

Healy, Dan

From: Einhorn, David
Sent: Friday, February 15, 2002 12:28 PM
To: Healy, Dan
Subject: FW: Savin Corp. v. SAVINSUCKS.COM

-----Original Message-----

From: pheinsohn@savin.com [mailto:pheinsohn@savin.com]
Sent: Tuesday, February 05, 2002 2:19 PM
To: deinhorn@andersonkill.com
Subject: RE: Savin Corp. v. SAVINSUCKS.COM

Needless to say, I did not make the comments he attributes to me.

This is beginning to follow the plot of a Stephen King novel.
Regards

----- Forwarded by Peter Heinsohn/Stamford/SAVIN on 02/05/2002 10:04 AM

Peter Sachs
<psachs@iconn.net> To: deinhorn@andersonkill.com
cc: pheinsohn@savin.com, dhealy@andersonkill.com,
eanderson@andersonkill.com, lkill@andersonkill.com
Subject: RE: Savin Corp. v. SAVINSUCKS.COM
02/02/2002
04:41 PM

Dear Mr. Einhorn:

I am writing in response to your February 1, 2002 letter. As you now know, the domain name "SAVINSUCKS.COM" had expired on Oct 22, 2001, three months prior to your having filed your complaint in this proceeding. Of course, had you performed a "whois" lookup at any time between October 22, 2001 and the date you initiated this proceeding you would have known that "SAVINSUCKS.COM" had expired long ago. (For future reference, a "whois" lookup may be performed using the link on the very first page of the Network Solutions website.)

Any intellectual property attorney with experience in domain name disputes would know that simply searching for whether a domain name is "available for purchase" does not answer the question of whether it has expired. The fact that you filed your complaint without having first properly checked the status of the domain name in question is, at best, evidence of your incompetence in this area of the law; and, at worst, evidence of the bad faith nature of your complaint.

Moreover, one need only read the exhibits that you cite in your complaint to see that you have repeatedly and intentionally misrepresented my statements therein. That, combined with the fact that you have certified your complaint as "complete and accurate" pursuant to Paragraph 3(xiv) of the Rules, further indicates the bad faith nature of your complaint.

The purpose of my January 24, 2002 telephone call to your client's officer, Peter Heinsohn, was to inform him of the frivolous nature of your complaint, especially in light of the fact the domain name had expired

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three months earlier. He agreed, stating that "it sounds like our counsel has something against you personally." He then told me he was going to put an end to the matter, which he termed "silly." That your own client believed your complaint was filed for personal and frivolous reasons rather than for legitimate legal reasons is further evidence of your bad faith.

Vigorously defending one's First Amendment rights does not constitute "harassment." Filing a complaint that has no valid legal basis, that intentionally misrepresents the facts and that seeks transfer of a domain name that has already expired is. Your "cyber-bullying" tactics are clearly intended primarily to harass me and that, Mr. Einhorn is bad faith. As such, I will seek a finding of abuse of the administrative proceeding pursuant to Paragraph 15(e) of the Rules.

I have never represented to Mr. Heinsorn or anyone else that I am interested in settling this matter. There is nothing to settle. I have done nothing wrong. As I have stated consistently in the past, I will not relinquish my legitimate and rightful ownership of the domain name. Your offer of settlement is once again rejected.

I took the liberty of verifying your list of "successfully transferred or abandoned" domain names. Using publicly available reference tools, I discovered the following:

"SAVIN-TONER.COM" has been registered since May 12, 2000 to "Copy Mart," a family-owned in Fountain Hills, Arizona. That domain name has neither been transferred to Savin, nor abandoned.

"SAVDEALER.COM" is unregistered at this time. (Assumption that you may have meant "SAVINDEALER.COM," that name expired on December 27, 2001 and is currently available to the general public for registration.)

If you plan to pursue other domain name disputes, you may want to familiarize yourself with the tools that are commonly used by practitioners in this area of law.

Sincerely,

Peter Sachs