

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

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CURTIS J. NEELEY, JR.

Plaintiff

VS

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

Defendants

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CASE NO. 09-CV-5151

DECEMBER 9, 2010

MOTION HEARING  
BEFORE THE HONORABLE JIMM LARRY HENDREN  
U. S. DISTRICT JUDGE  
FAYETTEVILLE, ARKANSAS

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APPEARANCES

MR. CURTIS J. NEELEY, JR.  
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PRO SE PLAINTIFF

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FOR DEFENDANT, GOOGLE, INC.

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FOR DEFENDANT NAMEMEDIA, INC.

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*(Proceedings recorded by Stenomask; transcript produced from dictation)*

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THE COURT: The Court calls up for consideration a case that's styled Curtis J. Neeley, Jr., Plaintiff, versus NameMedia, Inc., Network Solutions, and Network Solutions, Inc. and Google, Inc.

The matter comes on today for the Court to address what it perceives to be a motion and a request by the pro se plaintiff for the Court to recuse.

Is the plaintiff present and ready to proceed?

MR. NEELEY: I am present, Your Honor. I am scared to death, but I am ready to proceed.

THE COURT: Well, Mr. Neeley, please don't be scared to death. You're too young for that, I think, so just relax and we'll have the hearing and see if we can address the matter that I've called up here.

Are the defendants present and ready to proceed?

MS. DOAN: We are, Your Honor.

THE COURT: All right. I understand we have Ms. Jennifer Doan. You'll be representing Google, and along with Mr. Mike Page, and Mr. Brooks White for NameMedia?

MR. WHITE: Yes, Your Honor.

THE COURT: All right, thank you. Welcome. You may be seated.

The matter comes on for hearing this afternoon

1 pursuant to the Court's sua sponte order. Mr. Neeley, in one  
2 of your pleadings -- and this is Document Number 208 I think,  
3 filed November 12th of 2010. The style of that pleading I  
4 think is Final Brief Supporting Motion for Docket 198 Joining  
5 Claims and Parties. But in the body of that document,  
6 specifically on its last -- well, on Page 6 of 7, you make the  
7 statement: "Whereas, therefore herein the pro se plaintiff  
8 prays that the Honorable Jimm Larry Hendren recuse himself from  
9 further participation in the case."

10 Now, that's not a formal motion for recusal, but when  
11 that is mentioned, I think the Court has an obligation to  
12 inquire into it, so hence the reason for this hearing, because  
13 if the Court is obliged to recuse, it should do so straightaway  
14 and have another judge assigned so that this case can proceed  
15 on to final resolution.

16 So I'll turn to you, Mr. Neeley, and ask if you wish  
17 to present any evidence or provide any argument supporting your  
18 notion that the Court should recuse. Do you have any evidence  
19 you wish to present or any argument you wish to make?

20 MR. NEELEY: Yes, Your Honor.

21 THE COURT: All right. Do so, please.

22 MR. NEELEY: I have one exhibit here which is  
23 Arkansas Code 16-123-102, Definitions.

24 THE COURT: Is that a statute to which you refer,  
25 sir?

1 MR. NEELEY: Yes, sir, it is.

2 THE COURT: All right. Kitty, would you go over and  
3 take it from the gentleman?

4 And counsel for the defendants, are you aware of this  
5 statute to which Mr. Neeley refers?

6 MR. WHITE: No, Your Honor.

7 MS. DOAN: We're not, Your Honor. We're looking at  
8 it.

9 THE COURT: While they're looking at that, Mr.  
10 Neeley, we don't introduce normally in court copies of  
11 statutes. That's a matter of law that the Court can and does  
12 notice. It isn't a matter to be proven by submitting it in  
13 evidence. I'll permit it this time. I presume you wish to  
14 talk about the contents of that statute, and so the counsel are  
15 now familiar with it. What's the cite again, please?

16 MR. NEELEY: Your Honor --

17 THE COURT: Let me see it, please. All right. It is  
18 16 -- Ark. Stat. Ann., Section 16-123-102?

19 MR. NEELEY: Yes, sir.

20 THE COURT: All right. Do you need this back, Mr.  
21 Neeley?

22 MR. NEELEY: No, sir.

23 THE COURT: All right, sir. Then the Court notes  
24 that you are referring to that statute. I presume you wish to  
25 make comments about it, so go ahead.

