IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS

U. S. DISTRICT COURT
WESTERN DISTRICT ARKANSAS
FILED
JUL 18 2014
CHRIS R. JOHNSON, CLERK
BY
DEPUTY CLERK

Curtis J Neeley Jr.
Plaintiff

CASE NO. _14-cv-5135

5 Federal Communications Commissioners,
FCC Chairman Tom Wheeler, et al,
US Attorney General Eric Holder Esq,
Microsoft Corporation,
Google Inc.
Defendants

Brief Supporting Motion for Partial Summary Judgment

This Brief supports a concurrently filed "Motion for Partial Summary Judgment" pursuant to Local Rule 7.2. This motion is timely because Local Rule 56.1(a) requires "*expiration of 20 days from the commencement of the action*"[1] and this action commenced May 6, 2014 and this is later than July 17, 2014 or exceedingly after twenty days.

Honorable Timothy L. Brooks told this Plaintiff on May 27, 2014 during a Show Cause Hearing something like "*only a prosecuting attorney could pursue civil damages for the crimes plead*". This Plaintiff advised this court this was egregiously incorrect in docket #14 on June 16, 2014 and no order was filed by July 17, 2014.

Honorable Timothy L. Brooks is not able to consider this action adequately or timely because of a case load of 167 cases assigned since January first 2014 as can be seen in attached Exhibit "CASE LOAD" where this action is highlighted on page eight with 102 other civil cases.

1 courts.arkansas.gov/rules-and-administrative-orders/court-rules/rule-56-summary-judgment

This very action is obviously destined to be one of the most significant communications cases ever pursued in courts of the United States if not for the entire Earth. This is because the individual, moral, personal, human rights to exclusively control wire communications disguised as [sic] "internet" is before this court with a Plaintiff seeking only to enforce federal statutes written decades before wire communications were disguised as [sic] "internet" and called a new medium in egregious error. Wire communications defined in 47 U.S.C. §153 ¶(59) include [sic] "internet", email, mobile phones, iPads, wi-fi, and old-fashioned telephones.

Every single electronic communications beside radio communications and some select satellite communications are nothing more than wire communications defined in 47 U.S.C. §153 ¶(59) in around 1934 though never realized as newer devices began to combine with radio communications as well. Wire medium usage combined with radio medium usage now allows world-wide communications by both wire and radio though radio communications alone would be cost prohibitive and unreliable though not technically impossible.

Every commercial radio station today could deliver Wi-Fi [sic] "internet" on the same exact assigned FM frequency using both TDM and FM after building wire-radio interfaces like cell towers and distributing these within their geographic FM radio coverage area. Corporations could use wire communications so FM radio stations play the same music in Seattle,WA and Miami, Fl but have local news etc inserted locally. The technology for this is already available and in use but not this way.

When "alleged" cached copies of web pages are no longer accurate, the results of search queries become A.C.A. 5-41-103 computer frauds. The assertions of searching cached data are computer frauds themselves because GOOG and MSFT each claim to find "Curtis Neeley" in searches of "cached" pages but each also claim "Curtis Neeley" is not on these "cached" pages. This fact is demonstrated in attached exhibits and needs no trial for proof. GOOG and MSFT search algorithms incorporate an undisclosed data source or keyword consideration factor that causes this computer fraud. Evidence and discovery are not needed to punish these demonstrated computer crimes and punitive damages are the "general" type of damages now sought for these intentional, continuing, organized computer crimes. No prosecuting attorney is needed for pursuit of damages for violations of A.C.A. 5-41-103[2] as follows though asserted in error May 27,2014.

5-41-103. Computer fraud.

(a) A person commits computer fraud if the person intentionally accesses or causes to be accessed any computer, computer system, computer network, or any part of a computer, computer system, or computer network for the purpose of:

(1) Devising or executing any scheme or artifice to defraud or extort; or

(2) Obtaining money, property, or a service with a false or fraudulent intent, representation, or promise.

(b) Computer fraud is a Class D felony

Since GOOG and MSFT search engines obtain money alleging false information by computer, the partial summary judgment motion regarding guilt is warranted and an Arkansas jury should be asked to consider PUNITIVE damages allowed as follows.

2 http://statutes.laws.com/arkansas/title-5/subtitle-4/chapter-41/subchapter-1/5-41-103

5-41-106[3]. Civil actions.

(a) (1) Any person whose property or person is injured by reason of a violation of any provision of this subchapter may sue for the injury and recover for any damages sustained and the costs of suit.

(2) Without limiting the generality of the term, "damages" include loss of profits.

(b) At the request of any party to an action brought pursuant to this section, in its discretion, the court may conduct any legal proceeding in such a way as to protect the secrecy and security of the computer, computer system, computer network, computer program, computer software, and data involved in order to prevent possible reoccurrence of the same or a similar act by another person and to protect any trade secret of any party.

