

Beat a UDRP by Having a Legitimate Business Interest – With Howard Neu

Watch the full video at:

<http://www.domainsherpa.com/howard-neu-udrp-interview/>

Three messages before today's interview educates and motivates you.

First, if you're a domain name investor, don't you have unique legal needs that require domain name technical know-how and industry experience? That's why you need David Weslow of Wiley Rein. Go search for David Weslow on DomainSherpa, watch his interview and you can see for yourself that he can clearly explain issues, can help you with buy/sell agreements, deal with website content issues and UDRP actions, and even help you write your website terms and conditions. David Weslow is the lawyer to call for Internet legal issues. See for yourself at NewMediaIP.com.

Second, managing multiple domain name marketplace and auction site accounts is a pain. Inevitably, you forget to sign into one and lose a great domain...or worse. Now imagine using a single, simple-to-use and comprehensive control panel to manage all your accounts. That's Protrada. You can setup search filters, analyze domains, automate bidding, list domains for sale, and buy domains across all major marketplaces. Protrada also has a new semantic engine that builds Google-friendly websites with rich content and network feeds. Sign up at Protrada.com to get 20 free credits and start building and monetizing your domains today.

Finally, if you have questions about domain names, where should you go to ask them? The answer is DNForum.com. Not only is DN Forum the largest domain name forum in the world, but it's the best. You can learn about domain names and the industry, buy and sell domain names, talk about domain name news, and meet other domainers just like yourself. Register for a free DN Forum account and begin advancing your skills and knowledge today. And when you do signup, send me a friend request so we can connect.

Here's your program.

DomainSherpa.com: The Domain Name Authority

Michael Cyger: Hey everyone. My name is Michael Cyger, and I'm the Publisher of DomainSherpa.com - the website where you come to learn how to become a successful domain name investor directly from the experts themselves.

Anyone who follows Rick Schwartz's blog knows that once you get Rick riled up about something, he doesn't calm down quickly. And most of his online attention recently has been turned one Marcio Mello Chaves - a man who owns SaveMe.com.br, who recently files a UDRP alleging that Rick Schwartz was cybersquatting or had taken the domain name that is rightly owned by him and his trademark, SaveMe.com.br.

Joining us to discuss the intricacies of this legal issue and help us to understand UDRP cases and reverse domain name hijacking better is Howard Neu - an Internet domain name attorney, Co-Founder of the Traffic Conference coming up this October, and partner of Rick Schwartz. Howard, welcome to the show.

Howard Neu: Hi Mike, and welcome everybody to Domain Sherpa; and I know that you've got some great viewers and readers that come in everyday looking for some information and you've always been able to provide it, so I'm very pleased that you've asked me to be here. I need to make two corrections on what you just said.

Michael: Please.

Howard: One is that Marcio Mello Chaves did not own the domain. He was the attorney for the owners. And the other is that they do not have a trademark. There is no trademark either in Brazil or otherwise. They have applied for one, but they don't have one. So I just want make those changes.

Michael: All right. Very good clarifications. Thank you for that, Howard. When I went to do my research pre-interview, the website at SaveMe.com.br has no information about ownership and when I went to the parent company, it actually has no information as well, so I appreciate that clarification. Clearly, not a lot of information is easily accessibly by the company that files this UDRP case.

Howard: Well, the funny thing is that we have heard from people in Brazil concerning the company that owns that domain that apparently they own some other websites where they have, in fact, cheated people and have not provided the services or good that they had promised to provide, so apparently there is a litany of history with this particular domain owner; BR owner.

Michael: All right. So today we're going to focus on the UDRP case and I like to start with the end result. They filed a UDRP case, you represented Rick Schwartz as his attorney; what happened in the case of SaveMe.com, which is a domain name that was owned by Rich Schwartz?

Howard: Okay. Actually, the owner of SaveMe.com is TheProperties.com, which is Rick's company - one of his companies; alter egos if we may. And the end result was that a three-person panel voted not only to deny the claim, but found very strong wording for reverse domain hijacking.

Michael: So they actually labeled this UDRP case as a reverse domain name hijacking case?

Howard: Absolutely.

Michael: All right. And we're going to go into exactly what that means for the company and the attorney that filed this case, but let's take a step back briefly, Howard. What is a UDRP case?

Howard: Well, it's interesting you should ask because there are some misconceptions, but a UDRP case is generally a case filed by a trademark holder. Doesn't necessarily have to be registered trademark, but a trademark holder who claims that a domain name is, in fact, treading on their trademark and is causing confusion. And generally it's a claim for cybersquatting, but, in essence, they're saying it's being misused in order to confuse the user and to go to somebody else's website.

Michael: Okay. So it was a legal clarification to the domain name system that allows people who own trademarks, whether it's actually registered or not, to

then get a domain name taken away from another person who might be using it in a confusingly similar fashion to the company that owns that trademark whether registered or not.

Howard: Well, that's partially correct. It also determines whether or not their domain name was registered and being used in bad faith. UDRP, Uniform Domain Name Dispute Resolution, was put together by ICANN in order to provide for an arbitration process to make it easier for trademark holders to obtain the domain name utilizing their trademark without having to go to court and spending a lot of money and time. Of course, the downside from a complainant standpoint is that all they can do is get the domain name. They cannot get damages; they cannot get attorney's fees and so on. On the reverse side, and I'm sure you're going to get to it shortly, if there's a finding of reverse domain name hijacking, there's no penalty for doing that. At least not a monetary penalty.

Michael: Yeah. Rick has his own form of penalty, but we'll go into that. Okay. So I understand what UDRP case is. So I can get a domain name that sometimes else might have if it's on my trademark and there's a few different parameters that have to be fulfilled in order for a panel to decide for the complainant. So it's for trademark holders, and I appreciate interviewing an attorney, Howard. And I like the fact that you correct everything that I say to make sure that it's legally correct. Like, Rick doesn't own the domain name; Rick owns a company that owns the domain name. And I appreciate that because I think a lot of watchers and readers want to know the details of how things are formed. So, if people put domain names into a company that is a legal entity, they personally are protected and things like that. So, keep doing that please. But back to the trademark case. So, it's a clause for trademark owners. Does somebody have to have a registered trademark with the United States Patent and Trademark Office, or another country's Patent and Trademark Office, or is it enough to have a common law trademark to use the UDRP process?

Howard: Not in and of itself. You can, as a common law trademark holder, in fact, bring a UDRP action. However, in order to be able to prevail -I'm talking on behalf of the other side really -, you would have to show that there is a secondary meaning; that it's a famous mark even though it hasn't been

registered; that substantial monies have spent on developing the mark, albeit a common law mark. Let's say, for instance, that Coca Cola had no registered trademark, but everybody knows that if you want a coke, it's a Coca Cola; or if you want a tissue, it's a Kleenex. These are types of things where huge amounts of money have been spent to develop a trademark even though it's not registered. And if that's the case, then a common law trademark, in fact, can prevail in a UDRP action.