1 MR. NEELEY: In the original, I do not understand the  
2 rationale for having denied 97, I guess back in -- with 125.  
3 Basically, every use of Dennis factors I have not seen the  
4 listing of why anything I had asked to be -- like the -- the  
5 issues that I see in evidence, I do not think are in this case.  
6 I have attempted to add them several times, and I'm not very  
7 good at adding them, but the fact that I've attempted has been  
8 denied. And not because they're not there; just because I've  
9 -- I don't really guess I understand why. And --

10 THE COURT: All right, sir.

11 MR. NEELEY: Oh, I'm sorry.

12 THE COURT: Go ahead.

13 MR. NEELEY: One of the issues I had was that the  
14 definition of disability in Arkansas statute says: "A physical  
15 or mental impairment that substantially limits a major life  
16 function," and this is very much like what was found in -- by  
17 the Supreme Court. And when Arkansas revised this statute in  
18 1999, as the Court noted, and removed the third disability of  
19 being a -- imprisoned outside of Arkansas, they also removed  
20 the word "dimwit" and "idiot" because it was not -- no longer  
21 felt to be politically correct. And they did -- they did not  
22 -- the definition was in the statute already.

23 Within the statute it says: "A disability that  
24 impacts a major life function." And they felt by that -- I  
25 believe that they felt that that included any -- any number of

1 disabilities, and it would have complied with what the Supreme  
2 Court had found, that it was a life function that was impugned,  
3 which I have a couple of those.

4           And I believe that when the Judge -- I'm sorry. Your  
5 Honor, I'm sorry, I don't know how -- when the Court ruled that  
6 specifically a minor who was in prison and insane out of the  
7 state of Arkansas was what was removed, I do not believe that  
8 is logical. I do not believe it is logical in any way to think  
9 that Arkansas, although it is known to be a backwards area,  
10 Arkansas does not regularly imprison minors who are -- minors  
11 who are insane. And that was a logical defect I felt that any  
12 juror or any person would see, that, gosh, it's not because  
13 they took out that. It's because they took out the two  
14 offensive terms. And that was my concern about logical life  
15 disabilities.

16           THE COURT: All right. And those are your reasons  
17 for suggesting that -- or asking the Court to recuse. Anything  
18 else?

19           MR. NEELEY: I don't suppose there are, other than I  
20 do not understand how Dennis factors can be used --

21           THE COURT: Okay. Well, I think I understand, Mr.  
22 Neeley, and I think I understood this coming in, that you  
23 disagree with the Court's ruling. You feel it's wrong and  
24 illogical. Is that correct?

25           MR. NEELEY: That is correct.

1 THE COURT: All right. Anything other than that?

2 MR. NEELEY: I feel that Your Honor has demonstrated,  
3 in 1990- -- or, excuse me, 2003, an extreme judicial ability to  
4 determine that a Harry Potter book was disparaged by being put  
5 on a shelf by itself and requiring parental permission to read,  
6 and that this setting off aside in the library was actually  
7 discriminating against the free speech --

8 THE COURT: Would it surprise you to know, Mr.  
9 Neeley, that when I made that ruling, there were many people  
10 who disagreed with it? Not everybody thought it was a  
11 brilliant ruling, as you apparently think it was.

12 MR. NEELEY: Well, that may be --

13 THE COURT: Which is very usual, Mr. Neeley. I've  
14 been on the bench for about 18 and a half years now, and I  
15 notice that many of my rulings please some, don't please  
16 others. It's about 50/50.

17 MR. NEELEY: That --

18 THE COURT: All right. Anything else, sir?

19 MR. NEELEY: I believe that that ruling is almost  
20 exactly the opposite of saying that allowing my nude  
21 photographs to be shown in the library as a result of a search  
22 of my name is not disparaging to me, which it is, and that was  
23 what I thought was odd, that you saw in 2003, and then did not  
24 see today, that my daughter can go to the library in the safe  
25 search and type in her father's name, which is not terribly

1 unexpected to do, and see naked pictures.

