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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GARY CASTERLOW-BEY,
Plaintiff,

v.

GOOGLE.COM INC., and
AMAZON.COM, INC.,
Defendants.

CASE NO. 3:17-cv-05686-RJB
ORDER ON DEFENDANTS'
MOTIONS TO DISMISS

This matter comes before the Court on Defendant Google.Com, Inc.'s ("Google") Motion to Dismiss (Dkt. 13) and Defendant Amazon.Com, Inc.'s ("Amazon") Motion to Dismiss (Dkt. 16). The Court has considered the pleadings filed regarding the motions and the remainder of the record herein.

This case arises from the alleged sale of Plaintiff's books on Defendants' websites. Dkt. 4. Defendants now move for dismissal of the claims asserted against them pursuant to Fed. R. Civ. P. 12 (b). Dkts. 13 and 16. For the reasons provided, the motions (Dkt. 13 and 16) should be granted and the claims dismissed.

1 **I. FACTS AND PROCEDURAL HISTORY**

2 **A. FACTS**

3 On August 30, 2017, Plaintiff, a *pro se* prisoner, filed this case, moved to proceed *in forma*
4 *pauperis* (“IFP”), and provided a proposed complaint asserting that Defendants Amazon and
5 Google committed copyright infringement when Plaintiff’s books were sold on their website.
6 Dkts. 1, 1-1, and 4. Defendant Google is an Internet search engine which allows users to search
7 for online content and receive search results. *Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d
8 1146 (9th Cir. 2007). Defendant “Amazon is an online retailer that purports to offer ‘Earth’s
9 Biggest Selection of Products.’ Amazon has designed its website to enable millions of unique
10 products to be sold by both Amazon and third party sellers.” *Multi Time Mach., Inc. v.*
11 *Amazon.com, Inc.*, 804 F.3d 930, 933 (9th Cir. 2015), *cert. denied*, 136 S. Ct. 1231, 194 L. Ed.
12 2d 185 (2016).

13 According to the Complaint, Plaintiff and non-party Trafford Publishing Company
14 (“Trafford”) (Plaintiff has other lawsuits pending against Trafford) entered a contract in which
15 Trafford would publish and distribute Plaintiff’s books and would then pay Plaintiff the royalties
16 from the sales. Dkt. 4; *Casterlow-Bey v. Trafford Publishing Company*, Western District of
17 Washington case number 17-5459-RJB; Dkt. 7. Although Plaintiff asserts that he is the
18 copyright owner of the books (Dkt. 4), he does not allege that he registered any of them with the
19 United States Copyright Office.

20 Plaintiff’s Complaint further maintains that Google and Amazon “both sale all three of
21 Plaintiff’s published books universally without ever paying any royalty to Plaintiff for his
22 copyrighted works . . . in Japan, Amsterdam, German [sic] United Kingdom and elsewhere at
23 ridiculously astronomical prices.” Dkt. 4, at 2. He alleges that he has “no contract with [either
24

1 | company] authorizing universal sales of his copyrighted work.” *Id.*, at 3. Plaintiff makes
2 | reference to copyright infringement. *Id.* He seeks injunctive relief requiring Google and
3 | Amazon to “cease and desist all sales” of his books until this case is resolved and an order that
4 | they produce all sales records of his books. *Id.* Plaintiff also seeks several million dollars in
5 | damages. *Id.*

6 | **B. PLAINTIFF’S OTHER CASES RELATED TO HIS BOOKS**

7 | On June 14, 2017, Plaintiff, proceeding IFP, filed a breach of contract case against Trafford,
8 | who he alleges failed to pay him royalties on the three books that he wrote. *Casterlow-Bey v.*
9 | *Trafford Publishing Company*, Western District of Washington case number 17-5459-RJB; Dkt.
10 | 7. An Answer to the Complaint (Dkt. 28) was filed for Trafford, and the parties are engaging in
11 | discovery (Dkt. 46).

12 | On August 30, 2017, Plaintiff filed a case against Ebay.com, asserting that Ebay.com
13 | committed copyright infringement, breached a contract, and committed fraud when it sold
14 | Plaintiff’s books. *Casterlow-Bey v. Ebay.com*, Western District of Washington case number 17-
15 | 5687 RJB, Dkt. 1-1. Plaintiff seeks injunctive relief and several million dollars in damages in
16 | that case. *Casterlow-Bey v. Ebay.com*, Western District of Washington case number 17-5687
17 | RJB, Dkt. 1-1. His application for IFP was granted. *Casterlow-Bey v. Ebay.com*, Western
18 | District of Washington case number 17-5687 RJB, Dkt. 3. Ebay.com has appeared by counsel
19 | and moved to dismiss the claims asserted against it, in part, based on Plaintiff’s failure to show
20 | that his books are registered with the U.S. Copyright Office. *Casterlow-Bey v. Ebay.com*,
21 | Western District of Washington case number 17-5687 RJB, Dkt. 7. Ebay.com’s motion to
22 | dismiss was provisionally granted pending Plaintiff’s filing of an amended complaint, to in part,
23 | address whether Plaintiff had registered his books with the U.S. Copyright Office and to address
24 |

1 other issues raised in the motions in that case. *Casterlow-Bey v. Ebay.com*, Western District of
2 Washington case number 17-5687 RJB, Dkt. 16.