(c) No civil action under this section may be brought except within three (3) years from the date the alleged violation of this subchapter is discovered or should have been discovered by the exercise of reasonable diligence.

The PUNITIVE damages are warranted because the embarrassment, outrage, and mental anguish as well as the other mental costs of this suit are beyond calculating except by jury deliberation whether called "punitive" or other after years and years of litigation. Embarrassment before the Plaintiff's mother can't be fixed. During one of their last conversations, the Plaintiff's mother encouraged pursuit of this claim forever till the "right thing was done" in spite of the five-million once offered by GOOG to settle.

18 U.S.C. 2511 Crimes---

The Progress Clause of the constitution follows and this clause authorized the right to exclusively control the privacy of original communications "for a time". Most United States law schools and judges are unaware that Benjamin Franklin felt the constitution was too internationally important a document to be used to coin a wholly new term not appearing in the authoritative "Johnson's Dictionary of the English Language" (1755) in 1787 when writing the Constitution requiring only defined words.

3 http://statutes.laws.com/arkansas/title-5/subtitle-4/chapter-41/subchapter-1/5-41-106

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

United States' Courts and perhaps ALL law schools describe this clause with a term undefined until 1828[4] in any authoritative dictionary or the "Copy[rite] Clause". This word was used and intentionally misspelled in the "Copy[rite] Act of 1790" with a wholly new American misspelling of the compounding of copy and rite by a textbook author desiring to create a wholly new language, which has since occurred.

Benjamin Franklin[5] and Noah Webster[6] were each noted lexicographers and most are aware Benjamin Franklin was a "founding father". Few realize Noah Webster was the "founding father" who wrote the Copy[rite] Act of 1790 and used this to officially misspelled the term [sic] "copyright". "Founding father" Benjamin Franklin was seriously ill but made sure [sic] "copyright" was not in the 1787 constitution by proxy but died April 17, 1790 a few weeks before Noah Webster used the Copy[rite] Act of 1790 to create a unique American intentionally misspelled word when signed into law on May31, 1790.

Benjamin Franklin rolled over in the grave after just forty-three days when the "*Statute of Anne*" was copied verbatim but this 1710 publishing rite for authorizing copies was called a wholly unique new American misspelling of the compounding of copy and rite. This same misspelling completely explains the United States' wholly unique failure to recognize the moral rights of creators enabling the judicial FRAUD of claiming discovery of a "*wholly new medium for human communications*".

4 http://1828.mshaffer.com/d/word/copyright
5 https://en.wikipedia.org/wiki/Benjamin_Franklin%27s_phonetic_alphabet
6 https://en.wikipedia.org/wiki/Noah_Webster

The preceding[7] mistake of law remains but 47U.S.C. §230(e) exempts 18 U.S.C. §2511 or ANY criminal statute the organized criminals, GOOG and MSFT, use and continue to violate LONG after notified of these criminal acts. This internally absurd immoral statute follows though not affecting criminal laws in ANY WAY!

(c) Protection for "Good Samaritan" blocking and screening of offensive material

(1) Treatment of publisher or speaker

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

The ability of an author or speaker of original indecent or secret communications to exclusively control these wire communications is protected by a statute that makes interception of wire communications a crime regardless of when the speech was made with respect to when this speech is then intercepted. The court may now search the attached criminal statute and look carefully for the "*contemporaneous*" aspect improperly alleged to qualify "interception" during the May 27, 2014 Show Cause hearing by Honorable Timothy L. Brooks. After reading docket #14; contesting this again should not be necessary. The full statute is printed in eight pages of less than single spaced 14 pt. text in Exhibit "18 U.S.C. §2511" but the relevant portions follow.

18 U.S.C. §2511

18 U.S. Code § 2511 - **Interception and disclosure of wire, oral, or electronic communications prohibited**

(1) Except as otherwise specifically provided in this chapter any person who—

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(b) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

7 https://duckduckgo.com/?q=wholly+new+medium+for+human+communications

> *(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or...*
>
> ... ...
>
> *(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—*
>
> ***(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;***

Although it was not clearly asserted during the show cause hearing and this pauper Plaintiff does not wish to pay $50+ for a transcript that will be free September 11, 2014. Plaintiff will not wait until then to allege. Honorable Timothy L. Brooks attempted to stretch 18 U.S. Code § 2511(2)(g)(i) out to protect GOOG and MSFT for revealing the labeled "indecent" images to anonymous children in schools, as is wholly dishonorable. The unauthenticated anonymous "*general public*" will never see images thus labeled by "*good Samaritan*" authors at <deviantart.com>. This absurd claim is counter to clear U.S. law and is why the wire communications disguised as [sic] "internet" by the *Reno v ACLU* mistake are nothing more than the attractive nuisance of free pornography ALL wire communications remain to this day explaining why this should be so impacting if done honorably to every District of the United States if not the entire Earth.