2 THE COURT: Okay. So you disagree -- I think that's  
3 the same thing. You disagree with the ruling that the Court  
4 has made in this case, right?

5 MR. NEELEY: I -- I am -- I suppose I do, yes.

6 THE COURT: Well, I'm trying to understand, Mr.  
7 Neeley. That's why I'm having this hearing. If you say you  
8 believe the Court should recuse, I need to have on the record  
9 and have an explanation as to why. I think what I've heard now  
10 is that you think the Court's rulings in this case are  
11 illogical and you don't understand them and you disagree with  
12 them. Is that right?

13 MR. NEELEY: That is correct.

14 THE COURT: Anything other than that that you believe  
15 is a reason why the Court should recuse?

16 MR. NEELEY: I don't suppose I -- I am so confused,  
17 I have no idea. I thought that acting -- ruling in a way that  
18 was illogical was not --

19 THE COURT: Well, we've mentioned that. I understand  
20 you feel that way. I'm asking is there anything in addition to  
21 that that you believe would require this Court to recuse?

22 MR. NEELEY: I do not believe so. I have no idea.  
23 I did not mean exactly -- I have no idea why I did. I'm  
24 confused altogether, and I felt that it was wrong, that it was  
25 illogical, and I did not know the judge, did not know yourself



1 or anything to do with the courts, and I felt that if it -- if  
2 it was illogical in one case, it would be illogical in another  
3 case.

4 THE COURT: Okay. Well, I just want to be sure I  
5 give you a chance to fully inform me as to what the basis is.  
6 Are you satisfied that you have?

7 MR. NEELEY: I am satisfied that I have said what I  
8 thought, although I think -- I don't think recusing is what I  
9 would prefer. I believe I used the language incorrectly.

10 THE COURT: Oh, now I'm confused.

11 MR. NEELEY: Oh, dear.

12 THE COURT: Are you in fact suggesting that I should  
13 recuse, sir, or not?

14 MR. NEELEY: I have no idea currently. I believe  
15 that I am unaware of whether or not logical -- logic will be  
16 followed or not followed.

17 THE COURT: All right. Anything else, Mr. Neeley?

18 MR. NEELEY: I do not believe I have anything  
19 specific in that. However, I feel that there are many issues  
20 that were illogical, and the fact that I am unable to  
21 communicate effectively has impacted that all the way through.

22 I believe that there are things that Google,  
23 Incorporated and NameMedia, Incorporated have done that are  
24 wrong and that are illegal and I have -- I thought that I  
25 brought to the court, although I must not have. I thought I

1 did, and I think I could easily now; however, I do not think it  
2 is relevant to my staying -- asking your court to recuse.

3 I guess what I said was, in effect, if you can't see  
4 this, then maybe we should get another judge, and it just is a  
5 old -- as an improper -- I should not have said such a thing.  
6 I say things when I believe them, and I often do not run them  
7 past the part of the brain that says you shouldn't say that.  
8 And sometimes I suppose I type them.

9 THE COURT: All right. Mr. Neeley, let me give a  
10 chance to your opponents for comments. Ms. Doan, do you have  
11 comments or responses?

12 MS. DOAN: Your Honor, I think that Mr. Pace is going  
13 to make the comments for both if that's okay.

14 THE COURT: Very well.

15 MR. PACE: Very briefly, Your Honor. We oppose the  
16 motion. We think that there is no basis for the Court to  
17 recuse. We think the Court has been, if anything, overly fair  
18 to Mr. Neeley and has shown no bias whatsoever. So we would  
19 oppose the motion and submit on that basis.

20 THE COURT: All right, sir. Thank you.

21 Mr. White, any comments?

22 MR. WHITE: Just briefly, Your Honor. As Your Honor  
23 knows, you can't request a new judge because you don't like the  
24 rulings the judge is making. Mr. Neeley has not presented  
25 anything in the way of bias that Your Honor has, and for that

1 reason, we would also oppose the motion.

