

## Focus: Law

## Defamation via blog

### CHRIS ARMSTRONG V. ANDREW SHIRVELL

■ **Venue:** U.S. District Court, Detroit, Judge Arthur Tarnow  
 ■ **Case filed:** April 1, 2011, Washtenaw County Circuit Court. Removed to U.S. District Court on May 31, 2011.

■ **Verdict:** \$4.5 million

■ **Date:** Aug. 16, 2012

■ **Plaintiffs:**

Chris Armstrong, former president, Michigan Student Assembly at the University of Michigan. Graduated in 2011.

■ **Lead counsel:**

**Deborah Gordon**, managing member, Law Offices of Deborah L. Gordon PLC, Bloomfield Hills

■ **Defendants:** Andrew Shirvell, former assistant attorney general under Michael Cox, who fired him in November 2010. Now living on Long Island, N.Y.

■ **Lead counsel:** Represented self at trial.

■ **Co-counsel:** **Robert Fleming**, Robert G. Fleming Attorney At Law, Williamston



Gordon

### About the case

Jurors took about one full day in August to find Andrew Shirvell, formerly an assistant state attorney general who had launched the anonymous "Chris Armstrong Watch" blog beginning in April 2010, liable for defamation, stalking and intentional infliction of emotional distress.

Christopher Armstrong, a gay **University of Michigan** student and president of the Michigan Student Assembly in 2010-11, drew attention from Shirvell, a UM alumnus who went on to graduate from the **Ave Maria School of Law**.

Shirvell first formed a Facebook page about Armstrong that was later deactivated, and then launched a blog accusing Armstrong among other things of being a "viciously militant homosexual activist," hosting an orgy in his dorm room in 2009, hosting a "gay rush party" at his home in 2010 to "liquor up underage freshmen and promote homosexual activity," and of "openly mocking Christians" at UM.

Then-Attorney General Mike Cox fired Shirvell in November 2010 after the blog gathered widespread media attention. Shirvell has said he viewed his blog as a movement to get Armstrong to resign as student body president, and that he was acting within his First Amendment rights.

He also countersued Armstrong in January 2012, claiming Armstrong's actions caused him to lose his job.

Shirvell, in an email, said he plans to appeal the "absurd" \$4.5 million judgment, but cannot file a notice of appeal until Tarnow makes a ruling on some motions he has filed. He has also brought a civil lawsuit for defamation and false light against Gordon, which awaits a pretrial hearing this week.

— Chad Halcom

## Domain name dispute

### WEATHER UNDERGROUND INC. V. NAVIGATION CATALYST SYSTEMS INC. ET AL

■ **Venue:** U.S. District Court, Detroit, Judge Marianne Battani

■ **Case filed:** Feb. 27, 2012

■ **Judgment:** \$3.5 million

■ **Date:** Sept. 15, 2012

■ **Plaintiff:** Weather Underground Inc., Ann Arbor

■ **Lead counsel:** **Enrico Schaefer**, partner, Traverse Legal PC, Traverse City

■ **Co-counsel:** **Brian Hall**, partner, Traverse Legal PC; **Anthony Patti**, partner, Hooper Hathaway PC, Ann Arbor

■ **Defendants:** Navigation Catalyst Systems Inc., El Segundo, Calif.; Basic Fusion Inc., El Segundo (dismissed Nov. 13, 2009); First Look Inc., El Segundo (dismissed Nov. 13, 2009); and Connexus Corp., El Segundo (dismissed Nov. 13, 2009); Epic Media Group Inc., Los Angeles

■ **Lead counsel:** **William Delgado**, partner, Willenken Wilson Loh & Delgado, Los Angeles

■ **Co-counsel:** **Nicholas Stasevich**, partner, Butzel Long PC, Detroit



Schaefer

### About the case

Ann Arbor-based **Weather Underground Inc.**'s \$3.5 million jury award stems from "cyber squatting" — the bad-faith use of a domain name with the intent to profit.

On Aug. 18, 2008, Weather Under-

ground filed a complaint against El Segundo, Calif.-based **Navigation Catalyst Systems Inc.** and the other defendants with the **National Arbitration Forum** regarding the company's use of 41 misspelled Weather Underground domain names.