Michael: Okay. But the hurdle for the complainant is much higher if it's a common law trademark not registered with, say, the USPTO than if it were registered.

Howard: That's correct.

Michael: Okay. I understand that. And, clearly, we're not going to go into the details of how much higher that hurdle is during this show. People, if they're thinking about investors, if they're thinking about -- speak to a domain name attorney like yourself, or like David Weslow, who sponsors our show, or any of the other great attorneys that I'm sure you'll bring up during the show today. So if I own a trademark - registered trademark with the USPTO - and somebody else has a domain name that's infringing on my trademark, Howard, I've seen in two cases that I can go to WIPO or to another organization - National Arbitration Forum - to file a UDRP case. Is there more than one place that are UDRP case can be filed?

Howard: In so far as the .COMs are concerned, those are the two jurisdictions. There are other jurisdictions, but for country codes. SIRA has one for Canada. There's a Czechoslovakian Board. But generally, WIPO or NAF are the areas that you go for UDRP.

Michael: I understand. It's by the country then, and each country may have their own organizations that are created to administer the UDRP.

Howard: No. Maybe I misspoke. Most country codes, if not all country codes, are enforceable under the UDRP; and are enforceable at WIPO or NAF. Generally, non-US cases are filed at WIPO, but they had been filed at NAF as well. And just as kind of a plug for my blog, NeuNews.com, every

six months I publish a (Unclear 10:26.8) at WIPO. The top ten panelists at NAF who have denied complaints on behalf of domain holder respondents than the others. And so, I make that list available every six months, and we consistently update it. So there is a resource that you can go to.

Michael: Excellent. So that's at NeuNews.com.

Howard: Correct.

Michael: Excellent. And we'll put a link in the interview as well, so people can click through and look at that. So I'm going to ask you when should NAF with respect to different factors and what are the differences in filing, but first let's talk about the UDRP. In my research, I can see that there are three elements that must be proven by a complainant in order to have a domain name cancelled or transferred. Is that correct?

Howard: That's correct.

Michael: Okay. So I've got domain name registered by the respondent - the person who owns the domain name responding to the UDRP - is identical or confusingly similar to a trademark or service mark in which the complainant - the person who wants the domain name or doesn't want somebody else to have the domain name - their rights. Number two: the respondent has no rights or legitimate interests in respect to the domain name. And three, the domain name has been registered and is being used in bad faith.

Howard: Absolutely correct.

Michael: So these are terrible legal things. If I read this as a business owner and I say, 'I'm going to go buy this domain name. I've done a search on USPTO before I register the domain name or buy it from somebody else' it doesn't stop. I guess it's just like any other legal action that can be taken against me. You don't need to be correct in order to file a lawsuit against anybody, but it just seems like these are some pretty high hurdles and cases seem to go any which way when I look through the records of the UDRP cases.

Howard: Well, statistically, I guess eight-five percent of the cases require the transfers of the domain. However, of that eight-five percent, a good seventy-five of the eighty-five percent are because the domain name holder - the respondent - defaulted and didn't respond. And they're rather obvious. Obviously if you have Volkswagen.com, that's rather obvious; or if you have something like that. Those that have the three things that you mentioned. Those that are not registered in bad faith. Those that have legitimate business interest and are utilizing the domain - and it doesn't have to be. It can be parked. Under many of the panelists, they have said, it could be parked. But if you're utilizing the domain, particularly if it's a generic or a set of generic words, basically you're home free; even if there is a trademark involved that claims you are cybersquatting on their domain.

Michael: Okay. So I've got a million of ancillary questions related to this and parking, and some cases that were parked and it still showed bad faith, and using trademarks within a domain name that maybe a news source. So let's start with the SaveMe.com domain name that you represented. So SaveMe.com.br put forth a UDRP saying that EProperties has SaveMe.com and it's confusingly similar to their business, which operates in Brazil and Latin American countries, and you responded how?

Howard: Well, actually, I didn't even have to respond on the first time because WIPO threw it out the first time by saying that they didn't allege the question of bad faith. And so, they never made any allegation concerning bad faith, so they initially threw it out. They had a re-file; and when they re-filed, it was one of the loosest complaints that I've privy to, where they just kind of rambled on and on about how it was registered in bad faith even though SaveMe.com was registered in 1996 and their SaveMe so called registered trademark or application wasn't until 2010. So they had a hard time proving that and really the panel saw that right off the top, and even on the amended complaint, they didn't really fix it.

Michael: Yeah. Okay. So you're looking at this as this is a slam-dunk.

Howard: Exactly.

Michael: All right. So you weren't too worried about it from the beginning.

Howard: No, I was not. But let me clarify. Panelists are human beings and sometimes, as you're about to mention on the new one that just came through - Vanity.com -, the panelists don't know what the hell they're doing. And so, it's always a possibility. So, I'm going to anticipate your next question. The first thing that you do in defending on of these things is, you try to get panelists that are, number one, intelligent, number two, have a good track record, and number three, understand what is happening in this particular case.

Michael: So who assigns the panelists? Is that ICANN or is that UDRP Board?

Howard: Not in this particular case, but generally, most complainants will seek one panelist. They will not seek three. And so, you have a choice. So, with one panelist, first of all, it's cheaper for the complainant; and second of all, generally one panelist will rule in favor of the complainant. Generally. And so, if they do that, either NAF or WIPO, depending on where they file, will, in fact, pick the panelist. However, like in SaveMe.com, they actually went for three panelists and so, we didn't have to spend money on changing that from one to three, which by the way, if the complainant files for one and the respondent wants three, you got to pay additional monies in order to get those three panelists.

Michael: Okay. So let me unpack all that. Why the better for the complainant to have a single panelist than a three-panel panel?

Howard: Complainant will almost always ask for one panelist simply because historically and statistically one panelist generally votes for the complainant.

Michael: Okay. So statistically speaking, it's to their advantage.

Howard: Correct.

Michael: Okay. And it costs how much to file a UDRP for a single domain, a single panelist? Roughly.

Howard: Well, roughly, at WIPO it runs - gee, I just filed one too on behalf of the complainant, which is very unusual for me - either thirteen hundred dollars or fifteen hundred dollars. I forget which at either one of the. If you want three panelists, you got to add two thousand dollars to that.

Michael: Wow. Okay. So, SaveMe.com could've gone for a single panelist and they would've saved money, they probably would've had a better chance of winning; and if you and Rick decided that you wanted three panelists because it's to your advantage, you would've then had to pay for the additional two panelists.

Howard: We'd have to pay fifteen percent of additional cost.