2 THE COURT: All right. Thank you, sir.

3 All right, Mr. Neeley, anything further you wish to  
4 say having heard their comments?

5 MR. NEELEY: Yes, Your Honor. I did not mean to ask  
6 or make a motion for the judge to recuse. I said it, and I was  
7 more along the lines of I believe Mr. Brooks White said, or  
8 maybe it was -- I can't remember. One of the opponents said I  
9 did not like the ruling, did not think it was logical, and  
10 wanted it changed. And I should not have, and if I would -- I  
11 would like to say I would like to not have a recusal, that that  
12 was just a improper emotional response that I should not have  
13 typed.

14 THE COURT: All right, sir. Well, Mr. Neeley, I  
15 appreciate the comments that you've made here in open court.  
16 I have a few observations to make. I think the central concern  
17 that gave rise to your remarks about the need to recuse and  
18 this hearing was an unhappiness with the Court's view of law  
19 which applies. I think you were concerned about precedent  
20 being somewhat old. But I will remind you, sir, the bedrock  
21 law of this nation is old, the United States constitution. It  
22 doesn't make it any less effective or any less viable or any  
23 less appropriate than it was when it was enacted well over 200  
24 years ago.

25 But given that notion, I will tell you a personal

1 anecdote. Not too long ago, I had occasion to be in the  
2 audience when Supreme Court Justice Clarence Thomas was being  
3 interviewed, and we've become friends over the years, and he  
4 was asked the question by a reporter: "How do you feel,  
5 Justice Thomas, when the media accuses you of being Antonin  
6 Scalia's lapdog, and that you don't think for yourself, and  
7 you just follow Justice Scalia's turn?" And he said words to  
8 this effect: "I did not take an oath to please the media. I  
9 did not really take an oath to please the people. I took an  
10 oath to uphold the constitution of the United States of  
11 America, and that's what I try to do on a daily basis."

12 Then for some inexplicable reason, out of a company  
13 of about 50 federal judges, he pointed straight to me, and he  
14 called me by name and said: "You know, Jimm, that if everybody  
15 thinks you're doing a great job and you're getting everything  
16 right, you ought to worry about that. If everybody thinks  
17 you're completely stupid and getting everything wrong, you  
18 ought to worry about that." He said, "As long as about 50  
19 percent of the people think you're doing good and the other 50  
20 percent think you're not, you're probably doing okay."

21 Since he had called me out, I felt the privilege to  
22 respond, and I said something like this: "Well, Mr. Justice,  
23 by that token, I think I'm probably ahead of the game. About  
24 60 percent of the people think I'm a wild-eyed idiot that  
25 should have never been on the federal bench in the first place,

1 and maybe 40 percent think, well, maybe with a little bit more  
2 seasoning, he might kind of get a few things right."

3           So it is not uncommon, sir, for litigants to disagree  
4 with rulings that judges make. It is commonplace. And I'm  
5 sure these attorneys that are seated at this table can tell you  
6 that. That is among the reasons why we have appellate courts,  
7 so that if a judge errs, and we do because we are human, there  
8 is a place to appeal that, to a higher court, to right that  
9 wrong. But that is the way that it is supposed to operate, and  
10 must.

11           If I care about who wins an argument, then I would  
12 recuse myself because I could not be fair and impartial. My  
13 job is to call it like I see it, without regard to who's on one  
14 side or the other. You may have noticed many representations  
15 of the symbol of justice, Dame Justice holding the scales.  
16 Have you noticed, sir, she's blindfolded in many  
17 representation? I believe the reason is, her task is not to  
18 see who is putting evidence on either side of the scale. Her  
19 task is to hold that scale rock steady without tilting it one  
20 way or the other so that a jury, an impartial finder of fact,  
21 can decide which way it weighs heavier. That is my job as a  
22 presiding judge in this case, to call it like I see it, to make  
23 rulings on objections and motions, and to do the best I can to  
24 apply the law as I'm able to understand it, proper and fairly.

