GEORGIA MCGOLDRICK: All right. Thanks for joining this webinar, entitled "What We Can Learn About Web Accessibility from 2,285 ADA Lawsuits." My name is Georgia McGoldrick. I'm from 3Play Media, and I'll be moderating today's webinar. I'm joined today by Jason Taylor, the chief innovation officer and advisor at UsableNet. And with that, I'll hand it off to Jason, who has a wonderful presentation prepared for you today. Thanks.

JASON TAYLOR: Thanks for the introduction, and I'm glad everybody found some time to listen in on this subject. Hopefully, I can give a little bit of knowledge from what we've learned across these lawsuits over the last couple of years.

This is the general agenda that we're going to look at. First, it's just an introduction to myself and UsableNet, so you can understand what type of company we are and where this information comes from. Then we're going to look at the current legal landscape and some trends in the industry, specifically around lawsuits that are filed at the federal level under the ADA, the American Disabilities Act.

We're going to look at how those lawsuits are brought forth and essentially how they proceed and how they potentially get settled. And then we're also going to look [INAUDIBLE] best practices for those that may be in different parts of their journey with regard to accessibility. And I'll talk about that journey for most of these companies.

Just a little bit of background on where this data comes from and where the information I'm using from. We have a team here at UsableNet that actually monitors all of the federally-filed ADA claims and lawsuits. ADA is a broad statute, so actually, there are tens of thousands of lawsuits that are filed at the ADA federal level.

We look at every one of those, and through the review of the lawsuit, we determine whether it is web- and app-related, which currently today is around about 30% to 40% of all of those lawsuits. The other 60% of what you might class is physical ADA lawsuits, where a restaurant might be sued for not having appropriate parking space for a disabled client.

So we actually pull every single case. We review the case. We look at what the website or the native app is that's being sued. And then we track that lawsuit to see whether it is settled or whether it goes to court.

So based on that general knowledge from a large number, and then looking at individual settlements and trends in terms of how settlements are done, we're able to give you an idea of the direction of web accessibility, especially in the commercial private space, and how that it has been influenced by previous web accessibility statutes around federal and education. So I'll take you through that.

Firstly, just to give you an introduction to myself, UsableNet is a company that provides technology and services to typically what I would say is the end company-- so airline, retailers, travel companies with their own website or their native app, and they want to make sure that they're being as inclusive as possible in regard to their development process.

So we have a wide range of clients in those sort of industries. We have over 500 global engagements, 350 clients worldwide, and we have 200 employees across four locations. Our main locations on the customer-facing front is New York, LA, Austin, and London.

So the first thing that might be interesting, I looked at the list of people that were signed up for this to start with. And I noticed there was actually quite a few education people. So some people might be like, well, what's suddenly taken people's interest? What's changed in the last two years? Web accessibility has been around 20 years. It's been a requirement at the federal level under Section 508 for 18 years. It's been a part of the educational statute for a long time. But it's not been part of a commercial statute. And really, I wanted to give you an idea of what changed in the last two years.

So companies have been sued under the ADA for many years, going back to the year 2000. They were typically brought by what I would class as advocacy groups, such as the American Federation for the Blind, and organizations that recognize the importance of inclusion in the digital space.

So in those early lawsuits, they were some educational companies, educational institutions. There were banks, like Bank of America. They were financial or tax institutions, like H&R Block. And essentially, the Department of Justice joined a lot of those lawsuits on the plaintiff's side, so they joined with the American Federation.

They recognized that it was very important that these types of facilities-- whether you're talking about access to finance, access to education, access to health-- was a fundamental right for people in America. And those that required special assistance and use assistive technology, like screen readers for the blind, the Department of Justice joined on their side for the plaintiffs

and argued, and basically established, that the Americans with Disabilities Act did cover, quote unquote, "digital spaces" as much as physical spaces.

So you'll see here that the Department of Justice joined and helped to make settlements throughout the early 2000s. And they were a very strong force in the 2000 to 2015, 2016. This is when they actually started to look to add the digital requirements for every company into the ADA.