Michael: Oh fifteen percent of the additional cost. Okay. And would you have done that if that were the case?

Howard: Absolutely.

Michael: That makes sense.

Howard: Let me finish answering the question though.

Michael: Yeah, please.

Howard: If, in fact, there are three panelists, then what happens is, each side gets to submit, as part of their pleadings, the names of three persons that they would like to see as a panelist. And the arbitration company - WIPO or NAF - will, in fact, do their utmost to have one of those three as a panelist. Once those are established, then WIPO or NAF will, in fact, pick a third panelist who will be the residing panelist. And what they do is they submit five names to each side - the same five names to each side - and they ask you to strike or to rate the panelists in the order you wish to participate. Obviously, if there's somebody you really don't like, then you make that number five. Somebody you really like, well, normally you make it number one, but that may not be the case. So you submit your list, they submit their list, and then WIPO or NAF then, in fact, picks the panelists from those lists.

Michael: So it sounds very similar to what I see on TV or in the movies when attorneys are picking a jury. Where you get to, 'no, I don't want that woman, or that man is too opinionated'.

Howard: Exactly. Actually, the process is very similar. Yes.

Michael: Okay. So, why does WIPO or NAF use attorneys who don't seem to understand domain name law? And I say that from an outsider perspective. Let me ask you this. Does every attorney selected by WIPO or NAF use intellectual property attorney who specialize in domain name law, or are they just general attorneys who passed the board in any given state?

Howard: They list the panelists for both associations. It's listed alphabetically and listed by country. It's generally they have some legal background. They may or may not be an actual attorney, but they have some legal background. They have some IP background. Some are professors. Some are judges. Some are retired judges. They run the (Unclear 21:09.8). But there are some panelists who stand out as being extremely fair as opposed to those stand out as being extremely unfair, and you could make that determination.

Michael: All right. I understand how the process works. And if I'm an attorney, or legal professor, or somehow associated, do I need to apply to WIPO and NAF, or is that through ICANN that apply to be on this Board?

Howard: No. It's not through ICANN. It's through WIPO or NAF and they have their process and procedure for hiring or utilizing (Unclear 21:57.2). In fact, I'm not familiar with it.

Michael: Okay. And are they compensated per case that they review? Is that how it works?

Howard: I would imagine so and, again, I can't answer that definitively.

Michael: Okay. And so, we do have attorneys that are practicing intellectual property law for domain name investors who are also being used?

Howard: I have not see any domain name defense attorneys on any panels.

Michael: Okay.

Howard: Nor, frankly, have I seen any of complainant's attorneys in any panel. So they generally have people who have an interest in intellectual property law and/or domain law that, in fact, serve as panelist. The one that stands out is the Honorable Neil Brown, who has made a really great reputation as being a very fair and honest panelist. He has rules both for complainants and for respondents. He's out of Australia, but I'm just using that as an example. He has, to the best of my knowledge, ever represented either the complainants or the respondents in any kind of a UDRP action or any other kind of action.

Michael: Okay. So they try and maintain a no conflict of interest between--

Howard: In fact, they have to sign a declaration with WIPO or NAF that they have no conflict of interest.

Michael: Okay. That makes sense. All right. So, back to SaveMe.com.br. Number one, you said they applied. They did not have a registered domain name, so WIPO actually - did you say WIPO or NAF - rejected it back?

Howard: It was WIPO and then it wasn't registered. It was a registered trademark, not domain name.

Michael: Why was it rejected when you don't need a registered trademark in order to file a UDRP?

Howard: The panel wrote, based upon my argument I'm happy to say, that they were not able to, or they didn't, prove secondary meaning. They didn't prove. They didn't submit any evidence that the trademark of SaveMe that they claimed to have as a common law trademark had any significant value. They alleged it, but they didn't attach any proof of advertising, of people using their trademark; nothing. They just made some allegations and because of that, it was not strong enough for WIPO to say okay; well, you have a good secondary trademark. The common law trademark.

Michael: Okay. So if they wouldn't have the trademark registered then that would've been enough to review the case, but since they didn't have that, (Unclear 25:09.2) to supply to get over that extra hurdle that we discussed earlier, which is to supply advertising proof, to supply Google analytics reports showing how much traffic they have; basically, some substantiated claim to having a common law trademark and they didn't do that.

Howard: That's true. However, the whole issue was secondary to the fact that they didn't register the trademark. They weren't even in existence. The company wasn't in existence until 2010. And we've had the domain name registered since 1996; and that really was the key.

Michael: Okay. Can you say, Howard, that in every case if an investor owns a domain name before a trademark is given, will the domain name owner always prevail in a UDRP?

Howard: I wish I could say that, but no. There had been instances where they had not prevailed. Some panelists have determined that well, there are two things. One is, some have said that the reregistration of the domain name is a brand new registration and therefore, if it was after the trademark, then it doesn't count. It doesn't go back to the original. Others have said that if the use of the domain name changes after the trademark that therefore, it goes back to the original registration (Unclear 26:54.2) both, registered and used in bad faith. And that's generally the benchmark that they use.

Michael: Okay. So it seems like, to me, as a non-practicing attorney, non-legal expert that really (Unclear 27:23.7) because I could own a domain name before or after new customers that are intending to go your website and giving them my website, or using my website to redirect people back to your website for affiliates, or showing Google Ads to try and display to people who are expecting to go to your website and they're at my website. Bad fair seems really the crux of the matter.

Howard: Actually, I tell all my clients that come, or potential clients that come to me and they save interest. I don't care if you have -- what you really need to do is have a legitimate business interest. If you use Delta, Apple, Macintosh, or whatever; if you have a legitimate business interest that is not

infringing on the trademark, then you are not operating in bad faith and you should prevail.

Michael: All right. That is awesome.

Howard: Not that you will prevail.

Michael: Right; but that seems like a great tactic that now we can build on. Legitimate business interest. If I help other people manage their maintenance record for their Volkswagens and find the better place to buy cheaper Volkswagen products, and things like that, I can start MyVolkswagen.com, have a legitimate business interest that helps people find the products that they need to Volkswagen, buy them second hand, maintain their records; things like that. And although my domain name includes a trademark, I may prevail if Volkswagen tries to take it from me.

Howard: Actually, the answer is yes except that we're dealing in a little bit different venue here. Generally, what happens with that type of a case is that they're filed in US Federal Court under the ACPA rather than the UDRP because they want both damages as well as the domain name and they're generally entitled to a hundred thousand dollars per domain under the ACPA. But there are courts that have held and, of course, in Federal Court there is what they call (Unclear 29:51.7), which you can use as a precedent for other cases whereas in UDRP, it's suggested, but there is no precedent. There are cases that say that you can use a trademark name if number one, you have a legitimate business interest and number two, it wasn't registered and is not being used in bad faith. And there are extensive cases as to what constituted bad faith and that you are not, in fact, trading on the trademark. And so, you can prevail. However, you're walking a very thin (Unclear 30:35.9) that can go either way.

