

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

CURTIS J. NEELEY JR.,	§	
	§	
PLAINTIFF	§	
	§	
VS.	§	CIVIL ACTION NO. 09-5151
	§	
NAMEMEDIA, INC., NETWORK SOLUTIONS, INC., GOOGLE INC.	§	
	§	
DEFENDANT	§	

**GOOGLE INC.’S OPPOSITION TO MOTION FOR LEAVE
TO SERVE ONE HUNDRED INTERROGATORIES**

Google joins in NameMedia’s Opposition (Dkt. No. 230) to Mr. Neeley’s Motion (Dkt. Nos. 227, 228), and in the arguments made therein. This is—despite Mr. Neeley’s frequent forays into the hinterlands—a very simple case. As set forth in Google’s pending motion for summary judgment, there are only two claims against Google: that it conspired with NameMedia to improperly register (or “cybersquat”) two domains (eartheye.com and sleepspot.com) over which Mr. Neeley asserts specious trademark rights, and that it “defames” or “outrages” Mr. Neeley when it provides search results linking to photographs taken and/or posted to the internet by Mr. Neeley himself.

Both of those claims fail for simple and inescapable reasons that require little if any discovery. The conspiracy claim fails because the alleged wrongful acts occurred in 2003 and there was no relationship whatsoever between the alleged coconspirators (Google and NameMedia) until three years later. And the defamation/outrage claim fails as a matter of law because it is a state law claim preempted by the Communications Decency Act. The former

claim cannot possibly require more than minimal discovery to adjudicate (the dates and contracts are already of record), and the latter is a pure question of law.

Mr. Neeley does not identify the additional interrogatories he would like to propound, much less demonstrate either relevance or need. In fact, the *only* area of additional inquiry to Google he identifies is his desire to ask Google's former CEO, Eric Schmidt,¹ questions about the meaning of a quotation. Putting aside the fact that the interrogatory "What generally do you think was asserted when Eric Schmidt told CNBC that if there [is] something a person did not want disclosed online, they should not even do it?" has nothing whatsoever to do with any issue in this case, and that Mr. Schmidt is not a party, Mr. Neeley has *already* propounded that interrogatory in his first set of interrogatories. See Rule 33 Interrogatories by Written Questions, attached here as Ex. A, at 9.

Google is thus left to guess at what additional questions would be contained in the 100 interrogatories Mr. Neeley seeks. But given the narrow set of claims remaining in the case, and the irrelevancy of the interrogatories Mr. Neeley has already propounded, it is difficult to imagine a reason to propound more. For example, Mr. Neeley's *current* interrogatories include:

What will be the effect of a mandatory robot exclusion protocol being required to disclose ratings similar to commercial movie ratings for all directories when all browsers were not allowed to display domains rated above the computer owner regardless of who uses the computer? (Interrogatory #4)

What would be the effect to your company if the United States Courts finally recognizing [sic] the moral rights of artists directly in US Title 17? (Interrogatory #6)

What amount of money does your company donate to politics or judges running for office? (Interrogatory #13)

¹ Mr. Neeley also identifies questions to Erik Zilinek, Associate General Counsel for NameMedia, in the interrogatories already propounded to NameMedia.

Describe copyright alternatives allegedly created by a class action settlement in New York? (Interrogatory #15)

Mr. Neeley is *pro se*, but that does not give him unfettered rights to put Google to the considerable cost and trouble of preparing answers to scores of incoherent and irrelevant questions.

Finally, Mr. Neeley's current request is not ripe. Although he has propounded fifteen interrogatories (*see* Ex. A), he now seeks leave to serve more than twenty-five interrogatories. This request is once again akin to an advisory opinion.

For all these reasons, Google respectfully requests that this Court deny Plaintiff's motion.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
GOOGLE INC.**

CERTIFICATE OF SERVICE

I, Joshua R. Thane, hereby certify that on January 31, 2011, I electronically filed the foregoing GOOGLE INC.'S OPPOSITION TO MOTION FOR LEAVE TO SERVE ONE HUNDRED INTERROGATORIES with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following list:

H. William Allen
Brooks White
Allen Law Firm, P.C.
212 Center Street
Ninth floor
Little Rock, Arkansas 72201

and I hereby certify that I have mailed the document by the United States Postal Service to the following non-CM/ECF participants:

Curtis J. Neely, Jr.
2619 N. Quality Lane
Apartment 123
Fayetteville, AR 72703

/s/ Joshua R. Thane
Joshua R. Thane

Exhibit A

IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS

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 Google Inc answer the following questions 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 these written 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 Google Inc acquire due to <eartheye.com> and <sleepspot.com> due to the running advertisements at the domain in AdSense for Domains?
2. How much income was acquired due to displaying the nude photographs of the Plaintiff and why does Google feel it is acceptable to display these images to minor children and Muslims?
3. What would be the results for your business if there was a mandatory robot exclusion protocol to identify “parked” domains resulting in exclusion similar to the Firefox plug-in that does not allow display of domains like <eartheye.com> and <sleepspot.com> when used exclusively for ads?
4. What will be the effect of a mandatory robot exclusion protocol being required to disclose ratings similar to commercial movie ratings for all directories when all browsers were not allowed to display domains rated above the computer owner desires regardless of who uses the computer?
5. How much income does your company receive due to Google Inc AdSense for Domains?

1 6. What would be the effect to your company if the United States Courts finally recognizing the
2 moral rights of artists directly in US Title 17?

3 7. Google Inc displays nude photographs not allowed displayed on television. What profit
4 results from this?

5 8. Does your company feel entitled to display nude photographs done by artists with no concern
6 for disclosing them to minors or Muslims?

7 9. What generally do you think was asserted when Eric Schmidt told CNBC that if there
8 something a person did not want disclosed online, they should not even do it?

9 10. Does your company believe publication of information to the Internet grants your company
10 permission to rebroadcast it by wire communications to minors and Muslims?

11 11. What is the definition of an Internet Service Provider often called an ISP?

12 12. How did you justify display of nudes as a result of searches for a personal name after being
13 requested to stop this?

14 13. What amount of money does your company donate to politics or judges running for office?

15 14. Why would your company visit a library and scan a book and digitally republish it and
16 publish nudes done by an artist while facing him in federal Court for this very act and after advised
17 it was not desired?

18 15. Describe copyright alternatives allegedly created by a class action settlement in New York?

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

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27 Curtis J. Neeley Jr., MFA
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