What happened was that in 2017, the Department of Justice, for a range of reasons, decided that they would pull back from specifically setting the guidelines in the ADA for websites, but in the commercial space, primarily probably because the administration changed. It became a lot more business-friendly. They didn't want to add additional burden for businesses.

That meant the DOJ had spent 15 to 17 years establishing that the ADA did apply to websites. The websites should follow the W3C guidelines. And they created a whole range of settlements where companies paid penalties. They agreed to remediate websites to W3C standards.

And essentially, the DOJ set down a very simple, easy, followable process for lawyers to then argue that, well, if the Department of Justice says that the ADA covers commercial websites, then we are going to target commercial websites who do not follow the WCAG and do not provide full access and inclusion on their websites.

So what basically the DOJ managed to do is create a void, but create already a blueprint on what an ADA lawsuit meant. So essentially, private lawyers with private clients on the plaintiff's side joined with a lot more volume after 2017 and generated a large amount of privately-filed lawsuits at the federal level.

Now, these numbers are big. They're actually the biggest growth in the private federally-filed lawsuit world. But they do not include demand letters, which are letters sent by similar type of plaintiffs directly to clients, and not entered into a lawsuit at a federal level. And they do not include growing state-level court cases, especially at the California level, that has strong ADA backed-up legislation at the state level.

So these numbers look big, but they're probably half, if not just a third, of the types of companies that are being targeted today through the courts or through the legal system to essentially address accessibility through the enforcement of the ADA.

Now, what do those 2000-plus cases look like in 2018? I'll talk also a little bit about how they look in 2019, because we have that data. And you can go to our website and you can download detailed reports on both 2018 and so far 2019 in a midterm report. But essentially, as I said, large increases from previous years.

2019 is now at one lawsuit every working hour, so it's on its own course to go past the 2018 numbers. New York [INAUDIBLE] State is where most of these lawsuits are filed, but they affect companies across America. So if you do business in New York State, I can file a case against you, even if you're based in Colorado. So you may be based in Colorado, but if you provide services in New York City through a digital website for retail or for travel, I can sue you in New York State with a New York plaintiff.

Two reasons why New York and Florida-- the federal courts are a little bit more open to these types of federal cases, and the plaintiff lawyers' firms which focus on these lawsuits are based in those two locations. So I'll go into a little bit more about the industry pattern, because there's actually some very specific industries that are targeted most.

But to give you an idea about what I mean by there are a lot in New York City and Florida because of the plaintiff lawyers, so if you look at over 2000-plus cases, 80% of those cases are brought by the top 10 plaintiff lawyers. And the top 10 plaintiff lawyers represent over 80% of the cases being filed. Most of those are based in New York and Florida, and that's why you get a lot of focus, and New York and Florida becomes where they're sued.

On the defendant lawyer front, the top 10% of defendant lawyers in the ADA space probably represent 30% or 35% of the cases. So they do represent a big chunk, but there's over 1,500 individual lawyers which are defending clients across all sorts of different organizations at a federal level. So on the defense side, it involves lots and lots of lawyers with a lot different, let's say, experience levels about how to handle digital ADA cases and web accessibility cases.

But on the plaintiff's side, it's very focused. They're very organized. They know what they're looking for when they go after target companies. And they're pretty successful, so they keep doing it. And I'll explain why they're pretty successful a little bit later on. So that's the general trend.

There's one trend that's missing off here, and I'll talk about the importance of that later. In 2019, we're seeing a big trend towards repeat lawsuits. That's essentially a company that's

been sued multiple times. And to give you some statistics, 25% of all cases in 2019 involve a company that's been sued before. The reason for this is multiple, but the two biggest ones is a lot of companies have multiple brands.

So an example might be Prada that has multiple websites and apps under different brands, like Prada and Miu Miu are an example of sister brands. So Prada gets sued, but then Miu Miu gets sued. And the reason why they both get sued is because a lawsuit is typically one plaintiff suing one item. So I'll talk a little bit about that later.

So the first is people get re-sued because there's multiple websites to sue. If I actually admit that my website is not very good and I'm going to fix it, and quote unquote, "I settle," the reality is, I'm settling with one individual plaintiff. So it's easy enough for another plaintiff to come along and say, I also could not use your website. And again, I can get a second lawsuit on the same website.