Michael: Okay. Understood. Now, there is an exception for media companies to publish about certain companies that use their trademarks. Is that correct?

Howard: I'm not sure what you're referring to.

Michael: Like if I want to start a company that says RegistrarASucks.com and I want to allow users to be able to talk about their negative user interactions with their customer service department about Registrar A. Am I allowed to do that?

Howard: Yes and no. I wish I could answer that definitively, but there have been decisions by UDRP panels both, for and against sucks domains. And, in fact, I've experienced it both ways. I had KoehlerSucks.com concerning the Koehler toilets, and plumbing and everything; and I won. On the other hand, I had ADTSucks.com and I lost. It all depends on the panel and how they see it. So, it can go both ways and you just have to have the right panel I guess because the facts are basically the same. You're using it as a gripe website and sometimes you win; sometimes you lose. I own a few myself and so far they haven't been challenged, so we'll see what happens.

Michael: Well, this is the thing I think most people like myself - business owners or entrepreneurs or investors - are frustrated with; is that it could go any which way.

Howard: Yes.

Michael: I like the fact that you said if you had a legitimate business interest, you will likely prevail.

Howard: That's correct.

Michael: Let's talk about that for a moment. How can domain investors who own three hundred, five hundred, a thousand domain names establish that they have a legitimate business interest and prevail?

Howard: Many panels have determined that, in fact, parking the domain is a legitimate business interest. There are others who have ruled the other way. Obviously, if you have thousands of domains, you can't develop them all although you can probably slap up some website, even mini-sites or just landing pages. Sometimes that helps. I've had a couple where all we had really was the domain name and we had a plan to develop it, but my client had just recently acquired the domain so he hadn't had an opportunity, within

a year, sometimes two or three years to develop that into a full-fledged website; and we still prevailed. So if you can so that you have either a legitimate business existing interest or potential interest and this is the direction of which you're going, you could prevail.

Michael: Okay. So I can actually (Unclear 33:38.6) UDRP saying, 'here's my business plan for developing this domain name. I just haven't done it yet' and that will be enough to show that you did not have bad intentions for buying the domain name.

Howard: That has been help to be true. Yes.

Michael: Okay. I understand. So, in general, I understand that you can't make any hard and fast rules about this, Howard, but I appreciate the giving direction to people so that they know where to head. And clearly, if they get slapped with an UDRP case, they need to consult an attorney on these issues because even though, as you mentioned, there's no precedent set for UDRP cases being able to point the panels at past cases that have happened that are similar to yours may, in fact, help them understand the situation.

Howard: Well, unfortunately, the vast majority of the UDRP cases that are filed are, in fact, cyber squatters. They are people who, in fact, either typoed a trademark in some way and generally don't even defend the action because they know that they're going to lose. So they don't want to spend the time and the money for an attorney or even themselves to file any kind of response, so they let it go. And of course, that gives a black eye to all domain investor because the general public sees the domain investor as a cyber squatter. I mean they are almost equal in their eyes and us, we in the profession and we in the domain industry, try to change that image; but when there are so many cases - I subscribe to both WIPO and NAF and I get their decisions every day, and eighty percent of those decisions are just slam dunk on behalf of the trademark holder because they're obvious cyber squatting. And it's just a same that we still have domainers, after all these years, who just keep doing that. I guess because they are making a few bucks on the deal -- I don't know, but it's happening all the time and makes the rest of us look bad.

Michael: Yeah. Definitely. If I own a trademark and another domain investor owns a domain name that includes my trademark that is being parked, what do you suggest I do as the trademark owner?

Howard: Well, in other words, are saying that you have both the domain name and a trademark and that somebody else is using a similar domain name and trading off your trademark?

Michael: Correct. (Unclear 36:21.8) off my registered trademark. Well, it's part. So let's say that their display of Google Ads and they are displaying competitors to my website because it may include some keywords in the domain name as well.

Howard: Well, if you got your trademark - and again, the key is the trademark - before they got their domain name, then the chances are good that you will prevail even though it's another domainer - another domain investor. In essence, not necessarily your domain name, but your trademark to profit. So the facts would remain the same. As long as your trademark preexists their domain name, your chances of prevailing are pretty good. I did represent recently a number of complainants, and it was kind of unusual after all these years, who asked me to file complaints instead of responses, but they were all slam-dunk so I had no problem with it. We won at least a dozen different cases against domain owners who just traded on the trademark and it was just only, I think, two of them defended; and even those defenses were weak.

Michael: Yeah. Most people watching this show are domain investors that have the domains, so they might be on the respondent side, but just for the complainants that may be watching, I own a few trademarks in the United States. One of the trademarks I recently discovered was being used in a domain name by another company. Not an investor, but a company that actually decided to use my trademark, attached a number to it, and they've been operating for a couple of years. I just never realized it until they rose up the Google ranks. And when I looked at it, they were clearly using my trademark all over the website in order to rise up the ranks when people searched for one of trademarks that I own. And so, David Weslow, who represented me in this case, did not file a UDRP. He actually went to them

and said, 'cease-and-desist. You are treading on my client's trademark and you need to immediately stop and stop using the domain name, which includes the trademark' and they agreed to do that. Would you recommend that as the course of action if you were representing a client as well? And I don't mean to ask you or second guess what David Weslow had done in any case, but I guess my question for you is: when should a complainant try and reach out to the respondent and say cease-and-desist versus going to a UDRP versus filing a Federal case?

Howard: Okay. You're going right up the steps of costliness. Sending a C&D is hardly any cost at all and if it's effective, then you won without having to spend a lot of money.

Michael: Okay. So money is really the big issue.

Howard: Yeah. The next step is more expensive, which in a Federal case could end up fifty, sixty thousand dollars if it's contested, so obviously I have no problem with either receiving or sending a C&D letter because frequently things are resolved out of C&D letters. Not all. I would say less than fifty percent of the time; maybe even less than twenty-five percent, but there is some effectuality to a C&D letter.

Michael: Okay. I understand. So it's really a cost issue and I may spend the money on a cease-and-desist and they may say, 'forget it. Take a hike'. In which case, I spent that money and I not I got to spend the money on the UDRP as well.

Howard: Correct.

Michael: Okay. And then I may lose that and then I may decide to go to Federal Court or I may just decide to drop it.

Howard: Correct.

Michael: Okay. I understand the process there. When should a person file their UDRP with WIPO versus NAF? Are there any differences between the two organizations?

