name entry, Defendant Yahoo broadcast explicitly obscene porn. It is not entered as an exhibit because that would be nearly criminal. *See* Docket #73 Ex. 2 Titled Ex. YAHOO

6. IAC

a. Attribution by <ask.com> as described above violated US Title 17 § 106A as well as being an outrageous defamation to the honor of the Plaintiff not subject to the rulings in Order Docket #97 regarding Limitations on their face because of realizing them happening after the filing of this action. Until January 21<sup>st</sup> 2009 it was against “COPA” and is to this date although the Third Circuit, July 22, 2008, No. 07-2539 chose to allow an injunction to prevent enforcement. *See* Attached Ex. Ask

7. AOL LLC

a. Attribution by <AOL.com> as described above violated US Title 17 § 106A as well as being an outrageous defamation to the honor of the Plaintiff not subject to the rulings in Order Docket #97 regarding Limitations on their face because of realizing them happening after the filing of this action. Until January 21<sup>st</sup> 2009 it was against “COPA” and is to this date although the Third Circuit, July 22, 2008, No. 07-2539 chose to allow an injunction to prevent enforcement. *See* Docket #73 Ex. 3 Titled Ex. AOL

8. Lycos Inc

a. Lycos Inc does not attribute nudes to the name of the Plaintiff as a result of an image search for “Curtis Neeley” or even for “Curtis Neeley +nude” at <lycos.com>. They are therefore not an added defendant in the action and provides proof that the other search engine Defendants are choosing to traffic nudes and pornographic images to children. It is courageous that a search engine that has been around as long as Google Inc has not chosen to profit from traffic in pornography like each other Search Engine Defendant chooses to traffic in pornography to children including the children of the Plaintiff. *See* submitted Ex. LYCOS and see the first ten pages of images returned for Plaintiff’s name. You see several Hawaiian Tropics Bikini Contest photos but no nudes. The results are arguably suitable for an “R” movie for correctly spelled “teri weigel” and no suggested broadcast for “teri weegul” like every other Search Engine Defendant besides <AOL.com>.

## **Conclusion of Copyright Violation and Defamation Section**

As described carefully above and seen in the record now, the new search engine Defendant's actions are reckless but did not intentionally distress the Plaintiff. Defendants NAMEMEDIA and Google Inc knew Plaintiff was distressed and were notified but ignored this even after the Plaintiff had filed this suit. These attributions are a violation of the exclusive rights recognized in US Title 17 § 106A as well as being defamation by AR Statute 16-63-207 in the potential that the Court wants to see a copyright purchase or "license to sue" before a suit regarding US Title 17 § 106A like mentioned several times in Order Docket #97. These defamations are outrageous and copyright registrations are therefore completely irrelevant. Copyright attribution rights do not need to be registered and violation of these rights are always defamations and most especially when forcing the display of nude photos to children who are minors of the artist who created the nude artwork. This trust of a minor child not to view online porn is a decision only a parent should make.

### **IV(D) OTHER GENERALLY OUTRAGEOUS ACTS**

1. Plaintiff is a severely brain damaged parent who is also severely physically disabled. The relationship he has with his minor children has been outrageously impacted negatively as seen in the record and the tortuous actions of all Defendants besides Network Solutions LLC conspire to interfere with visitation with his children. All besides NAMEMEDIA INC . <namemedias.com> points to <namemedia.com> currently since they deleted the photos Plaintiff had no reason to maintain <namemedias.com> to attempt to get them to delete the photos. <namemedias.com> was a First amendment free speech protest domain that no longer warranted existence due to accomplishing its goal and now re-directs to <namemedia.com>. Plaintiff has attempted to ensure his figure nude art is not displayed to his children online. The Search Engine Defendants have profited outrageously from trafficking in pornography. It is laudable that <lycos.com> does not traffic in pornography by default and does not display pornography at all to the Plaintiff's understanding. Every other search engine does. Plaintiff does not understand how the Courts treat the Internet as a "new medium" that has existed for the entire lives of all minors currently. How long will it continue to be treated as "new" enough to bypass broadcast regulations? It doesn't overseas already. All the "proprietary software" of the Search Engine Defendants attempt to broadcast the ads they think best appeal.

How else does one explain <sleepspot.com> attempting to sell sleep related products. The visitor made no request for cannabis but was "broadcast" and ad about it. The Court once held that data encountered in the "new medium" is only encountered because it was requested. This can be seen to be incorrect on its face now. The searches for "tery weegul" above were in no way a request to see pornography. Microsoft Corp. used proprietary software to broadcast links to porn and labeled the results with, "[r]esults are included for teri weigel. Show just the results for tery weegul", and "broadcast" or coax the user to click a correct spelling of her name to be "broadcast" porn. Microsoft Corporation or <bing.com> at least makes you point at the correct suggested spelling of the name to see obscene pornography? How cautious? This is not nearly cautious to the Plaintiff. How outrageous to cling so tightly behind the apron your ACLU, Sen. Hatch, and Sen. Leahy license fees put up!



