

No. \_\_\_\_\_

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IN THE  
Supreme Court of the United States

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**Curtis J Neeley JR., MFA**  
***pro se party***

*Petitioner,*

v.

**NAMEMEDIA INC et al.**

*Respondents.*

\_\_\_\_\_  
**Petition For a Writ of Mandamus to the United States  
Court of Appeals for the Eighth Circuit**

\_\_\_\_\_  
**PETITIONER'S BRIEF ON THE MERITS OF AN  
EMERGENCY WRIT OF MANDAMUS**

\_\_\_\_\_  
Curtis J Neeley Jr.  
2619 N Quality Ln Ste 123  
Fayetteville, AR, 72703-5523  
479-263-4795

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# QUESTIONS PRESENTED

1. How can the FCC be allowed to continue nonfeasance continuing to not regulate communications transmitted by wire since communications by wire came to be called the Internet? Why must United States citizens be required to adapt and filter or avoid the Internet due this bald refusal to recognize p. 8 ¶ 51 of the Communications Act of 1934? *See* Appendix CA 1934-p8
2. How can rights alleged to be anchored in other US laws during debate of the Berne Convention Implementation Act of 1988 in 1989, like the right to fight defamation, be denied because of failure to “register a copy-right” or buy a license to sue?
3. How can US Title 17 not be unconstitutional on its face for not recognizing the moral rights for United States artist allegedly recognized for Berne Treaty signatory country citizens? *See* APPENDIX Berne
4. How can a District Court Ruling contrary to Supreme Court Ruling of March 24, 2010 be allowed to begin statutory limitations as a defense to accrue from initial trespass date for repeated actions? *See* Lewis v. Chicago, (08-974)
5. How can a District Court’s Ruling that was clearly in error due to illogically misinterpreting ACA 16-56-116 be allowed to not permit tolling due to multiple disabilities not described accurately in the statute? The Court alleged “more-than-two” to have once intended permitting redress to insane minors in prison outside Arkansas. How can this error be used by the Court to deny Seventh Amendment Rights recognized in the Sixth Circuit?  
*See* Ott v. Midland Ross Corp., 600 F.2d 24, 31 (6th Cir. 1979)
6. How can Honorable Jimm Larry Hendren rule contrary to the Supreme Court and permit outrageous defamation to continue and not allow parties responsible for defamation or failing to halt defamation due to perpetual nonfeasance and failing to regulate communications by wire as is described in legislation that created the Federal Communications Commission?

7. How can the Eighth circuit Court extend the time the Appellant is defamed by extending the time allowed for filing Appellee Briefs and still feel locking the filed exhibits from being publicly displayed on PACER is necessary? These images are returned to children who simply type their father's name into a search engine or when their friends or anyone does.

8. The pro se, pauper Appellant believes the nonfeasant FCC could enforce a narrow order that the Appellant's name return no nudes or images not shown by a search engine that does not regularly traffic in pornography like <lycos.com> and thereby remove the danger of defamation of presenting nudes to children and Muslims as well as ceasing attributing Appellant to pornographic images that Appellant detests and have never been on his website. These are credited to Appellant continually as can be seen in Appendix (Pevin-Penis).

9. Every American Search Engine that does not recognize moral rights that are not recognized for United States citizens attribute nudes done by the Appellant and images not done by Appellant not allowed to be shown on television by even the nonfeasant FCC. These are all seen in the various Appendixes and this claim is not SPECULATIVE as the Honorable Jimm Larry Hendren claimed and thereby admitted not viewing evidence now on the record. Most all Appendixes are already exhibits mutilated by the Circuit Court Clerks inadvertently by scanning and now in the record.

10. A preliminary injunction is warranted immediately yet has languished pending on the Circuit Court Docket since June 1<sup>st</sup> 2010 and requests that the FCC be ordered to regulate communications by wire and allow no proposed as added search engines from attributing nudes to the appellant presented to anonymous viewers. This would cost very little to implement and would only mitigate damages and could be made permanent only after a trial. The FCC has already responded to a complaint by the Appellant where they alleged lacking jurisdiction over wire communications in an obvious error.

## LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. In addition to the three parties on the cover page, the following parties must be added to this proceeding in the court whose judgment is the subject of this petition in order that relief can be executed since these parties were not allowed but disparage the honor of the Appellant continually or create a climate requiring expenditures to prevent constant US Title 15 § 1125(d) violations.

ICANN Inc  
Microsoft Corporation (MSFT)  
Yahoo Inc (YHOO)  
IAC/InterActiveCorp (IACI)  
The Federal Communications Commission  
(FCC) Joseph Stephen Breese Morse  
AOL LLC  
United States

Joseph Stephen Breese Morse and AOL LLC are likely to have claims against Separate Defendant/Appellee Google Inc. The claim against Google Inc is the basis for their being named and Stephen Breese Morse may not actually authorized Google Inc to re-publish appellant's nude images.