So just because I agreed to do something for one individual plaintiff, it doesn't protect me from a lawsuit from the second plaintiff. So those are the two reasons why companies get multiple lawsuits.

So which types of companies are being targeted the most? So when I say the most, for example, retail, I think, cover somewhere around 28% of all lawsuits. Food service represent around 15%. Travel's also large, and banking. To give you an idea of retail focus, 48% of the retail 500, so the 500 biggest retailers, 48% of them have been served suit in the last two years.

Now, why are these types of companies targeted more than, for example, educational companies, or smaller, let's say, brand companies or marketing companies? So just to give you an idea of why this is, the first is that it's very easy for a plaintiff that potentially is looking for sites that don't work or native apps that don't work to visit lots of them quickly.

So it's quite easy for a person sat at home who want to find out whether a retail site is accessible or not, so can they search, find a product, add to cart, and purchase it? And if they can't, well, it might be that primarily partly because it's not been made accessible to them and it is a reason to sue. So essentially, the plaintiff firms work typically with individual users.

Those users, on the positive side, are typically people who have become very frustrated with the internet not being accessible to them, position themselves as being advocates in using the

law to push through accessibility. Some may accuse them of looking for ways to potentially make money. But to be clear, the ADA does not give damages.

So in the true sense to the ADA, if I am a user of a screen reader and I cannot use a website, and I hire a lawyer to sue that website, that website does not need to give me damages. The website only has to pay my legal fees if they lose or they settle, and has to do something like remediate the site to my satisfaction.

So technically, the plaintiffs do not receive any funds. So most of the people are quite focused on being advocates and using the legal system as advocates. So they're easier to visit. You can visit lots quickly.

The second point is what I opened with. The DOJ already has clearly established court cases-- or settlement cases, not court cases-- settlement cases where similar types of companies in these spaces have agreed that they should make their site accessible to W3C, paid damages, and have agreed to remediate. So essentially, the DOJ set up the template for plaintiff lawyers to argue that their client is correct, saying that their client should be able to use that website.

The third one is an important element. It's probably forgotten by most, because most websites aren't that complicated. 95% of websites out there today are very simple, CMS, information-only websites. The vast majority of websites built by content management systems like WordPress are reasonably easy to maintain at an accessibility level.

But most of these sites-- retail, food, travel, banking-- they are complicated sites with login, with accounts, with manage wallets, manage delivery addresses, lots of different moving parts that actually make it harder and harder to actually make sure that they are accessible and comply to 2.0 standards.

Most of these companies have multiple sites and apps, goes back to my previous point. If you're a lawyer and you're looking to have quick wins, you might look at a company that has 10 brands. That probably means you have 10 websites, 10 apps. That's 20 lawsuits that you could bring to a company quite quickly if they've not done anything around web accessibility.

Most of these plaintiff firms have history in these areas with physical ADA lawsuits, so they recognize the landscape. They know the companies. They know that these companies have lawyers that understand that they're responsible for physical ADA. So it's not hard for them to engage on the idea that they should be accessible on the digital front.

So it's easier for them to negotiate and have conversations with clients' in-house counsel or external counsel because they're already familiar with the ADA because of a physical requirement. And they typically have a large web or app budget, so they do have funds available to pay. Essentially, you can go after very small websites, but even if you get to a point of winning a settlement, you may not get paid very quickly if that company doesn't have much money. So of course, the point of being that 48% of the largest 500 retailers got sued is because they have budget to pay.

So what does a typical lawsuit contain? So as I said, we go and download every lawsuit. So we look at every lawsuit. And this is a generalization, but typically, this is the components of a lawsuit. They are one individual that has identified that they are having troubles using one site or one native app.

They typically don't come and say I'm having problems with five sites. They focus on one website at a time, one app, and one individual that is having issues using that site or app. They normally list a set of issues. In the early days, they were very broad. They typically might use an automated testing tool to generate a list of all the things missing on a website.