Howard: There are some differences. The panelists are the same. Both will accept panelists from any pool as long as they are certified panelists. I've seen WIPO panelists at NAF and vice versa. It's really just the matter of personal preference as to whether you want it through Minnesota or through Geneva. I find that most foreign complaints, if not all, are filed at WIPO and most US complaints, if not all, are filed at NAF, but I've seen them both ways.

Michael: All right. So back to the SaveMe.com.br case. So we talked about why they failed when they submitted their UDRP case. Before they filed the UDRP case, Howard, they actually reached out to EProperties and they tried to purchase the domain name. Did that have any effect on this case?

Howard: Yeah; to some extent. The fact that they offered ten thousand and they were rejected; they offered fifty thousand and they were rejected. Rick said that he would need at least six figures and then they went ahead and filed the UDRP action. And the panelists did make a note of that to show that there was no intent on behalf of the respondent - Rick Schwartz - to sell the domain. He was interested in selling the domain; certainly not at the prices they were offering, so yeah, that did have an effect.

Michael: So the effect was supporting Rick's position. Okay. If the complainant would have reached out to EProperties and said, 'we'd like to buy this domain. What is you asking price?'

Howard: They wouldn't have gotten one from Rick.

Michael: They wouldn't have gotten one. So Rick's procedure is make me an offer I can't refuse, otherwise I got plans for this domain name.

Howard: Exactly.

Michael: Okay. And is that generally --?

Howard: In fact, it's even simpler than that. That's pretty much true. However, (Unclear 42:53.2) from my experience in doing this since the last twelve years that it used to be very important as to who initiated the

discussion on the tempted purchase of the domain name. Was it the respondent who offered it for sale or was it the complainant who sought to buy it? That was more important initially. It's not that important anymore simply because valuation basically is in the eyes of the person who wants to buy the domain. If they're willing to pay a reasonable price, then they'll pay it. If not, they will file a UDRP action. And that's basically (Unclear 43:41.0) these days.

Michael: Okay. So large domain portfolios that actively sell their domains, BuyDomains.com or HugeDomains.com, or any of the thousands of other companies out there that actively advertise their domains for sale price. Today, they're not necessarily operating in bad faith by selling those domains.

Howard: No. Not at all. It's their business. They are businesses and that is their business. They are brokers. None of the brokers, whether it's a private broker or a public brokers, doesn't matter there. That is their business.

Michael: Okay. So that's their legitimate business interest that you were talking about earlier.

Howard: Correct.

Michael: Okay. All right. So current policy states that the panelists are looking for bad faith across the entire spectrum of owning the domain name. It's not enough to buy the domain name years before the trademark came out. Bad faith is a continuum and you need to maintain no bad faith during that entire continuum.

Howard: There has been some dichotomy on that. Most panels will look at the (Unclear 44:52.3) and they'll look at the bad faith of the use today or at the time either that the C&D letter was sent or the case was filed to determine whether the bad faith issue. However, there are some panels who will look at bad faith through the continuum to determine whether even though there is no bad faith today because the respondent has changed the usage of it in some way over the years or not. Frequently what they'll do is they'll go to Archive.org and use the way back machine and show screenshots of how the

domain is used over a period of years. Some panels will say, 'okay. Well, you've shown bad faith over the years even though you don't have bad faith now. We're going to find bad faith'. Others will say, 'Well, it has to be then'.

Michael: So if a company has a trademark, they're operating in, say, the clothing line and another company owns a domain name that they are parking and that is their legitimate business interest, and they are showing advertisements for the complainant company, is that bad faith?

Howard: It can be. It may not be. I've seen it both way. I wish I could be definitive, but I've seen it both ways.

Michael: Okay. What do you recommend to a domain name investor that has a domain name that may be in that case?

Howard: If it is obvious to the domain name investor, then it is probably obvious to everybody else in which case you should give it up. On the other hand, if it is obvious that he has got some use of it and that he has instructed the parking company not to go to the complainants or to compete with the complainant, then he is okay. So you have to be somewhat proactive in that regard if you have a name that is close to or treads very closely to a trademark.

Michael: Yeah. All right, Howard. I've got one more question about trademarks before I get to a few questions submitted by a reader about Vanity.com, which we referred to earlier. A case that was just decided. Now, trademark is the way I understand them as a layman is that a trademark is assigned by the USPTO by IC or International Class. So, for example, if I want to trademark the word anomaly - the generic dictionary word -, I can do that for computer analysis software in a specific -- just like Tide can do it for cleaning supplies and Dove can do it for bar soap.

Howard: And Delta can do it for faucets and Delta can do it for airlines. That's correct.

Michael: Exactly. So how can any company assert that another company that owns a domain name that includes a generic word like that - if it's not being

parked; if nothing is happening with the domain name - is operating in bad faith?

Howard: Generally they are not. Generally they will not find it a finding of bad faith if, in fact, the respondent responds. If the respondent fails to respond, even though sometimes they will still find no bad faith, the chances are that they will because it is the easy way out.

Michael: Yeah. Okay. I understand. So, in a majority of cases, like you said, the respondent doesn't respond and then the domain name gets transferred over because the panel has nothing to review.

Howard: Exactly.

Michael: But if I own DoveMechanics.com and Dove Soap thinks that I'm -- in an example that actually occurred to me. So, I registered Six Sigma Entrepreneur. I operate another website that publishes on the Six Sigma Process Improvement Methodology. I registered Six Sigma Entrepreneur and then I got a cease-and-desist letter from Entrepreneur Magazine. They go after everybody. It's well known. They track down anybody that uses the word entrepreneur and says, 'you are not legally allowed to use that word because it is our trademark'. And I was going to have an award competition that recognized the people that implemented this methodology best around the world. I was going to label them the Entrepreneur of the Year. I had a business plan for it. I had recently sold the company, so I didn't actually have to respond to it, but years later I looked and it was registered, so I guess Entrepreneur Magazine was just trying to scare me into giving up the domain name.

Howard: It is usual that a generic word like that can be, in fact, registered, but yes, they were trying to scare you into giving up the domain name; because I think that, again, it goes back to legitimate business use. You have a legitimate business use, you're not trading on their trademark, and you should win.

Michael: Okay. So in that case, they send me a cease-and-desist letter. We didn't respond. Nothing happened. Or maybe the company that purchased the

media company from me responded. I'm not sure of the details. But they also could've gone the next step, as we discussed, as a UDRP. They could've filed the UDRP, and if we didn't respond, then the domain probably would've transferred over; but if we did respond saying, 'here's our legitimate business interest. Here's what we're planning to do. Here's our business and how it would fit it', likely the panel would have agreed that it wasn't in bad faith.

Howard: Likely. Not necessarily, but likely.

Michael: Right.

Howard: The scary thing, however, is if rather than go the UDRP route they go the ACPA route. That gets scary because now you are talking about big bucks in defending it. And if you don't defend it, you could be into them for a hundred grand or more depending upon if you've had profits from it. And the attorney's fees. So that's the scary part.