Besides attempting to stretch 18 U.S. Code § 2511(2)(g)(i) out to be an affirmative defense for intercepting communications labeled as "*not fit for anonymous consumption*", Honorable Timothy L. Brooks asserted that only a government prosecuting attorney could pursue civil damages for these communications crimes but the Arkansas statute that says otherwise. A.C.A. 5-41-106 is already included above. The federal statute that also contradicts this assertion is 18 USC §2520 and the relevant portion follows with highlighting added.

(a) In General.— Except as provided in section 2511 (2)(a)(ii), **any person** whose wire, oral, or electronic communication is **intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover** from the **person or entity**, other than the United States, which engaged in that violation **such relief as may be appropriate**.

(b) Relief.— In an action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;
(2) damages under subsection (c) and **punitive damages in appropriate cases**; and
(3) **a reasonable attorney's fee and other litigation costs reasonably incurred**.

The assertion that only a prosecuting attorney or other licensed lawyer was required was NOT correct and was as mistaken as *Reno v ACLU,* (1997). Summary judgment of guilt with an Arkansas jury asked to consider the amount of PUNITIVE damages and considering mitigating defenses is the ONLY honorable ruling that can follow this motion.

Two 18 U.S.C. §2511 crimes by MSFT have been ceased since this action was filed as can be seen by reviewing the attached Exhibits and comparing these to docket #1 Exhibit "Crime" on p22/26 or the same search result as is blank today. MSFT does not violate 18 U.S.C. §2511 today for this Plaintiff due to the five-plus years of litigation but continues this organized crime for other "good Samaritan" artists.

One 18 U.S.C. §2511 crime by GOOG has ceased since this action was filed as can be seen by reviewing the attached Exhibits and comparing to docket #1 Exhibit "Crime" on p14/26 and noting the copy[rite] graphic does not return as well as the naked image that returned till 7/16/2014 as seen in attached Exhibits on 7/16/2014 but not on 7/17/2014.

The "good Samaritan" artist who originally published the naked image was contacted by this Plaintiff and was politely asked to delete the naked image containing page still seen on 7/16/2014. This "good Samaritan" artists removed this entire page as allowed the cache update to remove this image. The hundreds of hours working to seek cache updates will help the jury while considering damages.

The attached Exhibit "A.C.A. 5-41-103 MSFT" and the attached Exhibit "A.C.A. 5-41-103 GOOG" show the evil computer frauds that continued as of 7/17/2014 despite hundreds of hrs. working seeking cache updates by each organized criminal. These were often rejected as seen in the exhibits and will aid the jury when considering damages

In the early days of wire communications disguised as [sic] "internet" these wire communications depended on GOOG's potential private communication crimes or GOOG's plagiarisms disguised as "indexing" to exist at all as was encouraged the immoral, culturally senile Supreme Court mistake of *Reno v ACLU,* (1997).

Currently with wire communications STILL disguised as [sic] "internet"; There is a more accurate, less indecent, wire communications search interface than GOOG and the immorality of the *Reno v ACLU,* (1997) mistake has become obvious to forty-six State Attorney Generals. If GOOG were to wholly disappear today, wire communications would be disturbed little. This wholly better wire communications search interface is infinitely more private and uses databases wholly exempt from all NSA requests for private, personal search data. This interface's data source is, in fact, from the country providing asylum for Edward Snowden and always considered the NSA an enemy of privacy long before the rest of the the world's citizens leaned this fact.

Honorable Jimm Larry Hendren may personally define pornography in a manner that exempts tasteful fine-art figure studies and the majority of United States' anonymous Article III oligarchs and United States' anonymous Christians may personally agree with Honorable Jimm Larry Hendren. The fact Honorable Jimm Larry Hendren has punished "child pornography" severely in the past does not reduce the chance Honorable Jimm Larry Hendren is addicted to anonymous viewing of "tasteful fine-art figure studies" as was demonstrated clearly by the prior immoral ruling that moral human rights to photographs does not apply "online".

