



# fish tank<sup>SM</sup>

*swim with the fish<sup>®</sup>*

## What Do Unibrows and Trademarks Have in Common? Why, Anthony Davis, Jr., Of Course.

By: RFG Attorney Michael D. Fishman

Like Jay Leno and his notable chin and Justin Bieber and his adored hairstyle, Anthony Davis Jr., the highly acclaimed NBA basketball player for the New Orleans Hornets and former power forward for the University of Kentucky, has his UNIBROW.

While most teens, college students and young adults would tweeze or shave their unibrows out of embarrassment or fear of ridicule, Anthony Davis celebrates his. Apparently, so do

his fans who wear "unibrow" masks and otherwise glorify Davis by wearing clothing, creating posters, and baking cookies all with unibrow themes. Even the University of Kentucky's Wildcat mascot has been seen sporting a unibrow.

Fans and the media alike identify the player's notable unibrow with Davis and him alone, as well as his star performance on the court. So much so that earlier this year Davis filed applications to register the brow-catchy phrases

"RAISE THE BROW," "BROW DOWN" and "FEAR THE BROW" with the U.S. Patent and Trademark Office as trademarks to capitalize on the unibrow hysteria. Undoubtedly, Davis' unibrow will find its way into the marketing and sale of numerous promotions and sponsorships by Davis and the NBA, involving the many categories of products listed in his trademark applications, from apparel to water bottles to bumper stickers to, ironically, after-shave.

## XXX Domains May Put Your Mark at Risk

By: RFG Attorney Robert J. Kimmer

The new .XXX domains open up another opportunity for cyber squatters to steal and tarnish your valuable corporate brand. And whether an entity is a brand owner in the adult entertainment industry or not, anyone can now own a .XXX top level domain.

Rader, Fishman & Grauer, in January, 2012, won one of the first Rapid Evaluation System (RES) proceedings on behalf of a significant worldwide brand owner. In this case, the new RES proceeding favored our client (the legitimate trademark or brand owner) more so than the older, traditional Uniform Domain-Name Dispute-Resolution Proceeding (UDRP).

But what is RES? A Rapid Evaluation System proceeding is a faster, less costly version of a UDRP. More specifically, RES is a VERY fast process with a preliminary decision in some cases in just two days. This relief can temporarily shut down the infringing domain, akin to a preliminary injunction. This sort of relief is not available in a UDRP Proceeding and traditionally could only be obtained through federal court litigation. The RES process is unique to the .XXX domain market. How fast is RES? Most cases last only 3 weeks. In comparison, UDRP actions may be considerably longer, while federal court litigation may take months or years. If efficiency is not convincing, then the relative costs should prove valuable. RES proceedings have proven to be a minor ex-

pense when compared to the cost of traditional trademark enforcement mechanisms. Companies are complimenting the new RES process to enforce legitimate trademark rights, giving brand owners another option to thwart cyber squatters. One day, this form of faster relief through RES may become a widely available option for other new domains and possibly for the new generic top-level domains (gTLDs).

If you discover that someone else illegitimately owns your BRAND.XXX domain, we can assess your specific case and walk you through RES and other options. For more information, please contact our expert team at [info@raderfishman.com](mailto:info@raderfishman.com)

## The New USPTO Office Opened in Detroit on July 16th!

On July 16, the USPTO opened its first ever satellite office—The Elijah McCoy United States Patent and Trademark Office—in the former Stroh Brewery headquarters building at 300 N. River Place, Detroit, Michigan.

Read Acting U.S. Commerce Secretary Dr. Rebecca Blank's commentary in *The Detroit Free Press* [here](#).

## Scamming Trademark Fees from the Unsuspecting

Have you received a bill from the U.S. Patent & Trademark Office? Are you sure this is a legitimate communication? Recently, scammers have ramped up their solicitations of trademark fees using publicly available data on the U.S. Patent & Trademark Office website.

Fee scams are regular, but the recent wave of "official looking" documents is extremely deceptive due to a lack of scam identifiers. One major key to avoid being misled is to scrutinize the payment address. Although strange addresses are not the only indicator, strange addresses are quick to identify and

easy to compare. In addition, because the U.S. Patent & Trademark Office only communicates with representing attorneys, your suspicions should rise when you are represented and receive any "official" communication directly.

RFG has specifically received numerous fake invoices of this type, and we have effectively protected our clients from inadvertent payouts. If you want the same protection or have received a suspect communication, please contact Rader, Fishman & Grauer at [info@raderfishman.com](mailto:info@raderfishman.com).