And if any of you are familiar with free website testing tools like Wave, or Lighthouse in Chrome, or others, you can generate quite a lot of errors quite quickly. So a plaintiff lawyer would serve a lawsuit saying that a website had 1,000 issues on it, and it was violating the ADA because these 1,000 issues were related to WCAG. And essentially, that was what they were pursuing.

More recently, judges have asked for very specific damages, in terms of what could the user not do, and what were they being prevented to do so they had harm? Because essentially, you can't typically bring an ADA lawsuit unless you actually experienced harm, meaning I couldn't buy a product. I couldn't book a room. I couldn't take advantage of a deal. I couldn't understand the specials.

So essentially, there needs to be harm. So more recently, the lawsuits indicate what someone was trying to do. So that's sort of the declaration of key features not available to users. This is more recent.

Then the typical user-- it's not solely, but I would say 99% of the cases are blind users that are utilizing screen reader technology. There's a number of reasons for this. I think that the first

reason is, blind users are the most active group of assistive tech users which struggle with the lack of accessibility on websites.

So it is those users that have generated, over the years, a lot of frustration around using websites because websites which are complicated and are not very accessible become even harder to use, and most of time impossible to use. So essentially, blind users of screen readers are the main typical person that brings the lawsuit.

And then the lawsuit typically says, the website, because of A, B, and C above, violates the ADA, the Americans with Disability Act, and throws in some reference with regard to not conforming to the WCAG 2.0 AA standards. And essentially, that would be part of their request for what they expect in return, is remediation to those standards. So this is what a typical lawsuit contains.

And this is the typical process that happens on those lawsuits. So when a company receives a lawsuit, they will typically have in-house counsel. Mostly in-house counsel are general in-house counsel. They don't have expertise in any specific field, but they know probably mostly around contract law and other things that the company does.

An external ADA specialist counsel will probably be hired. So as I said before, across those I think now maybe 4,000 lawsuits in the last two years, there's around about 1,500% is ADA external counsels that are hired. And they might be people who specialize in ADA, or specialize in different areas of compliance.

But essentially, nowadays, you would probably hire one of the big ADA outside counsels. And the first thing they'd probably do is to buy a little time by request an extension on the case. That would typically open up internal discussions about what's being done. Does the company feel that they've done an amazing job on accessibility and this is completely out of the blue and completely wrong that they're getting the lawsuit? Of course, then they would start to document all of the things that they've done to try to, on the first call, emphasize how they're already taking good care of accessibility.

The vast majority of companies, though, have not done a lot. They may have done some. But they'll probably all admit that they've got holes in their process around making sure that their websites are fully accessible.

That doesn't give them a very good position on the first call. Essentially, they know that they

probably need to do more. And once their counsel understands that, they're very unlikely to then-- after that initial defense position where they're going to be as strong as they can about how they've got accessibility testing in place, maybe they have a partnership that they've already established-- but essentially, most of them would come to a realization that they're not going to win in court, so they start negotiating.

The reason why most website ADA lawsuits are settled-- it goes back to my original point, which is the plaintiff doesn't receive damages. They can only receive lawyers' fees. That means the longer the law case goes on, the bigger the lawyer fees. So the quicker you settle, the smaller the lawyers' fees. And most of these law firms are pretty sure how much it's going to cost for a company to take that case to court.

So they'll probably estimate based on the size of the company, the external counsel that they've hired, how big a number it will take just to go to first level of court, and then suggest a settlement number which is similar or a little bit less. And that would probably be the direction that external counsel would recommend, which is you're going to have to spend this money anyway.

And essentially, you're not going to win at court. You're just going to spend more money on me, plus you'll probably end up having to pay the plaintiff's increased bills. So essentially, they're typically advised if they don't really have a strong feeling that they've got accessibility in place, they've hired a consultant, that they're on their way to full accessibility, they're probably recommended to settle the suit, which is why 95% of suits are settled, and they're settled within 60 days.

So again, as I said, the settlement is basically the defendant saying, OK. I'll pay your lawyer fees up until today. And the quicker I decide that, the more I can say, well, you can't have spent much money so far. And I agree to remediate. Typically, remediation means to essentially make your website accessible. So let's look at what a settlement looks like.