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Appendix are 56 total pages but the last 40 are interlocutory orders herein appealed bringing the entire petition to a total of 16 pages including the certificate of service.

## TABLE OF AUTHORITIES

### **CASES**

#### **SUPREME COURT RULINGS**

Lewis v. Chicago, 08-974 (2010)

Doe v. Reed, 09-559 (2010)

#### **VARIOUS UNITED STATES DISTRICT RULINGS**

Ott v. Midland Ross Corp., 600 F.2d 24, 31 (6th Cir. 1979)

ASMP, PPA et al. v Google Inc., 1:2010-cv-2717

The Author's Guild et al v. Google Inc., 1:2005cv08136

Waggoner v. Atkins, 204 Ark. 264, 271, 162 S.W.2d 55, 58 (1942)

Estate of Farnam v. C.I.R., 583 F.3d 581, 584 (8th Cir.2009)

### **STATUTES AND RULES**

#### **FEDERAL STATUTES OR LEGISLATION**

Seventh Amendment -- Right to trial by a jury.

US Title 15 § 1125(d)-- “Cybersquatting” prevention

US Title 17 §§ 101, 106A – “The Copy-rite Act”

“Berne Compact Implementation Act of 1988” – makes US Title 17 unconstitutional

The Communications Act of 1934 – Regulation of Wire Communications

Digital Signature Act H.R. 1572

“*Dennis Factors*” of 8<sup>th</sup> Circuit –violate Seventh Amendment

#### **ARKANSAS STATUTES**

ACA 16-56-116 => The Tolling of Limitations by Disabilities

ACA 16-63-207 => Libel and Slander

ACA 16-123-102 => Disability Defined

#### **HOLY BIBLE REFERENCES**

Genesis 3:22 => First Rejection of Responsibility by Adam

Exodus 20:15=> Prohibition of Theft

Exodus 20:16=> Prohibition of False Witnessing

Exodus 20:17=> Prohibition of Pride, Murder, Lying

Proverbs 6:19 => Prohibition of Fraudulent Schemes, Conspiracy

**IN THE**  
**SUPREME COURT OF THE UNITED STATES**  
**PETITION FOR WRIT OF MANDAMUS**

Petitioner respectfully prays that a writ of mandamus requiring the Eighth circuit or the Western District Court of Arkansas to issue a preliminary injunction pending eventual final judgments pending below. An Interlocutory Appeal is pending as well as numerous District Court Motions being considered or ignored.

OPINIONS BELOW

1. The opinion of the United States Court of Appeals is pending but extension of time is included in Appendix 8<sup>th</sup> Extension.

UNITED STATES COURT FOR THE EIGHTH CIRCUIT COURT OF APPEALS CASE No. (10-2255) has not been ruled on yet. The Search Engine Parties damage the honor of the Appellant continually and profit outrageously by trafficking pornography including images done by Appellant as well as images falsely attributed to the Appellant each day they delay a ruling and opposing Search Engine Parties have asked for more time and were granted fifteen days to continue outrageous defamation. Every Party desired named has prepared for this eventuality for decades already.

2. The opinion of the United States district court appears at Appendix Docket 97, Docket 125, and Docket 126 to the petition and are unpublished.

UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS CASE No. 5:09-CV-05151. These exceedingly erroneous ruling are before the Eighth Circuit Court of Appeals and the Appellant Brief has been filed. There is *ONLY* one logical result and no delays or advance notices are warranted.

# JURISDICTION

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1) and particularly the portion that provides for certiorari or mandamus before or after rendition of judgment or decree. This is the type civil case for which BEFORE a decree was included and emergency discretionary jurisdiction is warranted.

There have been no final rulings. This case warrants a preliminary injunction to stop defamation from continuing and the Domain Name Ponzi scheme from continuing and trafficking in pornography by WIRE from offending every parent in the world.

Appellant has attempted continually, since June 3009, to halt trafficking of his original 'figure nude' photography to children, atheists, or Muslims and has been repeatedly unsuccessful. The Eighth Circuit is VERY likely to rule in favor of Appellant but every day allowed for delay harms Appellant's honor and only delays a petition to this Court. A petition for certiorari will be filed but the emergency extraordinary Court Mandamus is now copiously warranted.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**Fifth and Seventh Amendments => Due Process and Right to JURY Trial**