Michael: Wow. That is the scary part. Okay. So I'm going to ask you about Vanity.com.

Howard: Before we get to Vanity, one thing you didn't talk about on SaveMe was the reverse domain name hijack. And we were thrilled. Both Rick and I were thrilled that not only did they find reverse domain hijacking, but they gave a very explicit opinion on how this Marcio Mello Chaves abused the process. To the point where yeah, there's no real penalties involved, but the chances of either domain holder, which I forget the companies name, ever succeeding in another UDRP action, or Marcio Chaves ever succeeding in another UDRP are very slim because now they've got a reputation of being reverse domain name hijackers. And anybody - any respondent - that they file against is going to bring that up, so it will follow them to their detriment.

Michael: Yeah. Definitely. And so, there's no penalty. Clearly they had to pay the fifteen hundred dollars, or actually, the two or three thousand dollars to have a three-panel review of the UDRP. They had their money out of pocket. They had their attorney's fee out of pocket. EProperties and Rick Schwartz had his money out of pocket to represent himself, but there's no victory. There's no celebration. Everybody loses in this case.

Howard: You're right, but there is a movement for the first week, where there is a movement to try to get some teeth into reverse domain name hijacking and provide certain financial penalties like the paying the respondents attorney's fees. That's nothing else. The caveat that I have to that is that it is very possible that that could open the door for complainants to also seek attorney's fees if they should prevail. So I'm a little concerned about that, but I know that there is a movement to try to do that.

Michael: Yeah. Is it possible for a respondent to then sue in court to get attorney's fees for the UDRP case?

Howard: If the responded prevails, you have to be able to show. The answer is yeah, you probably can, but you would have to file in the court that was chosen by the parties in the UDRP action, which often times; well, in this case, was in New Orleans because the registrar was in New Orleans, but in many cases, it'll be from Brazil or wherever and in order to succeed, the jurisdictional aspect of Federal Court is such that you have to be able to show that there was an abuse by the UDRP process in order to prevail in any kind of a Federal action.

Michael: Sure.

Howard: If you win, it's hard to do. If you lose, it's easier to do because then you can show that they improperly took your domain away.

Michael: Right.

Howard: And I've been involved in -- well, not that many because I usually win, but on a couple that I have lost that we have filed Federal cases, we prevailed with the Federal case and we've gotten our attorney's fees.

Michael: Is Rich Schwartz going to file a Federal case in order to get attorney's fees against this Brazilian company?

Howard: We've discussed it, but we've come to no conclusion at this point.

Michael: All right. Okay. So I understand the reverse domain name hijacking. You get labeled. As a respondent, you can bring up that case if the panelist doesn't seem to know about that for future cases that may come up. There are no penalties besides everybody paying their money. So it's very similar to a lawsuit. I can file a lawsuit against you. I may have no merit. It's going to cost me money to do it. It's going to cost you money to defend it. And at the end of the day, we both lose.

Howard: Right.

Michael: I have four questions that were submitted by a gentleman named Adam (Unclear 55:52.3) and it relates to Vanity.com, which is a UDRP case that was just decided. Can you give a brief summary, Howard, of what happened with Vanity.com?

Howard: Yeah. Vanity.com had a panelist who, my records show, has only ruled twice in the last two years on behalf of respondents, which is willfully poor. (Unclear 56:18.5) Nelson Diaz. And in reading the case, it appears to me - he may or may not have - that he had predetermined that he was going to rule on behalf of the complainant and, in fact, made a very strong argument in his decision on behalf of the respondent, but still ruled for the complainant. I just find it very, very difficult when you have panelist like that who doesn't use logic and reason to come to the proper conclusion.

Michael: So this was a single person panel.

Howard: Yes.

Michael: Okay. So, right off the bat, the complainant paid the thirteen or fifteen hundred dollars. They got a single person complainant, and the respondent who owns Vanity.com, which is a phenomenal domain name. I'm not sure what it is worth. I'm not in the business. Five figures, six figures; somewhere in that order of magnitude. They did not ask for the three-person panel, which would provide a better opportunity to prevail the process.

Howard: I'm not sure why they didn't, but they didn't. Interestingly enough, not only did they have Vanity.com, but also they had a trademark for Vanity.com.

Michael: Right.

Howard: And they used that trademark in their website. They did not use the other vanity trademark whatsoever and they still lost.

Michael: So the first question that Adam (Unclear 57:50.8) asks is, does trademarking Vanity.com as apposed to just the word vanity offer more or less protection to the owner?

Howard: Well, the interesting thing is I'm surprised that he was able to trademark Vanity.com because generally .COM is not part of a trademark and it is generally rejected. I'm not sure because I haven't gone into the history of the trademark in this particular case as to who issued that trademark and under what circumstances, but I don't think it really matters one way or the other concerning whether it includes the .COM or not.

Michael: Yeah. Just my research on the topic by registering trademarks myself, I know that nowadays the USPTO examining attorneys don't give any preference to the .COM as a unique qualifier. They just remove that and say it's a generic word. Ten years ago, they didn't, but now they reject it.

Howard: Well, that's not true. My experiences that go back to at least 2000, (Unclear 59:00.2).

Michael: All right. So it doesn't necessarily offer more protection by registering the Vanity.com or DomainName.com. And in most cases, today, the examining attorneys will often reject it.

Howard: That's correct.

Michael: Okay. Does incorporating the name Vanity.com LLC or Vanity.com Inc. offer more or less protection to the domain name owner?

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Howard: Under UDRP, I don't think it has any value on way or the other. Not that I don't recommend it because if it's a valuable domain, a valuable website, then I certainly would recommend that it be incorporated in some matter; but I don't know that it changes the valuation.

Michael: But your biggest point of advice, (Unclear 59:47.3) having a legal entity associated with that domain name and the website provide that legitimacy?

Howard: Can you repeat that question?

Michael: Your takeaway point is that you need a legitimate business interest for a domain name to show that you don't have bad faith, and doesn't forming a legal entity - an LLC or Inc. - around that domain name website provide more legitimacy?

Howard: It is evidentiary. It is helpful.

Michael: If a company has a trademark that pre-dates the registration, is it simply too risky to register or buy a name?

Howard: To register or buy a name. I'm not sure (1:00:36.2).

Michael: If a company has a trademark and you're thinking about registering a domain name with that. Let's say that it is a brand new word that is not popular. MumboJumbo. And somebody owns a trademark, but you register CloudMumboJumbo.com because cloud domains are big, or 3DMumboJumbo. Is it too risky for entrepreneurs to buy that domain name with a trademark in it, or if you have a legitimate business interested -- well, domaining a legitimate business interest. Can't I buy that domain name knowing that it may be used in other ways besides the specific industrial International class of the trademark?