3 On October 13, 2017, Plaintiff filed a case against “Barnes and Nobles,” moved for IFP, and
4 provided a proposed complaint asserting that Defendant “Barnes and Nobles” committed
5 copyright infringement, breached a contract, and committed fraud when it sold Plaintiff’s books.
6 *Casterlow-Bey v. Barnes and Nobles*, U.S. District Court for the Western District of Washington
7 case number 17-5834, Dkts. 1 and 1-1. Plaintiff also makes reference to the Racketeer
8 Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962, (“RICO”). *Casterlow-Bey v.*
9 *Barnes and Nobles*, U.S. District Court for the Western District of Washington case number 17-
10 5834, Dkt. 1-1. Plaintiff seeks several million dollars in damages. *Casterlow-Bey v. Barnes and*
11 *Nobles*, U.S. District Court for the Western District of Washington case number 17-5834, Dkt. 1-
12 1. His application for IFP was granted. *Casterlow-Bey v. Barnes and Nobles*, U.S. District
13 Court for the Western District of Washington case number 17-5834, Dkt. 4.

14 That same day, October 13, 2017, Plaintiff filed another case against Amazon, Google, Ebay,
15 Trafford, and “Barnes and Nobles,” moved for IFP, and asserted claims under RICO regarding
16 the sale and distribution of his books. *Casterlow-Bey v. Amazon.com, et al.*, Western District of
17 Washington case number 17-5833 RJB, Dkts. 1 and 1-1. His application for IFP was granted.
18 *Casterlow-Bey v. Amazon.com, et al.*, Western District of Washington case number 17-5833
19 RJB, Dkt. 4.

20 On October 25, 2017, Plaintiff filed *Casterlow-Bey v. Barnes and Nobles*, U.S. District Court
21 for the Western District of Washington case number 17-5871, moved for IFP, and provided a
22 proposed complaint again asserting that Defendant “Barnes and Nobles” committed copyright
23 infringement, breached a contract, and committed fraud when it sold Plaintiff’s books.

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1 *Casterlow-Bey v. Barnes and Nobles*, U.S. District Court for the Western District of Washington
2 case number 17-5871, Dkts. 1 and 1-1. Plaintiff again made reference to RICO violations.

3 *Casterlow-Bey v. Barnes and Nobles*, U.S. District Court for the Western District of Washington
4 case number 17-5871, Dkt. 1-1. Plaintiff sought injunctive relief and several million dollars in
5 damages. *Casterlow-Bey v. Barnes and Nobles*, U.S. District Court for the Western District of
6 Washington case number 17-5871, Dkt. 1-1. His motion for IFP was denied because the case
7 was duplicative of the other cases he had already filed. *Casterlow-Bey v. Barnes and Nobles*,
8 U.S. District Court for the Western District of Washington case number 17-5871, Dkt. 4. After
9 being given an opportunity to pay the filing fee if he wished to continue with the case, the case
10 was dismissed for failure to pay the filing fee. *Casterlow-Bey v. Barnes and Nobles*, U.S.
11 District Court for the Western District of Washington case number 17-5871, Dkt. 5.

12 C. PENDING MOTIONS IN THIS CASE

13 Defendant Google moved to dismiss this case on November 20, 2017, asserting that
14 Plaintiff's claim for copyright infringement should be dismissed because he fails to allege that
15 any of his books have copyrights registered with the U.S. Copyright Office. Dkt. 13. It also
16 moves to dismiss arguing that Plaintiff fails to allege facts showing how it infringed on his works
17 or that any activity by Google occurred within the United States. *Id.* Defendant Amazon moved
18 to dismiss on November 21, 2017 on the same grounds. Dkt. 16.

19 The Court issued a notice to Plaintiff, as a *pro se* litigant, regarding Defendants' motions to
20 dismiss under Fed. R. Civ. P. 12 (b), and discussed Plaintiff's obligations, if he intended to
21 oppose the motion. Dkt. 17.

22 Plaintiff responded on December 12, 2017 and included attachments. Dkt. 23. Plaintiff
23 argues that "[i]t is undisputed that Defendants have engaged in 'predicate acts' that constitute an
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