An arbitrator ordered the company to transfer the domains to the Weather Underground. However, in due diligence, many more infringements were discovered and Weather Underground's attorneys filed suit in 2012.

In all, Navigation Catalyst registered and used 264 domain names such as qwunderground.com, udergroundweather.com and winderground.com. Weather Underground's actual trademarked sites include wunderground.com, weatherunderground.com and wund.com.

Navigation Catalyst and its co-defendants denied the charges on the grounds that automated software had registered the domain names and therefore had no intent, its lawyers argued in court.

Navigation Catalyst, a shell company created by **Connexus Corp.**, has a history of cyber squatting accusations. **Verizon Wireless** settled a similar suit against Navigation Catalyst in 2008.

WU was founded in 1995 by Jeff Masters while working on his doctorate at **University of Michigan**. It achieved almost cult-like status among weather purists for its data-based approach and now averages about 10 million unique visitors per month. It was bought by **The Weather Channel** in July.

— Dustin Walsh

## Mobile home park assets

### NORTHVILLE CROSSING VENTURE LLC AND SALEM LAND ASSOCIATES LP VS. KM EIGHT MILE GROUP INC.

■ **Venue:** Oakland County Circuit Court, Judge Martha Anderson

■ **Case filed:** April 18, 2011

■ **Settlement:** \$4.97 million

■ **Date:** July 12, 2012

■ **Plaintiffs:** Northville Crossing Venture LLC, Northville; Salem Land Associates LP, Bloomfield Hills

■ **Lead counsel:** **Richard Rassel**, partner, Williams, Williams, Rattner & Plunkett PC, Birmingham

■ **Defendants:** KM Eight Mile Group, Farmington Hills

■ **Lead counsel:** **David Mendelson** of David Mendelson PC, Birmingham



Rassel

### About the case

Bloomfield Hills-based **Salem Land Associates LP**, one of two co-owners of a mobile home community in Washtenaw County's Salem Township, filed suit in 2011 against the other owner, Farmington Hills-based **KM Eight Mile Group**, claiming it had improperly diverted the community's assets.

Salem and KM each owned 50 percent of the **Northville Crossing** mobile home development. Salem contributed the land, valued at \$4 million, and KM provided \$2 million in capital to launch the community.

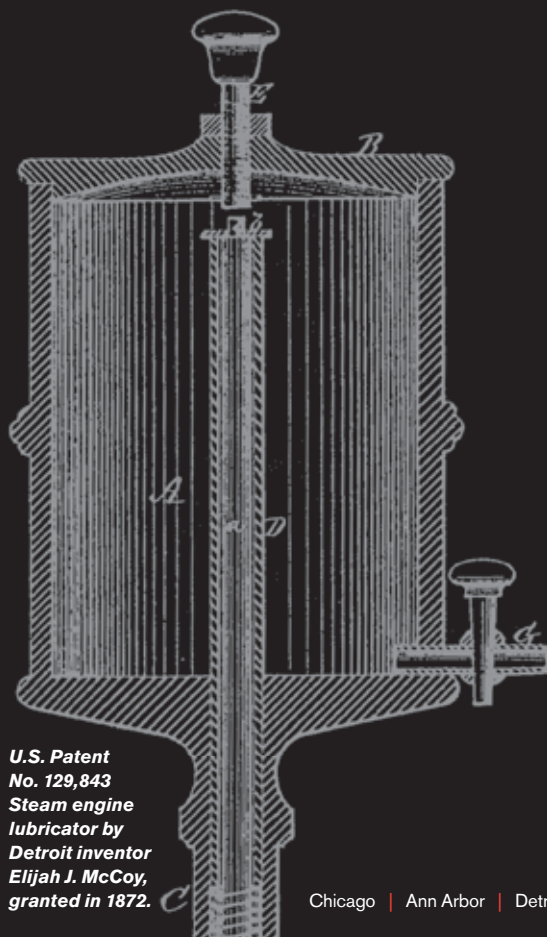
Salem, through Northville Crossing, filed suit in Oakland County Circuit Court alleging that KM engaged in unauthorized transactions that improperly diverted Northville Crossing's assets.

The case ultimately went into mediation and facilitation. The facilitator agreed to by the court was John Schaefer.

Salem agreed to sell its half of Northville Crossing for \$4.97 million to KM, and the case was dismissed July 12.

— Carl Bookstein

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