Howard: The answer is yes, generally, you're okay. However, if you've done your research and you see that there is a trademark and the trademark is being used in the same way that you want to use your website, then you may have a problem. But otherwise, there are so many generic names and generic words

these days that are being, in fact, trademarked that almost anything you register is going to have some kind of a trademark to it. But if, in fact, they are generic and you are using it in the generic sense or you are using it in a non-generic sense, but non in accordance with the trademark, you should be home free.

Michael: Okay. That makes sense. So let's say a domain name was registered back in 2000, Howard, and a new company didn't come into existence until 2010; but in 2011, somebody bought that domain name and it was transferred over. So, after the trademark business was in existence, let's say, it has a trademark, the domain name pre-dates that trademark, but it changed hands. Does the new owner get to claim the benefit of that domain name being registered?

Howard: If the new owner is, in fact, the older owner under a different name, yes. If not, you may have a problem.

Michael: Okay. What would that problem be?

Howard: The problem may be that you are trading on their trademark, which brings us to your ownership of the domain.

Michael: Okay. So it's just like if I registered the domain name today brand new after a trademark has been set?

Howard: Let's say you picked it up on the drop and you don't know how it was used in the past, or let's say you don't go to Archive.org and you don't go to see what it was, but you like the same, so you use it in whatever way you want to use the domain. Again, if you are familiar that there is a trademark, you may have a problem if you're using it in that way. If you don't know that there is a trademark and you are using it in, let's say, a generic sense or in a sense that has nothing to do with the trademark, you are still okay.

Michael: Okay. So really it comes down to what your intention with the domain was. If it is in bad faith or good faith.

Howard: Frequently. Yes.

Michael: Okay. So on Vanity.com, the claimant made an offer of four thousand five hundred to ten thousand dollars based on a GoDaddy appraisal that they used and the respondent said it's a billion dollar domain name. So the panel found that the respondent registered and used the disputed domain name in bad faith pursuant to one of the policies. Does that make sense, Howard?

Howard: Yeah. And that is where the panelist erred because you can quote. I'm sure Rick says, "Okay. Well, pay me a million dollars. Pay me ten million dollars". Whatever. It has absolutely not effect if you've got a use for it and you're not using it as the trademark. To me, that was completely erroneous. The panelist was way off base and I wish there was some of a (Unclear 1:04:36.7) provision in the UDRP to (Unclear 1:04:39.4) panelists who do that because it was blatantly improper.

Michael: Yeah. So, clearly, the domain name has value. Is there any recourse to the respondent now that the decision has been made?

Howard: Absolutely. He has got ten days from the date that the decision becomes final to file in the court that was agreed upon in the UDRP action. And it's a (Unclear 1:05:08.1) action basically saying that they are taking the domain back and they are wrong. My guess is that he should prevail in Federal Court.

Michael: So he actually files in the Federal Court in the jurisdiction of NAF, or WIPO, or wherever it was filed.

Howard: Wherever jurisdiction is provided.

Michael: Okay. And so, now it moves to Federal Court? Or is his response still decided by NAF?

Howard: No. It's a brand new case in Federal Court and with a Federal Judge and goes by Federal rules.

Michael: Okay. And then it's a lot more cost than the UDRP.

Howard: Eventually. Most of those cases don't go to trial before a trial was determined on a motion for summary judgment, or even sometimes judgment on the pleadings; but it is still somewhat substantially more costly than the UDRP.

Michael: Definitely. And so, is the respondent required to then transfer the domain name (Unclear 1:06:07.8) take control of that domain name and hand it to the claimant of the UDRP decision?

Howard: No. Neither of those entities are involved. If the registrar is served with a copy of the notice of the filing of the Federal case, (Unclear 1:06:34.6) may not transfer the domain. Must hold the domain until the determination by the Federal Court as to who is entitled to the domain name.

Michael: Okay. So is it the claimant's responsibility then? As soon as the UDRP case is decided, does the claimant then go to the registrar and say, 'hey I just won this domain name. Transfer it over to me'?

Howard: No. The registrar must (1:06:50.9). The respondent (Unclear 1:06:55.9) UDRP rules hold it for ten days. The respondent will have an opportunity to file if he chooses to do so.

Michael: I understand. Okay. And then, if that ten days passes and the (Unclear 1:07:02.8) registrar transfers it. And if the respondent shows that they have filed a Federal Case, then the registrar will just hold it and lock it until a decision is made.

Howard: Provided that he does that within the ten-day period. Yes.

Michael: Understood. All right. So it sounds like the biggest takeaway from having this discussion with you, Howard, is have a legitimate business interest. Show that you are not infringing on somebody else's trademark or somebody else's business by owning a domain name.

Howard: You got it.

Michael: All right.

Howard: That is it in a nutshell.

Michael: All right. Let's see. I'm just looking over my other questions to make sure that we got them all answered, Howard. We talked about reverse domain name hijacking. The fees. You mentioned that there is a movement to try and set some teeth to somebody actually being labeled a reverse domain hijacker. Who is actually leading that movement?

Howard: I'm sorry. I know that it came up in one of the blogs this past week.

Michael: Was it ICA?

Howard: No it wasn't ICA and I know it wasn't you and it wasn't me, but there was one of the blogs on Domaining.com that it is out there and I think I saw it in (Unclear 1:08:28.9) Column. And so, (Unclear 1:08:26.4) and I hope they are successful. My guess is they won't be, but that's just the name of the game right now. One of the things that I'm working with some US Congressmen on is trying to get ICANN to be more responsive and more transparent than it has been in the past because one of our biggest complaints is that everything is closed door, they're making a ton of money, particularly with the new gTLDs and everything, and there's no accountability whatsoever; and I am pushing with two US Congressmen who are in a position to do so to hopefully (Unclear 1:09:18.3). Right now they don't. The prime example is the VeriSign contract.

Michael: Yeah.

Howard: Where VeriSign is going to make a fortune off of us on our back and everybody who registers a domain with no recourse. They can keep raising the price and raising the price forever and for infinities under the agreement with ICANN. That is just an example. I think that once there is some kind of responsibility and accountability of ICANN, and as a side to that the URS, which is another thing ICANN is bringing in, which makes it easier for trademark holders to (Unclear 1:10:06.5) get their trademark back

and it's easier and cheaper. Of proof on the respondent as opposed to the complainant, which is the case in UDRP.

Michael: Right.

Howard: So all of this combined together means that there's got to be some kind of ICANN reform and hopefully, this will go a ways to doing that.

Michael: Yeah. From your lips, Howard, I agree. So if anyone has a follow-up question for Howard, please post in the comments below and I'll ask Howard to come back and ask as many as he can as long as it doesn't conflict with attorney-client privileges and as long as they aren't generic questions. They are specific enough for him to answer. So, please, if you have questions, try and be as specific as you can. Howard, are you on Twitter or do you connect on Facebook openly if people want to follow you and see what is going on with you and the cases you are working on?

