

Interview with Jeff Burgar of Alberta Hot Rods

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<http://www.domainsherpa.com/jeff-burgar-albertahotrods-interview>

Michael: Hey everyone, my name is Michael Cyger and I'm the publisher of DomainSherpa.com, the domain name authority and the place where successful domain investors come to tell their stories, and you get a front row seat.

What happens when a certified cease and desist letter shows up in your mailbox? If you're like me, your adrenaline starts pumping and a chill washes over you. Now, take it to the next level. What do you do if someone files a legal case against you?

UDRP -- the Uniform Domain-Name Dispute-Resolution Policy -- is a legal process to challenge the ownership of a particular domain name. UDRP was enacted to help trademark holders retrieve Internet domain names without having to go through a lengthy and expensive legal process. Instead, a UDRP case can be filed for about \$1,500 and decided within about 55 days.

Today's guest is no stranger to the UDRP process. In fact, he's had 23 UDRP cases filed against him for domain names including PamAnderson.com, AshleyJudd.com and TomCruise.com. In addition to these celebrity domain names he used-to own, he currently owns premium, generic domain names including Blondes.com, Profits.com and - of course - Hotrods.com. (You'll find out why I said of course in just a moment.) According to DomainTools' reverse IP lookup, he owns about 1,530 domain names in total.

Most recently, the news has been inundated by a celebrity that you just can't help but watch, Charlie Sheen. Charlie was fired from the TV show Two and a Half Men, went on a media talk show rampage, set a world record for the fastest account to reach 1 million Twitter followers, and decided he wanted to build out a website. When he went to reserve a domain name using his name as the moniker, he found it was reserved.

No, it wasn't reserved by one of the other hundreds of people with his exact same name in the United States, it was reserved by a domain investor.

Today's guest is Jeff Burgar of Alberta Hot Rods. Jeff, it's my great pleasure to welcome you to the show. Let's just right into this.

I could not find much information about you personally. Can we start off by sharing with DomainSherpa readers a little about your background?

Jeff: It's weird that jeffburgar.com points to a WIPO web page. The owner is in Vancouver Washington, a long ways from Switzerland. I think this alone should tell you that while privacy is a dying convention on the net, it still has value.

That said, I'm 62 years old, stricken by poverty, and own virtually no domain names, I do have a 1970 Z28 Camaro that needs restoration if anybody would care to mail me money. :)

Michael: Alright then. You own a domain name portfolio that makes other domain name investors salivate. It includes Tammy.com, AbrahamLincoln.com, StevieNicks.com and Blondes.com. How many domain names do you own, and which three to five are your personal favorites?

Jeff: Actually, I am the admin contact for a portfolio of domain names for several companies, both large and small. Out of those, I'm partial to nostradamus.com. I think he predicted the demise of SAIC, Network Solutions, WIPO and the connivers who created both a cottage industry of lawsuits, the attendant bonanza, and the attendant mess.

Michael: Do you find that parking generic domain names is the best way to monetize domain names that you manage?

Jeff: Most of the ownership chooses not to even park their domains. However, they are always open to offers which can be channeled through myself.

Michael: You have been in the news a great deal, but most recently due to the world-wide infatuation with watching Charlie Sheen. On Friday, March 11, 2011, Sheen posted on Twitter, "charliesheen.com is finally in the hands of its Warlock owner!" Can you tell us about that story?

Jeff: I'm more a fan of true artists like James Cameron, Coppola, Scorsese and screenplay writers and directors who begin the creative process. While good actors and actresses can make or break a show, become familiar with the work behind the scenes and you will appreciate the true genius of Cameron or Eastwood. Their attention to detail and understanding of the craft is at a completely different level from the "that's good enough" mainstream players, or those who think "nobody will notice the difference."

All that said, I like the characterization Sheen brought to his part in many of his movies. I still believe that since one cannot trademark a personal name, and that one may author a book about Elizabeth Taylor, Taylor Swift or Charlie Sheen and title it exactly that, one should be able to publish a web site called charliesheen.com...as long as there are no trademark and copyright infringements. The judgments rendered such as Don Henley the musician having more "rights" than Don Henley the real estate agent are bogus, and typical of many of the kangaroo court decisions handed down by WIPO, a body funded mainly by corporate interests. In other words, big money looking after itself - the Golden Rule - He who has the gold makes the rules.

So, we did nothing wrong. The intent was to publish numerous web sites in a growing field known as the World Wide Web, simple as that.

In the end, there will be a small cash payment, and we hope to collect a Mitch Vaughan ball shirt from Sheen's role as "Wild Thing" in Major League Ball.