Typically, a settlement is between one plaintiff and one site or one app. So essentially, as I said before, most lawsuits are an individual user that sues one website or one app because they couldn't use it. That's on purpose. It's done on purpose because actually, as I said before, the plaintiff lawyers, and the plaintiffs themselves, might also know that there's another website that the company owns, and they're likely to sue back quite quickly after they agree the first settlement.

The settlement typically provides the company two years. This is where a lot of companies, I think, get a little bit messed up. A company typically gets a lawsuit. They hire an external counsel. External counsel talk to their IT team and say, hey, we have we done much on web accessibility? How good are we? The internal team probably say, well, we've got some holes. We've done some, but not a lot.

And the external counsel and in-house counsel say, OK. Let us take care of it. We're going to go talk to this company. We're going to probably settle, and we'll come back and tell you what the result is. They come back after 60 days. They say, it's great. We settled. And they've given us two years to remediate. The IT team hear, two years to remediate. They're like, OK, well, it's not important anymore. It's now two years important.

But what they don't realize is they just settled one person for two years, not the world, not everybody for two years. They only have two years to remediate for that one individual. That means a second individual can come tomorrow and sue them for exactly the same thing.

What also happens is a lot of companies make all this stuff private. They don't make it public. And that puts them in trouble because when a second person comes and sues, they actually can't tell the second person, we already got sued, because they made the original settlement private. So some of these things are changing. But essentially, the typical settlement contains one person going after one site or one app.

It typically provides that company two years to remediate. A lot of companies probably hear two years and start to relax, and think, we've got two years to do this, but then realize they can get sued again tomorrow.

Typically, right now, the standard most people are using is WCAG 2.0 AA, but the new standards that some of you may know is 2.1. That's now starting to be added.

So all of those three things are typically always. And then sometimes, an advocate might add in that they want to see that the website is tested by people with disabilities community on an ongoing basis, that the company publishes a statement about what they're trying to do and when they're trying to do it, and maybe adding that they expect the company to engage a third party to make sure it verifies that the company continues to make it accessible.

So essentially, this is what a typical settlement looks like. And as I said, most companies are quick and happy to sign this. I'm not quite sure if every company then immediately escalates

the need to deliver the remediation, because lots of companies have been sued multiple times, and that probably indicates that they haven't done it. They also forget to tell all of their co-brands and all of the app team that they should be making sure that's accessible, otherwise they might also get a lawsuit.

So what could the companies do? And if someone asks you how do you address this new world where law is being used to push accessibility in the corporate space, and the courts are being used to do that, as well?

So I typically talk about three general sort of stages. So the short term is probably reduced legal risk. If a company is not being sued today, I would immediately start talking to either the team that builds the website or the company that you pay to make the website. Start talking to them immediately about what is the right standard that we should be looking at?

What is our 6-, 12-month, 24-month goal? And make a decision about what that goal is. What parts of the website maybe you start with first, what's a general testing program, are you going to hire an external consultant to help, and create an accessibility statement that you can publicly make available on the website to tell the world you're already doing this.

Some people don't like the idea of publishing a statement when they haven't done it. There's something which is peculiar about the ADA. It's called a no-fault law. It means that even if you know that you are not following W3C, and there's an argument that the ADA is really W3C. But even if you know you are in violation of the ADA, you cannot be fined damages. You can't pay any more.

So it's better that you actually have a plan, you communicate the plan, and also, while you're writing that plan, you're getting people to buy in. You're getting stakeholders to realize what their role is. You're getting vendors to realize that you're putting them under notice that they need to help with this process. And again, most people pay for their websites or pay for their apps.

So this is something that is being added, as we see today, into new contracts, into new RFPs. It is a standard way of saying, well, if I'm going to get sued for the work that you don't do, I'm going to make sure that in my contract, you're responsible for that work.

And we would encourage people to take their top-level pages, test it with automatic testing tools. Get some user testers in with screen readers. Get them to give you direct feedback

about how easy your site is to use.

That's going to reduce your legal risk in two ways. One is you're going to reduce the number of errors that exist for a plaintiff to look at.

