

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

CURTIS J. NEELEY, Jr.

PLAINTIFF

VS.

CASE NO. 5:09-cv-05151-JLH

NAMEMEDIA, INC.;
and GOOGLE, INC.

DEFENDANTS

**SEPARATE DEFENDANT NAMEMEDIA’S RESPONSE TO
PLAINTIFF’S MOTION SEEKING LEAVE FOR INTERROGATORIES**

Separate Defendant NameMedia, Inc. (“NameMedia”), for its Response to Plaintiffs’ Motion for Interrogatories, states as follows:

Plaintiff purports to give three rationales as to why he should be allowed to propound interrogatories, above and beyond the 25 allowed by Rule 33, without leave of the Court. The first rationale appears to be that he wants to have certain individuals, including Google’s CEO Eric Schmidt and NameMedia’s Associate General Counsel Eric Schmidt, answer questions Plaintiff directs to them. Plaintiff apparently mistakenly believes that interrogatories under Rule 33 are a discovery tool by which a party can propound written questions to specific individuals. However, interrogatories are limited to parties to the litigation. *See Wright, Miller & Marcus, Federal Practice and Procedure, Civil 2d* §2171, *citing Waider v. Chicago, R.I. & P. Ry. Co.*, 10 F.R.D. 263 (1950) (not proper to address interrogatories to potential witnesses who were not parties to the litigation even though they were employed by a party). Therefore, this rationale is wholly without merit.

While NameMedia does not completely understand what Plaintiff is saying under “Rational II” of his brief in support, it appears that he is attempting to compel NameMedia to

agree to additional interrogatories by threatening to subpoena witnesses to trial. Aside from plaintiff's lack of understanding that he cannot subpoena witnesses located beyond the subpoena power of the Court, this is not a rationale for additional interrogatories; instead it appears to be a threat.

For his third rationale, Plaintiff states in an entirely conclusory fashion that he "has no intention to be unreasonable, inconvenient, or cause additional expense." Belying this statement, on multiple occasions Plaintiff has written emails to counsel for NameMedia unabashedly expressing his desire and intent that this litigation be financially onerous for NameMedia. NameMedia's counsel will not indulge Plaintiff's desire by searching through his email inbox to print off and attach these emails, but will do so if Plaintiff denies them in a reply. Moreover, Plaintiff has already propounded a set of interrogatories to NameMedia (attached hereto as Exhibit "A") containing almost entirely objectionable interrogatories. Several of the interrogatories ask NameMedia to engage in pure speculation regarding the "effects" or "results" which would ensue if a purely hypothetical situation not grounded in any facts established or existing in this litigation were to occur (see, e.g., Nos. 3 and 4). Another asks NameMedia to "justify" something (see No. 8), and the final interrogatory attempts to improperly compel four NameMedia employees to "explain their interaction with Plaintiff." Additionally, Plaintiff seeks to discover the wholly irrelevant information of how much NameMedia contributes to "politics or judges running for office." (see No. 9).

NameMedia has already incurred the expense of having to draft objections to Plaintiff's first set of twelve mostly-objectionable interrogatories. There is no reason to believe that with his request to propound up to 100 interrogatories, Plaintiff will not submit anything except over

eight-fold of the same thing. For these reasons, NameMedia requests that Plaintiff's motion be denied.

Respectfully submitted,

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By: /s/ H. William Allen
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By: /s/ Brooks C. White
Brooks C. White

Attorneys for Separate Defendant NameMedia, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of January, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following attorneys of record:

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I hereby certify that, on this 21st day of January, 2011, I mailed a copy of the foregoing to the following *pro se* plaintiff:

Mr. Curtis J. Neeley, Jr.
2619 N. Quality Lane, Apt. 123
Fayetteville, AR 72703

/s/ Brooks C. White
Brooks C. White

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Curtis J Neeley Jr., MFA

v.

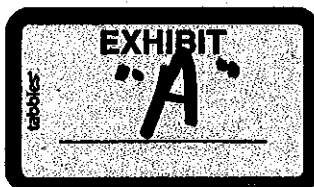
CASE NO. 5:09-cv-05151

NameMedia Inc.
Google Inc.

Rule 33 Interrogatories by Written Questions

The Plaintiff, Curtis J Neeley Jr, requests that the Defendant NAMEMEDIA INC answer the following written depositions by assigning a competent corporate officer to respond within thirty days, not including the date these questions are served. In the event the answers include private or privileged information that fact should be disclosed. Each question in this first set of interrogatories should be answered on penalty of perjury. Each answer should be answered with as much detail as possible even if it is an opinion

1. How much income did was acquired due to <eartheye.com> and <sleepspot.com> due to sale of the domain or running advertisements at the domain in AdSense for Domains or other?
2. How much income was acquired due to displaying the nude photographs of the Plaintiff and why do you feel it is acceptable to display these images to minor children and Muslims at <photo.net>?
3. What would be the effect if a domain name expiration dates were not allowed disclosed in WHOIS searches to anyone but the registrar and registrant?
4. What would be the results for your business if there was a mandatory robot exclusion protocol to identify "parked" domains resulting in exclusion by all browsers similar to the Firefox plug-in that does not allow display of domains like <eartheye.com> and <sleepspot.com> when used exclusively for ads?



- 1 5. What will be the effect of a mandatory robot exclusion protocol being required to disclose
- 2 ratings similar to commercial movie ratings for all directories when all browsers were not allowed to
- 3 display domains rated above the computer owner desires regardless of who was using the computer?
- 4 6. How much income does your company receive due to Google Inc AdSense for Domains?
- 5 7. Why display nude photographs not allowed displayed on television and what profit results?
- 6 8. What do you believe the general opinion is of nudes done as art and how would you justify
- 7 display of nudes as a result of searches for a personal name after being requested to stop this?
- 8 9. What amount of money does your company donate to politics or judges running for office?
- 9 10. What day did Ted Olson or other party claim to have received a phone call from the Plaintiff
- 10 and describe the alleged phone call in as much detail as possible?
- 11 11. Please describe Hannah Thiem's response to being notified the Plaintiff did not wish his
- 12 nudes to be displayed and describe why she did not cause the Plaintiff's nude art to be deleted and
- 13 why Robb Rosell did nearly overnight when notified in the same manner in 2010.
- 14 12. Eric Schmidt, Hannah Thiem, Ted Olson, Eric Zilinek should each now explain their interaction
- 15 with the Plaintiff.
- 16
- 17

18 Whereas these questions all involve discoverable information or are thought to lead to discoverable
19 information, Please answer each question completely and consider what your company stands to
20 lose as a result of a JURY award keeping in mind that Cisco was just ordered to pay 1.6 billion for
21 copyright violations that were not as malicious or as reprehensible as the Title 17 violations done by
22 your company.

23
24 Respectfully,

25
26 Curtis J. Neeley Jr., MFA
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28