Michael: Numerous WIPO cases have been filed against you, including PamelaAnderson.com, AshleyJudd.com and TomCruise.com. Celebrities have what is called "Right of Publicity" that prohibits someone else from using a celebrity's name or photograph in advertising or promotion of a product or service without permission. However, common law of most states within the United States creates an exception to liability for news reporting

and commentary on matters of public interest. Why not turn celebrity domain names into "fan sites" that allow pop culture's obsession with a specific celebrity to be met while taking advantage of the Right of Publicity exemption for news reporting? After all, newspapers primarily make their revenue through advertising.

One can still publish a web site doing exactly that. But if you go to the trouble of writing a book on Tom Cruise, which is a better marketing plan: titling the book "Tom Cruise - An Unauthorized Biography," or "A Book about an Actor"?

Michael: Neither you nor I are attorneys (I assume, please correct me if you are an attorney), but do you believe that – in every case – a celebrity is deemed to have common law trademark rights under federal trademark law and that domain names thereby belong to the celebrity? Clearly this is a grey area, what's your view?

Jeff: Not a grey area at all. You cannot trademark a personal name. How silly a world it would be (but extremely lucrative for lawyers) if one could trademark Smith. American courts have allowed trademarks for particular cases, in particular fields, as for instance Johnson and Evinrude, both marine motors. But the web and uniqueness of domain names (there can be only one johnson.com) should make it apparent to even the dimmest of judges that its a totally different ball game. Unfortunately, once again, judges lean to the Golden Rule - "when in doubt lean to the money." We forgive them too many times under the excuse of them being old and stupid. If they don't understand the issues they should recuse themselves, simple as that, instead of rendering judgments that are inexcusable and saddle generations with their ineptitude.

There is no celebrity level that would ever apply. When a Sandra Bullock becomes president, should she be going head-to-head with a 90-year old actress over who is more famous? Absurd. The domain name system is inherently first come first served, just like a phone number or real estate. You don't deserve to steal property because you don't like the little house on the beach and you are a big hotel developer. Or be allowed to score 403-349-7373 because you make pizza.

Michael: Clearly your veins are filled with Tiger Blood. :) Do you ever get nervous when contacted by the attorneys of celebrities? What is the worst someone has threatened you with?

Jeff: Our own tiger is Ari Goldberger in New York. You can see an overview of some of his cases at esqwire.com.

There are some celebrities, and their lawyers, who at best can be labeled pigs. There are others, like Elle Macpherson, who are true ladies and decent human beings. It's too bad the celebrity industry is in the business of not letting you know there is a difference.

Michael: There are numerous WIPO cases against you and Alberta Hot Rods. In the 23 cases I found, 4 were denied while the other 19 were transferred to the complainant. Do you think the current UDRP process is biased in favor of the plaintiff?

Jeff: A search of the web will find many, many commentaries about how biased the UDRP judgments are, and in particular, the biases of WIPO panelists. WIPO should be the target of a class action suit, but no doubt has written its own rules to try to block that.

While you are searching, let me know how many commentaries you find how wonderful and fair the UDRP set up is. :)

Michael: In a UDRP administrative proceeding, the plaintiff must prove that each of these three elements are present: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; AND (ii) the respondent has no rights or legitimate interests in respect of the domain name; AND (iii) the domain name has been registered and is being used in bad faith. In some of the UDRP cases you simply didn't respond to the inquiry, which caused the panel to assume you were operating the domain name in bad faith. In hindsight, do you think you should have responded?

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Jeff: Is there much of a point in responding to the charges of a kangaroo court? Media like yourselves should be more concerned with why the set up is so crooked, instead of what people like me think of it.

Michael: It costs a complainant around \$1,500 to file a UDRP, not including their attorney's time, and requires approximately 55 days. It makes business sense to simply offer a domain name owner \$1,500 to, say, \$5,000 for a domain name and immediately have ownership of it. Do you agree?

Jeff: Oh, and don't forget the ball shirt, and two autographed balls in the Charlie Sheen deal, and the Star Trek doll Levar Burton STILL hasn't sent me. What a jerk.

Michael: Jeff, you've been very generous with your time. What advice can you provide to other investors that are considering buying domain names containing the names of celebrities?

Jeff: We aren't buying, but a wall full of autographed posters and photos might appeal to some people. And who knows, maybe that class action suit will change the game.

Michael: It's been an enlightening interview. Jeff, thanks for coming on DomainSherpa and sharing your thoughts.

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