**The Communications Act of 1934 => Regulation of WIRE Communications**

**ACA 16-56-116 => The Tolling of Limitations by Multiple Disabilities**

**ACA 16-63-207 => Redress for Libel and Slander**

**ACA 16-123-102 => Disability Defined**

## STATEMENT OF THE CASE

1. Appellant was involved in a head-on auto accident in 2002 on September 3 and had extreme traumatic brain damage and was left a paralyzed incompetent. When Appellee Network Solutions LLC advertised <eartheye.com> and <sleepspot.com> and permitted them to be registered for no reason of bona fide commerce while Appellant was incompetent Network Solutions LLC violated US Title 15 § 1125(d) and do constantly as a business policy. Network Solutions LLC was excused for this trespass from 2003 due to limitations, in error due to not allowing equitable tolling. Appellee NAMEMEDIA INC purchased the domains to add them to “premium domain name” inventory violating US Title 15 § 1125(d). On July 2 and on Oct 15, every year, the registrations were renewed tolling limitations. Network Solutions LLC offered every current domain to the Appellant during this action and do continually.

2. Appellant became his own guardian in Jan 2006 but is still unable to perform all life’s normal basic functions. Appellant has almost no memory of most of his life and is unable to remember wives or children. Appellant is unable to remember a prior history doing commercial photography or fine art photography involving the nude human as an object of art. There is a tremendous amount of data that Appellant knows but has no idea why it is known. Traumatic brain injuries are not understood in the least.

*See* Estate of Farnam v. C.I.R., 583 F.3d 581, 584 (8th Cir.2009)

3. The Appellee NAMEMEDIA INC, who had purchased Appellant's two prior domain names, offered both <eartheye.com> and <sleepspot.com> to Appellant even after served with a federal complaint for 'cybersquatting'.

4. Appellee NAMEMEDIA INC purchased <photo.net> in 2007 and began displaying Appellant's nudes to anonymous viewers against his wishes. Appellee NAMEMEDIA INC asserted perpetual licensure granted by the Appellant's continuing to use the site and thereby accepting the new 'terms of service'. Appellant posted to <photo.net> about desiring his domain names and to have the original nude images removed but was ignored in 2009. Appellant advised the Digital Millennium Copyright Agent (DMCA), Hannah Thiem, in several venues as seen in the record repeatedly and was ignored. On about January 24, 2010 Appellant notified the new 'DMCA' for Appellee NAMEMEDIA INC and Appellee NAMEMEDIA INC no longer attributed the original nude art or pornography to Appellant before minors.

5. Appellee Google Inc licensed <eartheye.com> and <sleepspot.com> and ran the image search engine at <photo.net> that caused nudes to result in searches for the Appellant's name. They were notified via this lawsuit that licensing <eartheye.com> and <sleepspot.com> were illegal in several venues as can be seen in the record accessible to the public at <curtisneeley.com/5-09-cv-05151/Docket > perpetually.

6. Appellee Google Inc regularly searches the Internet for nudes published by the Appellant and others asserting that truthful attribution and fair-use are a protection. This ignores the moral rights to prevent attribution to nudes before anonymous viewers granted by the Creator. The nudes attributed to the Appellant are not all done by the Appellant and one is particularly detested. Michael Pevin's erect penis that can be seen in the record at the Eighth Circuit if not locked due to nudity not allowed shown there. See Appendix Peven-Penis

7. During this litigation Appellee Google Inc scanned a book in New York that had three of the Appellant's original fine art nude photos. Appellee Google Inc chose to re-publish these digitally after this action and correctly attribute Appellant to these nudes to ANONYMOUS viewers against the Appellant's desires although this was known when begun. See Appendix Ex. Google-Oops and Ex. Google Oops2.

8. This Appellant and the other Search Engines take advantage of the missing moral rights of US Title 17 and the Nonfeasant Federal Communications Commission to traffic in pornography to anonymous viewers by WIRE as is described explicitly on p. 8 ¶ 51 of the Communications Act of 1934. The WIRE COMMUNICATIONS definition found there is a better explanation of the Internet than the Internet definition found on page 90. Pornography is the single most profitable use of communications by wire and makes EVERY OTHER portion of this action seem trivial. See Appendix 1934-p8, 1934-p90, Ex. Bing, Ex. YAHOO, Ex. AOL, Peven-Penis.

9. The United States should apologize to the entire world for the trafficking of pornography by wire but won't. Muslim countries and China would no longer need to block the immoral United States' WIRE communications. More people are opposed to the Internet, as it exists currently in the world, than support it.

10. Filters are nothing besides jokes and the free flow of pornography is beginning to impact other communications standards with absolutely no question.

### **REASONS FOR GRANTING THE PETITION**

1. The trafficking of pornography has been illegal since before communication by wires came to be called the Internet. Rating of sites so that they could be avoided as determined by the computer purchaser for all users of the computer permanently requiring no filters that could be avoided or fooled, should have been done when the Internet first developed but can be required now by the FCC and is technically trivial.