United States' Article III oligarchy is wholly committed to preserving the ability for anonymous viewing of "tasteful fine-art figure studies" and use the disguise of protecting free speech. This commitment reflects a shifting cultural immorality in the United States where the personal right to categorize naked images as acceptable "art" has justified continuing the mistake of the creation of the "*unique and wholly new medium of worldwide human communications*"[8] mistake of *Reno v ACLU,*(1997). This immoral attractive nuisance can be seen in exhibit "18 USC §2511 MSFT FELONY" where a naked erect penis of University of Arkansas pornography professor Michael Peven is returned searching for "Curtis Neeley" in a continued demonstration of A.C.A. 5-41-103 computer frauds that are now intentional continued federal 18 U.S.C. §2511 private wire communications crimes by Microsoft Corporation after addressed by the Western District of Arkansas' immoral ruling that personal moral rights, 17 U.S.C. §106A, do not

8 https://duckduckgo.com/?q=unique+and+wholly+new+medium+of+worldwide+human+communications

protect images "online". This immoral ruling never included violations of personal communications privacy that are wholly new violations after the page allegedly causing this one A.C.A. 5-41-103 computer fraud no longer exists though remaining with "_XXX" added at the end of the file name so "index.html" caused a file not found error to result though the black and white are reversed in attached exhibits to save ink costs. Original HTML is included with ignored exclusion requests highlighted It will be difficult to quantify the amount of PUNITE damages awarded by an Arkansas jury considering this result appears in searches today in public schools in searches for this Plaintiff's personal name shared with a father.

This Plaintiff has worked extremely hard to repair wire communications disguised by the United States Supreme Court as [sic] "internet" for over five years and remove the public nuisance of anonymous access to free pornography. The Plaintiff will continue this struggle for the rest of life hoping to make all wire communications safe enough to finally reach worldwide. Plaintiff has tried to assist the Eighth Circuit with an *amicus* brief and an *amicus* reply in the current Arkansas Act 301 appeal (14-1891). If United states' Courts are marginally moral; These short *amicus* briefs should soon help end the immoral, public, legal debate and immoral, public, political debate concerning abortion. This "Brief in Support of the Motion for Partial Summary Justice" has ONLY one moral result. The damages awarded by an Arkansas jury should lead to establishment of communications in the wire medium as a "*wholly unique new use of the wire communications medium for safe worldwide human communications*".

This new use of an old medium will not remain an attractive nuisance for the anonymous. Communications in the wire medium will still potentially contain the most raw and offensive of legal pornography for authenticated consumption considered allowable private obscenity consumption by many who consider the allowed private termination of pregnancy allowed during 11-weeks now called a human right by constitutional Arkansas Act 301 to be nothing more than allowed murder.

This Plaintiff prays Honorable Timothy L. Brooks rules GOOG and MSFT have unquestionably violated 18 U.S.C. §2511 and A.C.A. 5-41-103 and then set the issue of damages awarded from each defendant for jury determination including the FCC.

The wire communications disguised as [sic] "internet" will quickly become as safe for wholly anonymous human communications as telephones were in 1986 when Teresa "Teri" Susan Weigel had never performed in adult pornography but had accepted posing naked in Playboy magazine as marginally moral. Honorable Jimm Larry Hendren promotes the same slippery moral slope of naked art modeling by describing fine art naked photography today as "*not pornography*" but wholly allowed "art".

Choosing to view the most obscene of legal pornography should continue for ONLY the authenticated. The "*attractive nuisance of America's moral sewers*" of anonymously distributed free pornography should soon no longer exist. This summary judgment ruling will quickly end ALL non-prosecuted child pornography and allow humanity to share knowledge and work together to fight disease, find safe energy sources, and fight human injustices regardless of where these injustices continue.

The four attached exhibits 1:(18 USC §2511 MSFT FELONY), 2:(18 USC §2511 GOOG FELONY), 3:(A.C.A. 5-41-103 GOOG FELONY), and 4:(A.C.A. 5-41-103 GOOG FELONY) leave guilt a matter of unquestionable law and damages the only issue remaining for a jury. The wire communications still disguised as [sic] "internet" today will become wholly safe for anonymous children to use without needing filtration anywhere on Earth including schools and public libraries.

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Respectfully Submitted,

s/Curtis J Neeley Jr.

IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS[1]

Curtis J Neeley Jr. **Plaintiff**

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CASE NO. _14-cv-5135

5 Federal Communications Commissioners,
FCC Chairman Tom Wheeler, et al,
US Attorney General Eric Holder Esq,
Microsoft Corporation,
Google Inc.

BY **Defendants**

CERTIFICATE OF SERVICE

Plaintiff, Curtis J Neeley Jr, most respectfully affirms under penalty of perjury this will be filed and scanned by the United States Court for the western District of Arkansas and this scan will then be mirrored free "online" at TheEndofPornbyWire.org within 24 hours and be made available perpetually for free. The Western District of Arkansas has currently too many cases for timely consideration and this motion is an honorable attempt to save time though remaining just.

Respectfully Submitted,

/s/ Curtis J Neeley Jr.

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1 also submitted before EVERYONE "online" on Earth at TheEndofPornbyWire.org