The second is you're going to have a body of work to show to a plaintiff or to a judge that you're already doing this. You can't be asked to do anything more, which is essentially all the judge is going to say, is you should remediate your site. You should have a plan. You should hire people. You should be executing this plan.

If you're doing that, you have a strong negotiation position. So one is you're reducing your errors, so people can't quickly and easily find you, and maybe move on to the next website. But you're also building a strategy to make sure that you are fully inclusive going forward.

And then the middle thing is the most important. You need to remediate sites. It might mean updating UX and design to accessibility principle. It might mean remediating JavaScript, CSS, and HTML code, depending on how complicated your website is. It might be producing and testing new templates, if you use lots of templates, give a lot of templates out to marketing or to different departments, making sure that they've been tested before you send them out.

And then also just integrating the accessibility into a release process. Making sure that there is an accessibility testing component, understanding the tolerance level on a release before you release it, if you're worried about making sure that the site or app is accessible.

And then third [INAUDIBLE] long term part of that accessibility statement and policy is that you should be thinking about how do you maintain this. This is like security. It's like privacy. It's ongoing. Unfortunately, unlike physical work, where you build an office and you make sure it's accessible, and you don't change the office, that's not websites and apps.

Websites and apps change all the time. You need to make sure that when new features are added, they're accessible. If you've changed a feature, that that's accessible. So it's important to have in place an idea that accessibility is something that's part of the lifecycle. It's part of an ongoing maintenance program.

And again, everything that's being done today, whether it's small, medium, or large, should be documented because documents help in legal cases. They're the types of things that can be sent in negotiations. They're the types of things that can be sent to a judge. If you just have an idea of what you did and you don't document it, you're wasting that effort in terms of protecting

yourself from a legal perspective.

I think we're coming up to 40 minutes in. Hopefully you've not become too bored of my voice, and it's always hard talking to a screen. So I wanted to find out some of the questions that came in so maybe I could take some of those.

GEORGIA MCGOLDRICK: Awesome. Thanks so much, Jason. So we will begin QA shortly. I just want to give a moment or two for any other final questions to come through before we get started.

JASON TAYLOR: Cool.

GEORGIA MCGOLDRICK: All right, so we have some questions here. First one, would you expand on the notion that ADA does not award damages?

JASON TAYLOR: So I do want to-- and I forgot to cover it-- I'm not a lawyer. So I want to give you what I know, but also I would check pretty much everything I said with a lawyer. But to be clear, the federal ADA statute at the federal level-- so I'll talk about some others-- allows only for a plaintiff to receive remedy and lawyer fees. So they cannot receive damages under the ADA.

They can only receive remedy, which basically means that most of these lawsuits say, I want you to remediate your site to W3AC. I want to test it with user testers. I want this. I want that. This is the remedy. This is what they can ask for in [INAUDIBLE].

Now at the California level, there's a state statute that is state, not federal, that allows a consumer to receive I think it's $4,000 or $5,000 per, let's say, claim. So there's actually $4,000 to $5,000 potential damages which are available to the end user. This is why we're seeing an increase at state level California courts, where if you're a plaintiff and you've got a choice of going to the federal ADA court or going to the state court, you're probably likely to go to the state court because as a plaintiff, you could receive $4,000 to $5,000 damages.

Now remember, most of these don't get to court, so there'll be a negotiation in that front, meaning it'll be part of the negotiation. If we're going to settle, my client wants the $4,000 or $5,000 [INAUDIBLE], please.

GEORGIA MCGOLDRICK: Got it. Thank you. Next question here, did the plaintiff get anything except an improved site?

JASON TAYLOR: So I think that we answered that with that one. Correct. The plaintiff is looking for a remedy.

Remedy is an improved site. Typically, the company gets two years under a settlement to do that work. And the reason why it's two years, I go back to the DOJ, most of the DOJ settlements from the year 2000 gave companies at least two years to remediate their site to W3C standard.

GEORGIA MCGOLDRICK: Awesome. What are your thoughts on why most of the suits were one to one, as opposed to class action suits?