2. Plaintiff is severely brain damaged and forgot much of his past but remembered a performer's name close enough to locate pornography being "broadcast" by Microsoft Corporation with no age verification for Ms Weigel. Ms Weigel certainly gets no profit from Microsoft Corporation for her copyrighted work. Ms Weigel was the Plaintiff's favorite porn star at one time. Few children today know that she is the first and possibly the only model that posed for Playboy as a Centerfold and then also did explicit porn. There were no age checks and it only requires two clicks to see Ms Weigel have sex with a "minority" fan and receive his semen on her face. That video would not be allowed by the FCC on broadcast on television or even shown in a rated "R" movie and yet Microsoft Corporation "broadcasts" it to children. The Plaintiff only made two clicks. It offends the Plaintiff that he saw the pornography and he realizes it sinful. He therefore, will not attempt to look at the other Search Engine Defendants to compare but is positive that it exists and is the reason the "COPA" was written. This Legislation is not enforced by an injunction of the Courts. Less than twenty people invalidated the voting of many. Did Ms Weigel authorize her copyrighted visual performance to be used as modified? Does she agree for minors to watch her have sex with a fan and catch his semen on her face? She usually charges for this on her adult website <teri-weigel.org >. There are a few obscene images on her pages that are free to minors but nothing close to the <bing.com> video search. Ms Weigel doesn't approve of her performances being broadcast free to minors by Defendant Microsoft Corp. Refusing to allow your children to view nudes and pornography while minors is a right all parent has by default and does not requiring a special Court Ruling or Legislation to obtain. Filters can be purchased that provide this type security but should not be needed to stem the trafficking of porn. No porn actors real name or "stage" name should condemn them to displaying nudes or material not allowed broadcast by the FCC without a valid check for legal age. The Plaintiff's name should not either. It does due to search engine privacy violations.

3. See <bing.com/videos/search?q=teriweigel > and observe that depending on where your mouse is the pornography begins to be broadcast without even a click or request. This example makes the Third District Court Rulings completely absurd. The Plaintiff in this case saw pornography being broadcast without selecting a thing and finds it outrageous that this is allowed thanks to the Court. Microsoft Corporation is probably almost the only profiteer of this porn trafficking page. How much did Microsoft Corporation pay to license the ACLU? Plaintiff now considers it relevant to this case to know how much their license fees are to the ACLU and here again "bandies about" the word license. See "license." Online Etymology Dictionary Douglas Harper, Historian. 15 Mar 2010 <Dictionary.com> 2. Deviation from normal rules, practices, or methods in order to achieve a certain end or effect. Google is obviously more than an "authorized licensee" of millions of "parked" sites and Plaintiff will argue before the jury that Google Inc is "limited partner" of every site they use to run their ads exclusively where there is no other product, service, or free speech use. Domains existing exclusively to split profits with Google Inc or a Search Engine Competitor and makes them much more significant than an "authorized licensee" and believes the Jury will find them to be owners who allow the registrant of the Domain to help run the partnership with slightly controlling interest whereby they could choose to partner with another profiteer if they were outperformed.

## Prayer/Conclusion

1. Whereas supported as outlined above and whereas Defendant Google already entered a frivolous Motion Docket # 63 trying to see a different ruling or new interpretation of existing law and were initially successful with Docket #97, Plaintiff prays that absolutely no search engine results that do not require age verification be allowed to return nude images not allowed on television and especially if the Plaintiff's name is input. Not even for the search "Curtis Neeley +nude". Each of the search engine Defendants should face this same injunction although no Defendant besides NAMEMEDIA INC, Google Inc, and Network Solutions LLC should face punitive damages for intentionally outrageous tortuous acts since this action started.

2. Furthermore whereas Defendant Google Inc believes a Class Action Settlement in New York is a valid means for revising copyright legislation, Plaintiff prays the punitive damages for Google Inc be punitive instead of trivial license fees like Google Inc is using to bypass legislative review in New York to set up Google Inc Books. The insignificant 145-million settlement offer there is a license fee for extinguishing existing copyright law. Plaintiff is an overlooked, outraged artist not part of the class in New York because his original photographic art is published in a book that was already seen at <Books.Google.com> and has a registered copyright from 2006 titled "The Renascent| Vol. 3 Photography". The book "The Renascent| Vol. 3 Photography" has a copyright registration and states in the cover like many of the millions of other books already stolen digitally by Google Inc as follows:

**"No part of this book may be reproduced without  
permission from the publisher and artists."**

3. Plaintiff believes the 145-million dollar offer bought a lot of quiet publishers and helped Google Inc attempt to create a copyright alternative. Google Inc already announces it done and they already claim it groundbreaking.. See < books.google.com/googlebooks/agreement> On the Settlement Administration site < books.google.com/booksrightsholders/r/new\_claimant\_info > Google Inc leaves out artist rights holders and thereby ignores every artist in every book. Plaintiff in this case will use 145-million since Plaintiff prays one billion is required to be punitive to Google Inc and establish a non-profit search engine that never lists nude photos without age checks and never list art attributed to anyone in an image search and tracks absolutely nothing about users who are using it except searches for illegal items and never sells ads the way Google Inc does in this case to domains exclusively licensed for their own ads or that they partner in.