25           If I am wrong, then when the matter is over, then

1 there is the right of appeal. On certain issues, there are  
2 such things as interlocutory appeals, of which I'm sure you may  
3 know. But objections about the Court's rulings that have been  
4 made thus far, in my judgment, are not subject to interlocutory  
5 appeal. I suppose if they were, that you might avail yourself  
6 of that. But that is the proper way to challenge or disagree  
7 with the Court's ruling.

8 I don't know if you ever follow or attend sporting  
9 events, Mr. Neeley, but many do. Now, if you were a spectator  
10 at a sporting event and you disagreed with a call made by a  
11 referee or an official, I doubt you would say to that official,  
12 "Excuse me, sir, but I believe you missed that call. Perhaps  
13 your view of the play was obscured." I don't think you'd say  
14 that. I think you, like me, might say something like this:  
15 "Boo. You missed that, you bum. What are you, blind?"

16 Now, Mr. Neeley, when you're in a court of law, a  
17 United States District Court, and you feel that the judge has  
18 missed a call and you disagree with it, it's not proper to say,  
19 "Boo. You missed that, you senile old jerk. Why don't you  
20 retire before you're impeached." It's totally improper and  
21 will not be permitted.

22 If you have the need to comment on a ruling, it might  
23 be appropriate for you to say: "Your Honor, I respectfully  
24 disagree with your ruling," and then appeal it when the time  
25 comes. Do you see the difference, Mr. Neeley? It's the forum

1 in which we are.

2 MR. NEELEY: I believe I do, sir, and I believe I  
3 can't apologize for what I did now. I can't -- once I've said  
4 it, you can't unsay it.

5 THE COURT: I understand that and I appreciate that  
6 -- that sentiment, and I believe you've expressed it well here.  
7 But I want to encourage you -- and, frankly, I'm not singling  
8 you out, Mr. Neeley. These lawyers, I don't know all of them.  
9 I know -- I've seen the lady, Ms. Doan. Forgive me for not  
10 being able to call up your name. But there have been times  
11 when I have given this same speech to lawyers, to say, "Hey,  
12 back it down a notch or two. You're in a court of law. You're  
13 not at a sporting event where you can call names and get crude  
14 about it."

15 This is a forum in which we try to decide things  
16 without bats and clubs and guns and knives, but in a civilized  
17 and courteous manner. So that's why it's common -- you have  
18 done that in your pleadings. You say "The Honorable Judge  
19 Hendren", and I appreciate that. That's the proper mode of  
20 address to a sitting judge. One of the lawyers, I think, said  
21 when he got up, "May it please the Court." The idea behind  
22 that civilized discourse is to, hopefully, promote the idea  
23 that your issues in this case will be decided based on the  
24 facts and the law, not on personalities, and not because  
25 somebody is angry with you. So that's why we have these rules

1 of appropriate discourse.

2           So I encourage -- and I have my lawyer here in court,  
3 Ms. Kitty Gay, and she -- she and I disagree sometimes, but we  
4 have noticed that when folks load up their pleadings with  
5 saying, "Oh, that's a lie," or "That's blatantly  
6 misleading", that helps us not at all to focus on the issue  
7 we're trying to decide, to decide the matter fairly under the  
8 law which applies. And when someone resorts to name calling or  
9 just intemperate wording, it does nothing to help your cause.  
10 It obstructs it. It causes us to sit back and say, "What's  
11 going on here? Why is this happening?"

12           So I hope you understand, Mr. Neeley. I believe  
13 you've said you really do not ask the Court to recuse, and I'll  
14 accept that, but I must say that nothing has occurred that  
15 would warrant a recusal in the case. You may disagree with me.  
16 I daresay these lawyers over here probably disagree with me.  
17 If they haven't yet, I'm sure they will before this is over,  
18 but that will not be a ground for recusal, because you disagree  
19 with a ruling that the Court makes.

20           If you believe that it is wrong, then as I said, you  
21 will have a right to appeal. Now, I don't want to mislead you.  
22 Not everything is appealable, but certainly some issues are.  
23 But that will be the proper way to address that. So what I  
24 want to encourage you, sir, and you lawyers at this table,  
25 let's move this case along. It's been here far too long. I



1 want to see the thing go forward, and I would encourage you to  
2 be civil to each other. You can disagree without being  
3 disagreeable, and, frankly, I insist that you do.