JASON TAYLOR: This one, I'm not 100% sure. Some start at class action, so many start at class action, but typically when I talk to defendant lawyers, they say that's a way of just increasing the negotiation from the plaintiff's side to say, OK, we'll reduce this to a one-on-one settlement. And probably class action is when it gets to court level, I don't know, but it probably requires more documentation, more people, more activity.

Most of these plaintiffs' lawyers aren't looking to go to court. They're not really looking to go to court. They're looking to have the company admit that their website is not fully accessible and they should be settling as a default and paying legal fees. So essentially, most of these plaintiff lawyers are set up not to go litigate cases, which are very expensive.

That's why you only see a few of these. The highlight cases nowadays are like Domino's, Winn-Dixie. These are cases that have made it through different levels of court, and the defendants have paid lots of money to defend their position, and probably still haven't achieved much. And the plaintiffs are also hoping that they are going to get paid all of their fees at the end. So most of these don't go to court, so I think they drop the class action quite quickly.

GEORGIA MCGOLDRICK: That's a perfect segue way into the next question here regarding the Domino's lawsuit. Can you discuss the potential ramifications of Domino's taking their lawsuit to the Supreme Court?

JASON TAYLOR: I actually wrote a blog on this. You guys can read it. My blog basically says that there's three main reasons I don't think the Supreme Court will hear the Domino's case, and that has ramifications. So I believe a lot of people are like, hey, we want the Domino's case to go. But there's three main reasons why I believe that the Supreme Court won't hear that case.

One is, many ask, few are listened to. So 7,000 cases asked to be heard every year. Only about 100 get heard. So the first one is there's lots of other cases which are competing for that hundred spots.

The second is that the Domino's case itself is not exactly a clean case of the dispute between the two different circuits. There's seven circuits. Three of them are looking at ADA in one way. Three of them are looking at ADA in another way. And this sort of sits in the middle, so it wouldn't clear up all of those.

And thirdly, I believe that the Supreme Court would recognize that probably, if they made a judgment on Domino's, because Domino's isn't asking for a ruling on whether the ADA applies, but a ruling that the ADA doesn't have rules, so the argument is that their client doesn't know what to do, which means they don't have due process to comply with the ADA. It means that the Supreme Court will probably look at that and say, well, we'll make a judgment, but that's not going to stop the lawsuits.

So essentially, those are the three reasons I think they'll pass on it. The ramifications of that, I believe, is nothing will change. The lawsuits will go up. But I actually believe it will bring more plaintiff lawyers to the table because of the advertisement that this Domino's case has brought.

GEORGIA MCGOLDRICK: Great. Are there any examples you can speak to where the defendant company did not remedy the issue, and what were those penalties?

JASON TAYLOR: Well, there's no penalties. Well, the penalty is this. Let's say you've agreed to remediate your site in two years' time. And in two years' time, you haven't done that work. The plaintiff has the right to come back and ask for damages, or the plaintiff lawyer to check to see whether you've delivered on the remedy.

We don't know of a lawyer that has come back that way. But we know, obviously, that because companies have been multiply sued, if they haven't done anything, they get sued by another law firm. So in the end, they're paying because they haven't done the work and they're exposed again by other lawsuits, as opposed to paying penalties for not doing what they said they're going to do.

GEORGIA MCGOLDRICK: We have someone that asked a question about airline websites. They say they're blind and use a screen reader, and they find that many airline websites are inaccessible. Can you tell us which airlines, if you know, have been sued, or which airline websites have had recent remediation to make their websites more accessible?

JASON TAYLOR: That's an interesting one, because actually, airlines are now covered under a federal statute.

So it's called the Airline Access Act. It's about three years old. And it's now governed essentially with clear specifications of what they need to do. There is actually a complaints process for end users, and I'm happy to take that question offline.

But if you do have issues with websites, there is a federal complaints department that you can complain to, and they will investigate that airline for inaccessibility and not following the statute. They can receive fines for not doing it. But essentially, it's handled as a federal statute with a federal process. And no airline has been privately sued since that act has been in place because essentially, a lot of airlines know they should do it.

There's a federal suit. And there's less joy available to individual plaintiff lawyers doing airlines, but as I'm aware, there's a strong process for end users to report airlines which have inaccessible sites. And there's a department inside of, I think it's the Access Board, that can investigate and demand airlines to make their websites accessible based on that statute.

