

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

CURTIS J. NEELEY Jr., MFA

PLAINTIFF

VS.

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

NAMEMEDIA, INC.;

NETWORK SOLUTIONS, INC.;

and GOOGLE, INC.

DEFENDANTS

**BRIEF SUPPORTING OPPOSITION TO
DOCKET 277 DISMISSAL**

Internet display of “thumbnails” of original, figure nude, visual art photographs against the wishes of the artist violates the (VARA) or 17 USC § 106A. Malicious violation of an artist’s personal rights is sufficient grounds for a strong “Unclean Hands” Affirmative Defense presented to a J U R Y. This makes nonprejudicial dismissal of the counterclaim not be in the best interests of the counter defendant.

<NameMedias.com>,-the plural of the trademark of NameMedia Inc has not been used, or cybersquatted, by the counter defendant since the date NameMedia Inc deleted the stolen nude visual art or stopped causing unauthorized display of the figure nude visual art by use of “thumbnails”. NameMedia Inc brought the frivolous counterclaim for the sole purpose of distressing Curtis J Neeley Jr and for further exaggeration of the domain name registration P O N Z I scheme.

**DOMAIN NAME REGISTRATION
OR THE DOMAIN NAME HOAX**

1. Registration of a domain name that is the plural of an existing trademark, like owned by NameMedia Inc, is nothing but an attention getting hoax like registration of <trademark-sucks.com> or other commonly used disparaging terms could be registered.

DOMAIN NAMES NOT RELEVANT FOR MOST WEBSITE VISITATION OR WEB-TRAFFIC

2. Website domain names were once relevant for nearly all online traffic or visitation to most websites. <wal-marts.com> is one example of a plural TM registration that simply forwards to the website of <wal-mart.com>. The “free speech” power of the Internet can then be seen by looking at <walmart-blows.com>. This website uses the TM but adds more than simply an “s”. The counter Defendant used <namemedias.com> in an outraged effort to acquire the attention of NameMedia Inc in order to encourage the corporation to stop displaying the figure nude art of the counter defendant to minors including the daughter of the artist.

THE “DMCA” HOAX

3. The (“DMCA”) or the Digital Millennium Copyrite Act is nothing but the “Y2K” hoax played on artists. This H O A X was not the least bit humorous when “COPYRITES” were invalidated by Honorable Jimm Larry Hendren in this very action in Dkt. 267 as follows.

The Court is not persuaded by Neeley's argument. Section 106A(c)(3) provides that § 106A(2) "shall not apply to any reproduction, depiction, portrayal, or other use of a work" in connection with any item described in subparagraph (A) or (B) of the definition of "work of visual art" found at 17 U.S.C. § 101.

Items described in subparagraph (A) of that definition include "electronic information service, electronic publication, or similar publication." The Court's interpretation of this rather convoluted provision is that § 106A(2) would not apply to copies of Neeley's photographs on the internet.

4. The above outrageous interpretation of the DMCA allows paintings, limited edition still photographs, or any other visual art to be displayed to minors or pornography addicts "on the Internet" regardless of the moral concerns of the artists as long as the visual art is wholesome, legal, American porn. The ruling removes the personal right of artists to prevent displaying "thumbnails" of original limited edition exhibition stills of nude art to sell advertisements.

5. This "*convoluted*" misinterpretation by one district judge invalidated the intentions of Congress in 1990. This obvious over-reaching misinterpretation should be corrected on appeal or US moral 'copyrites' will no longer exist or have never existed in the United States.

"DIRTY HANDS AND WAIVER"

6. The counter defendant will show that counter plaintiff misled the counter defendant and did a great deal wrong regarding the matter currently under consideration. The wrongful conduct is both legal and moral in nature, relating to the matter in issue. NameMedia Inc violated "moral copyrites" ceasing to stop display of the counter defendant's figure nude art.

“DIRTY HANDS AND WAIVER”- continued

7. The counter defendant notified Hannah Thiem when she was the registered DMCA Agent for <photo.net> and NameMedia Inc maliciously refused to cease display of the “thumbnails” of the counter Defendant’s limited edition figure nude art. The art was uploaded before the counter defendant was prevented from accessing <photo.net> and before the terms of use of <photo.net> was altered and nude art was displayed without registration and all contributed user art was stolen permanently.

8. NameMedia Inc never had any agreement with the counter defendant to display “thumbnails” of the counter Defendant’s limited edition figure nude art but republished the visual art while alleging being authorized as was deceptive and violated the Digital Millennium Copyright Act.

THEREFORE; Curtis J Neeley Jr prays the cybersquatting counterclaim be dismissed prejudicially or remain for the J U R Y trial as now scheduled on July 11, 2011. The counter defendant will defeat the frivolous claim and seeks damages awarded by the J U R Y as would be allowed instead of awaiting further harassment by NameMedia Inc. The counter defendant prays that equitable damages be awarded the counter defendant by the court.

Respectfully Submitted,

Curtis J. Neeley Jr., MFA