4           If you have problems, then I will ask you to let me  
5 know. Call my office. I will make myself available by  
6 conference call within 15 minutes if I possibly can. Even if  
7 I'm in a trial, I'll try to accommodate that. Now, I'm not  
8 suggesting you call me on every little thing that comes up with  
9 a dispute, but I'm saying don't get at sword point and stop  
10 your engines and delay the case. If you have a problem that  
11 arises, call me, and I'll talk to you and see if we can sort it  
12 out and get a ruling on it and go forward with it.

13           And as you lawyers know, and Mr. Neeley, you now need  
14 to know, that once I do make a ruling, there's no point in  
15 going back and revisiting it over and over again because it's  
16 very unlikely I'm going to change it and it becomes annoying.  
17 So I'll hear you out, as I've tried to do today. Make your  
18 case, but once I make the call, then that's the call. Go on  
19 with it, and if when the matter is done, if you are concerned  
20 about it, then certainly you have the right of appeal.

21           So those are my sentiments on it. I'm going to let  
22 the record show that Mr. Neeley has indicated in open court  
23 that he does not in fact wish the Court to recuse, and so  
24 obviously the Court will not do so.

25           And again understand, I do read these things. I do

1 pay attention to what you say and how you say it. When I write  
2 orders and my lawyers here advise me and help me draft orders,  
3 we try to be very careful about what we say and how we say it  
4 because words have meaning, and sometimes you stick a word in  
5 -- I think, Mr. Neeley, you've indicated you may have done that  
6 -- that's loaded. Now, this thing here, because you mentioned  
7 the word "recuse" and said you thought I ought to recuse for  
8 whatever reason, it's necessitated a hearing, which has caused  
9 you inconvenience to come down here. It's caused these lawyers  
10 and their clients inconvenience and expense to address it, but  
11 it has to happen because my obligation is to try to make sure  
12 that I'm holding that scale level and we've got a level playing  
13 field here. And so if the issue is raised that one side or the  
14 other believes that the Court is not being fair or there's a  
15 basis for recusal, I have to address that. I cannot ignore it.  
16 And so I have.

17 All right, Mr. Neeley, any further comments you wish  
18 to make, sir?

19 MR. NEELEY: Yes, sir. Your Honor, you referred to  
20 the fact that there are cases for interlocutory appeals, and I  
21 realize that earlier I did an interlocutory appeal, but I did  
22 not -- I did it while orders were pending, which is not  
23 allowed, and I had no idea that that was -- the Court could not  
24 -- the appellate court could not look at an order that was  
25 pending. And, however, I spoke to enough clerks at the court

1 and at the Supreme Court to know what the result would be if it  
2 were filed now, and I would rather it not have to go that  
3 route. I'd rather to -- however you have said that.

4           Asking to reconsider is annoying, and I do not want  
5 to do that. However, I believe that a interlocutory appeal is  
6 almost the same thing, and I believe that now I could do an  
7 interlocutory appeal because the case as it -- I realize that  
8 you're concerned the case is now behind schedule or had been a  
9 long time. I understand that and I respect that. However, I  
10 believe now that moving on forward is not prudent because it  
11 ignores most of the issues in the case, and I do not want to  
12 interlocutory appeal because I'm sick of this thing altogether,  
13 and I want it to stop. But I believe the only way now is to  
14 address all of the issues that have been denied because I  
15 didn't do them right the first time.

16           THE COURT: Well, I think the way to get the thing  
17 resolved and get done with it is to get on with it and get the  
18 case ready for trial and try it, and so I want to see us do  
19 that as quickly as possible. Any other comments?

20           MR. NEELEY: During the trial, can I raise issues  
21 that I feel should be there or is that not allowed?

22           THE COURT: You'll be obliged to follow the rules at  
23 trial just like the lawyers are. It's a handicap, Mr. Neeley,  
24 in representing yourself because it's -- I can't be your  
25 attorney. I'll be fair to you and try to make sure that you

1 have every opportunity to present your case fairly, but I can't  
2 advise you what to do. So the answer to your question is,  
3 you'll be governed by the same rules of evidence and procedure  
4 that the lawyers are. So if whatever you wish to present is  
5 appropriate and relevant, it'll be permitted. If not, it will  
6 not be.