2. Moral rights that are known to be missing from US Title 17 but that are recognized for Canadians, Chinese, and citizens of all Berne Treaty signatory nations make US Title 17 violate the 14<sup>th</sup> Amendment.

3. US Title 17 has been unconstitutional since April Fools Day 1790 when a lawyer/Judge appointed to Congress introduced a modified and plagiarized Statute of Anne from 1710 and called it the "Copy-right" Act without the hyphen in order to deceive citizens into thinking it recognized moral rights instead of creating licenses to sue.

4. US Title 15 is unconstitutionally vague due to failing to assert that a domain name used for bona fide commerce is a trademark. Section 1125(d) does not require a bona fide use of a domain name for registry and this results in proposed Domain Name Defendants including ICANN Inc conspiring with proposed Search Engine Defendants to encourage 'cybersquatting' of all short domains for deceptive advertising such that there are more deceptive domains used exclusively for advertising than actual domains used for commerce or free speech today.

5. This litigation will easily results in the broadest impact of any ruling ever made by this Court since the sixties or perhaps ever because it impacts every user of wire communications on earth as well as morally anchoring Title 17 and Judicial Branch. Signing of petitions to allow anonymous viewership of pornography has never been done but would require name disclosures for viewing even controversial pornography.

See Roe v. Reed, 09-559 (2010)

6. The supreme Court herein has an opportunity to reaffirm that limitations as a protection do not begin to accrue until the last of repeated acts as ruled March 24, 2010. See Lewis v. Chicago, 08-974 (2010)

7. The '*Dennis Factors*' used in district court and allegedly created by the Eighth Circuit are unconstitutional for violating the Seventh Amendment and Rules of Federal Civil Procedure Rule 15 by granting Courts the powers of a king exactly like denial of equitable tolling was in this action when subjected to one person's jurisprudence.

8. Preceding sections 1-7 will be the eventual results but an emergency order for mandamus directing the United States Court for the Western District of Arkansas to enter an injunctive order permitting service of the Amended Complaint on all desired parties would prevent the Appellant from facing slander while awaiting Court actions. A narrow and specific Mandamus Order requiring that Search Engines not continually defame the Appellant and that the FCC begin regulating communications by wire are the only extraordinary relief now plead. Granting of the extraordinary relief would allow the Appellant to have a jury trial resolve this in March 2011 and halt the continual defamation and the need for Appellant's Appeal now plead at the Eighth Circuit Court of Appeals. The extraordinary order will result in dismissal of the Interlocutory Appeal now before the Eighth Circuit and save everyone expenses.

## **CONCLUSION**

This petition for an emergency writ of *mandamus* should be granted because it would not cost money for the search engines to do. This litigation will have a MASSIVE impact without any question whatsoever on the United states and the ENTIRE world due to the United States' constant International trafficking of pornography to anonymous viewers by wire and thereby offending every parent in the world not willing to accept the improperly demanded duty of preventing exposure to pornography while allowing access to wire communications. Prevention of sinful viewing of unregulated wire communications is an impossible task the United States asks parents to believe the duty of parents. SEC attorneys were paid by taxpayers to view pornography in spite of government filters.

The fact that the FCC has been nonfeasant in regulating communications by WIRE since it came to be called the Internet is too important to wait for the pending injunctive order protecting the Moral Rights of the Appellant and allowing a jury to eventually determine damages. Continual defamation makes the other issues trivial. Appellee asks for a narrowly tailored emergency writ of mandamus requiring the pending preliminary injunction to cease defamation and allowing the Complaint to be amended so that an Arkansas jury may address this action in March 28, 2011.

Respectfully and humbly submitted,

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No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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Curtis J Neeley Jr., MFA — PETITIONER  
*pro se*

VS.

, NAMEMEDIA INC *et al.* — RESPONDENTS

**PROOF OF SERVICE**

I, Curtis J Neeley Jr., do swear and declare that on this date, August 10, 2010, as required by Supreme Court Rule 29 I have served the enclosed EMERGENCY PETITION FOR A WRIT OF MANDAMUS on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents on CD in the United States mail properly addressed to each of them and with first-class postage prepaid This Petition is available at publicly online linked from <curtisneeley.com/5-09-cv-05151/Docket/index.htm>, as are all exhibits and all docket entries in each court ruling mentioned in this petition for *mandamus* perpetually.

The names and addresses of those served are as follows:

John M. Scott; Conner & Winters, LLP; 211 E. Dickson Street; Fayetteville, AR 72701

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Brooks Christopher White; Allen Law Firm, P.C.; 9th Floor; 212 Center Street; Little Rock, AR 72201

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Joshua Reed Thane; Haltom & Doan; 6500 Summerhill Road Suite 100; Texarkana, TX 75503

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Clerk, Supreme Court of the United States, Washington, D. C. 20543

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 10, 2010.

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