Plaintiff prays for a child friendlier Google Inc *alternative* that will use its profits to rescue Social Security, reduce taxes, and subsidize the cost of Internet services to those with lower incomes. Google Inc prefers forecasts of “increasingly cloudiness” where computers become simply a mouse and a screen with everything else accessed through the Internet?

4. The fact that there is not already a National Search Engine is outrageous. Plaintiff prays this settlement creates a non-profit quasi-governmental Google Inc alternative to massively reduce taxes while simultaneously respecting privacy and copyright attribution. Plaintiff prays that Network Solutions LLC and NAMEMEDIA INC be ordered to not allow advertisement of domain expiration dates for domains they do not own and thereby violating the prior owner’s exclusive rights and instantly end the Ponzi scheme of domain “real estate”. Plaintiff prays ICANN Inc should be ordered to require registrars include all similar domains with every domain purchased to pursue commerce since there are no real costs involved.

5. Plaintiff prays ICANN Inc be ordered to require registrars to allow for a challenge process for domains not used for a product, service or free speech use. This would end all cybersquatting instantly by allowing juries to decide if spam domains otherwise called “parked” domains should be transferred to a user for bona fide product, service, or free speech use instead of an exclusively ad serving domain and thereby being anticipatory or preemptive cybersquatting for all domains that could be used for bona fide products, services, or an expression of free speech.

6. Plaintiff prays the policy where Google Inc AdWords sells ads to their own advertisers for sites it license exclusively (or with their ‘parked’ site business partners) be found an act of fraud. This fraudulent policy should subject Google Inc to punitive damages. Google AdWords does not exclude Google Inc “parked” sites by default and sold advertisement to the Plaintiff as a result of this deception. This detrimental reliance on Google Inc for advertising on bona fide search pages is outrageous.

7. Plaintiff prays NAMEMEDIA INC be ordered by Jury to transfer the copyright violating domain <photo.net> to Plaintiff.

8. Plaintiff prays the amount required to be punitive be so much it requires control by a democratic means. The amount required to be punitive is too much for one person. Eric Schmidt has a net worth over two billion and could pay the 145 million fine for stealing millions of books and attempting to dispense copyrights ten times while retaining more than 145 million personally.

9. Plaintiff prays that jury members find half of Eric Schmidt's net-worth only almost a punitive award that still leaves him a billionaire. A jury will be asked to elaborate and improve because the Plaintiff is limited severely in his communication abilities by a traumatic brain injury.

10. **Plaintiff pleas that regardless of any fiscal remedies; Search Engine Defendants be ordered never to allow image searches to return photos not allowed to be broadcast by the FCC for the name of the Plaintiff and his domains being ordered returned whatever else this involves since one was already sold and created a detrimental reliance for EDATS Inc. They purchased a domain that was about to be involved in litigation with almost a decade of history with nude art.**

11. No personal name search returning photos or videos that are not allowed broadcast by the FCC would be preferred but most definitely none ever resulting in a search of the Plaintiff's name without valid age checks even if the other terms entered appear to be desiring to see nudity or pornography and thereby causing defamation.

I, Curtis J Neeley Jr, MFA, certify that the preceding Third Amended Replacement Complaint contains every allegation allowed due to the recent Limitations Ruling in Docket #97 and is a complaint that dismisses every issue that might have been perceived as raised in the initial complaint or the “second or fifth” subsequent amendments as Defendant Google Inc Counsel alleged in Docket #109. If an issue is not in this replacement complaint, the issue is hereby dismissed. Pro se Plaintiff was not aware that a request for leave to amend needed to be a separate motion but hereby does a Motion for Leave to “Amend and Replace”. Amended complaints served electronically will save the costs of the Court as well as each party and not waste the vast amount of Court time reviewing this Case thus far and is preferred versus starting new actions. The Plaintiff is still a pauper and will otherwise file again and believes jurisprudence will permit this plea to “Amend and Replace”. Plaintiff apologizes to the court for doing such a poor job thus far. Plaintiff takes note of the notice graciously extended thus far. Plaintiff will attach this amended complaint that will be filed to show proper nature as if a represented party or as closely as he is able. This paragraph will not be included when filed. Plaintiff was granted *in forma pauperi* status and taxpayers provided costs thus far so the *pro se* pauper litigant may proceed and are now a lien on the eventual settlement. Plaintiff assumes every allegation will be denied and every affirmative defense will be pled and asks only that a jury eventually preponderate these allegations since the initial actions were not allowed due to limitations.

Plaintiff will accept the gracious jurisprudence of the Judge and never ask a jury to consider any ruling already made. Plaintiff has already asked that the Limitation issue be reviewed but this issue is now largely moot. Plaintiff is still a confused pro se litigant but drops all claims not mentioned in this replacement complaint. This paragraph will be shortened to only be a certification required for *in forma pauperi* status within seven days of a grant as well as determining the registered agents for postal service.

Respectfully Submitted

Curtis J Neeley Jr. MFA