Howard: I'm on Facebook, except I don't post much on Facebook except I do post my blog on Facebook. I'm not on Twitter. I haven't had much use for Twitter, but yeah, you can friend me on Facebook and I'll be happy to share whatever I've got with you. My best bet is just to NeusNews.com. And I don't post on a daily basis, but I post whatever I think that there is something of interest particularly to UDRP area that ICANN that others aren't reporting on. So that's what I do.

Michael: Great. And that URL, again, is NeusNews.com. And if people want to meet you, Howard, and if they want to meet me as well, I'm going to be Traffic October 7th through 10th in beautiful Florida this coming Fall. Sign up for Traffic. It's at TargetedTraffic.com. I went last year. It's a fantastic event. The people that show up are serious about domain name investing and domain name entrepreneurship. They build domain names. They do affiliates. It's just the quality of the attendees are phenomenal and if you get a chance to go to Traffic this year, please do because I'm definitely going to be in Florida because Fall in Seattle is not that great. But I'm definitely going to be in Florida, but then come next May, you guys are holding a Traffic event in Las Vegas at the Bellagio. It's much easier for me to get down there from Seattle, so I'm definitely going to that one as well. So, when you're planning your

travel, when you're planning your networking, make sure that you looking at Traffic in October and Traffic in May both, in Florida and Vegas.

Howard: When is it beautiful in Seattle?

Michael: Today was supposed to be seventy-five and sunny, but it's not looking that way. Everybody says July 4th is the day that the sun comes out and we have at least a month of sunshine after that date.

Howard: Now, we're looking forward to the October show. This will be our second year in a row at the Ritz Carlton in Fort Lauderdale Beach. It's a beautiful venue right on the beach. Unfortunately we have a lot of inclement weather last year, but the weathermen have promised this year we're going to have great weather, no hurricanes, and it'll be great. We've got cabanas setup prior to the conference and we're going to have some really great speakers. We're basically the only show in town now and we're very happy about that. Rick and I have worked hard to build up Traffic back to where it was in the Golden years when we were four years at the Venetian. One year we had over seven hundred people, so we're getting there and it looks very good for this year. We're excited about going to the Bellagio for the first time next year. Our dates are May 29th through June (Unclear 1:14:22.2). The Bellagio has bent over backwards to work with us and we're thrilled to be there. We will be back, once again, to the Ritz Carlton in Fall 2013, in October 2013, for our third show there.

Michael: So what can people expect if they come out to Florida in October? What are they going to learn from Traffic, Howard?

Howard: They will, first of all, like you said, Traffic means business. We really pride ourselves on getting people together and networking is the key to do business. More deals have been made at Traffic than anywhere else.

Michael: Okay. Go.

Howard: Because networking is the key, we are emphasizing the networking events that we will be having in October to get people together to talk to each other. The greatest thing is, and we've got an association with this company

that does our speed networking that has worked very well, we have our own speed networking. Now, we have our own app on iPhones. All you have to do is go to Traffic.com and pick up the app. The program is subject to change because Rick always waits till the last minute to do the program. You have to understand; how we work is Rick puts the program and then I run it. So he hands me a program and says, 'here. You do it'.

Michael: Yeah.

Howard: That is basically how it works because he's got his finger on what's going on. So, for me to tell you now, four months before the show, what is going to be, I can't; but I can tell you that there will be things that you have not heard before. We don't repeat anything. I mean if you are a newbie, we do have a newbie section where you are kind of brought up to date on what has happened, but generally it's new stuff that has not been discussed before that concerns the domain community. We've always been that way. Now this will be our twenty-second show or twenty-third show - I'm losing track - in eight years. We started in 2004. So, we're excited because the landscape of the domaining industry is been in a big state of flux. And now, because we're basically the only show in town for domainers, it is important that we keep abreast of what is exactly happening in the domain industry.

Michael: Definitely.

Howard: So for me to tell you now who is going to be speaking, I can't.

Michael: Sure.

Howard: I can tell you Mike Cyger is going to be working with our keynote speaker just like he did last year and did a great job to put our keynote speaker up there and make it interesting for everybody.

Michael: Well, thank you. And I did attend the speed networking session because I didn't know as many last year and I got to meet at least ten people - fantastic people - that I probably never would have met because there are so many people there and you get to meet with somebody for five minutes and discuss what you do and discuss what they do. Learn enough about somebody

under an organization situation that you can then say, 'I want to chat with you more. Let's go grab a drink or let's go meet outside' and find out how they sell domain names; how they pick up dropped domain names; how they negotiate with other people. There's nothing like meeting people one-on-one, which is why I love having people like yourself on the show, Howard, where we get to chat one-on-one about specific topics and talk about specific tactics because it's that detail that people need in order to be successful in life.

Howard: The system that we've been able to work out, which will probably go online in August, where we will contact everybody who has registered and ask them, 'what area of interest do you have and which ones do you not have'; and we then match them up through a software program so that yeah, you don't meet a lot of people, but you meet and you spend quality time - at least nine or ten minutes - with the people that you want to meet and it works out perfect. And we're thrilled with the system and it works well. So we're looking forward to that again. We're going to have a few new things up our sleeve. We always come up with something new and we're working on some new things right now, which I can't discuss, but I can promise you that it will be interesting, it will be exciting, and it will be profitable to anybody who comes. Nobody has ever come, to my knowledge and to Rick's knowledge, to a Traffic and said, 'it cost me money. I'm sorry I went'. Nobody in twenty-two times has done that. And we believe that we are always coming up with something new and something different. We're nothing if not creative and we try to bring in things that you haven't seen before, so I recommend that although the prices already gone up twice, it's going to go up again, so if anybody who is interested, please go to TargetedTraffic.com and register. If there are sponsors that are interested, we have a great sponsor package. We just got contacted by Sedo for a big sponsorship package and we'll be looking at others very quickly. They are going fast. All you have to do is e-mail me at Howard@NeuLaw.com and we'll set you up with whatever works for you. So thank you for the plug. I appreciate it and we look forward to it.

Michael: Excellent. You bet. Howard Neu, Internet and Domain Name Attorney, Co-Founder of The Traffic Conference. Thank you for coming on the show, sharing your tactics for successfully defending and learning more about the UDRP process, and thank you for being a Domain Sherpa for other entrepreneurs and investors.

Howard: And thank you for asking me, Mike. We appreciate it. You are a great interviewer. Thank you.

Michael: Thank you. Thank you all for watching. We'll see you next time.

Watch the full video at:

<http://www.domainsherpa.com/howard-neu-udrp-interview/>