GEORGIA MCGOLDRICK: Great. And I know this presentation was definitely more geared towards corporate or businesses, but we've had quite a few questions regarding the education space. Can you speak to concerns that are regarding online courses at the college level, like ADA cases, for example?

JASON TAYLOR: Yeah. There's a whole area of legal requirements at the educational level under I think it's Section 504 of one act. I don't necessarily know so much about the educational space. The educational space is similar to federal government. There are laws in place that the educational world needs to make their sites accessible.

There is a division at educational level, I think it's called the OCR, that again is a group which can be used to report issues. And that group has the ability to investigate and fine educational institutions, or negotiate with the educational institution to remedy. So again, there's federal requirement for all education to follow accessibility.

If those ed institutions are not following, they can be reported. There's a division inside the government, I think inside the education group-- OCR, I think they are-- but again, I can take this one offline and grab the data for those people-- which allows individuals to complain that they have experienced discrimination on the digital accessibility front. And that group can investigate and bring the institution in line with the guideline.

So there's less universities and education that are being sued because again, once there's a

federal statute that's very clear with a federal process, and that federal process has an ability to bring remedy and to fine a company, that organization would typically call upon that statute if they were privately sued and say that we're actually following this statute and we're following these laws, as opposed to the ADA, which is, at best, a murky area of whether your website should be ADA-accessible or not.

GEORGIA MCGOLDRICK: Great. Thank you. It seems like some people definitely would be interested in that data or further information. What is your advice for finding users to test your website?

JASON TAYLOR: I've got a blog on that, as well, which I can forward. There's sort of what I would class as the quick, easy way, which doesn't really cost much money, and that's really reaching out to understand if you've got people in your community that are people who use assistive technology or know someone who uses assistive technology, and ask them to-- when I talk about user testing, it's very simple.

I think about the three or four things most people do on my website or app. I would write that up as, hey, these are the three things that people try and do on my website. Can you see if you can do them? That's really the first level of feedback you want. If you're not an organization that can afford to pay for people, you might want to look at your community. That's employees, family of employees, that's people who are studying or family of people who are studying. So you've got communities that you can go to do user testing.

The second level is that within most cities and most states, there's probably a Lighthouse for the Blind, an organization for the blind, an organization with different disabilities. They typically will have a group of people that you can hire and you can engage, so at a local level, and you can feel good about putting a little bit more money back into a local organization.

If you need to be a little bit more organized, some of the big organizations, like the American Federation for the Blind, they have resources where you can hire, and create a contract, and put together resources. And companies like ourselves-- we actually have our own testing division, which is run by, actually, Joe De Niro, who's actually from the Kelly Institute for the Blind. He runs a team for us which are available to do user testing on projects for clients. And essentially, again, we contract that work and that deliverable. It's obviously a lot more what I class as defined what people are trying to get back from that group. So there's sort of three levels. I talk about that in a blog. And again, I can share that blog.

GEORGIA Sure. That'd be great. All right, last question here. What was the most surprising finding from

MCGOLDRICK: your research into all of these lawsuits?

JASON TAYLOR: I think the most surprising is-- well, I'd say two-- how quickly they settle now. And I think they settle quickly because most companies haven't done much. If you think about the first conversation with a lawyer, we just got sued. They asked the head of the web team, how accessible is our website? They're most likely going to say, I'm not sure how accessible it is.

So the surprising thing is how quickly they settle. And I think that's to do with the fact that most companies-- although accessibility has been around 20 years, they haven't really grasped that they should be doing it on a regular basis. It's a little bit, "nice to have." So they're caught surprised.

And then the second is how many companies are sued multiple times. And that's a lot to do with the fact that lawyers are handling this and maybe not the technical team. So lawyers decide that they negotiate. They get two years. The tech team hear two years, and they feel the pressure's off. And then they get sued again because they didn't take it seriously the first time.

GEORGIA MCGOLDRICK: Perfect. Well, I think that most of our time is up here, but I want to thank you so much, Jason, for a great presentation.