7 MR. NEELEY: If evidence is available to demonstrate  
8 a claim that is not in the case now, can that be added during  
9 the trial? Is that allowed by the rules?

10 THE COURT: I'm not sure I followed the question.  
11 What we'll be focusing on, Mr. Neeley, if and when we get to  
12 trial, are the issues that are properly before the Court. I  
13 will not permit you to just range all over and put on evidence  
14 about anything that might annoy you about Google or any other  
15 defendant. No. I think that's the answer to your question.  
16 It has to be relevant to the issues that are before the Court  
17 to be tried. That's why we're having this discovery period  
18 coming up, to find out what the evidence will be relative to  
19 the issues that are in the case. So when we get to trial,  
20 we'll be confining the proof to those issues and not other  
21 problems that you may have with these defendants.

22 MR. NEELEY: Is there any -- why would anyone do an  
23 interlocutory appeal? Is there any benefit for an  
24 interlocutory appeal so that the issues at trial --

25 THE COURT: I don't know that I can answer that for

1 you, Mr. Neeley. There can, I guess, be a number of reasons  
2 why interlocutory appeals would be appropriate, in my judgment,  
3 and none of them apply in this case thus far. But I'm not sure  
4 why you have an interest in doing that. It delays the finality  
5 you say you seek. You say you're tired of this and you'd like  
6 to get it done. Well, let's go ahead and get it done, and then  
7 if there is a matter that you believe the Court has decided  
8 wrongly, you can take that up on the appeal after the case is  
9 over. Taking an interlocutory appeal will simply delay the  
10 ultimate finality of the case, which is what I believe you said  
11 you wanted, to get it done.

12 MR. NEELEY: Then I believe -- I appreciate it. I  
13 did not mean to appeal last time. However, I commend your  
14 staff, that if you actually say the word -- have the word  
15 "appeal" typed in a document, poof, you appealed.

16 THE COURT: Well, they're a good staff. I hate to  
17 say that in front of them, but it's true. All right, Mr.  
18 Neeley, anything else?

19 MR. NEELEY: No, thank you, sir.

20 THE COURT: All right. Ms. Doan, anything else?

21 MS. DOAN: Your Honor, I know you have a deadline for  
22 dispositive motions. We would be willing to file one before  
23 that, if the Court would entertain it, before the deadline.

24 THE COURT: Oh, yeah. I don't think we have a --  
25 it's so rare that lawyers want to do anything before a

1 deadline. I don't know that I've heard that question before.

2 But, no, I think anytime you've got it ready, just get it done.

3           What we are trying to do, and you may or may not be  
4 aware of this, but right now, the business of this Court is  
5 much because I'm the only active judge here right now. The  
6 other two judges have taken senior status. We have a gentleman  
7 that we hope will be confirmed shortly, and we don't know about  
8 the other position, and so we do have a lot going on, and  
9 that's why continuances are hard to get, because the docket is  
10 so crowded. And so we like to try to keep our trial dates.  
11 I'd like to keep this matter on schedule. So if you can and  
12 will address a matter earlier, well and good. Fine.

13           MS. DOAN: Thank you, Your Honor.

14           THE COURT: All right. Anything else?

15           MS. DOAN: No, Your Honor.

16           MR. WHITE: No, Your Honor.

17           THE COURT: All right. Well, thank you all. And I  
18 don't know that I'll be hearing from you before the holidays,  
19 but if not, I wish you all a happy holiday, and we are in  
20 recess.

21 (WHEREIN THE HEARING WAS CONCLUDED.)

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**COURT REPORTER'S CERTIFICATE**

I, THERESA SAWYER, do hereby certify that the foregoing is a true and correct transcript from the record of proceedings in the above-entitled matter.

/S/ Theresa Sawyer

THERESA SAWYER  
CERTIFIED COURT REPORTER, #235

DECEMBER 15, 2010

(Date)