



## Interview with Patrick Byrne from Overstock.com



**Adrian Bye:** Today, we are talking with Patrick Byrne from [Overstock.com](http://Overstock.com). I have been reading a little bit about Patrick today, and I got to confess, at first, my impression of Patrick has been is that I think that he's kind of a crazy guy, but as I've been really more in depth about all the things that he's been involved with, I'm impressed.

Now, we're going to hear Patrick's side of the story, and hear what Patrick has been up to. So, Patrick, thanks for joining us.

**Patrick Byrne:** Hey, Adrian. Good to be here, and I know it takes a lot to impress an Australian, so you started off on the right foot.

**Adrian Bye:** I normally try to look into people's background a little bit and usually it takes a little while to find out some of the different things that has been going on, but with you, do you ever stop doing what you're doing? I can't believe it!

**Patrick Byrne:** As they say in theatre, it reads better than it's played. They may seem like it's one thing after another but it's...anyway, it reads better than it's played. So, where do we begin, it's your call.

**Adrian Bye:** I'm interested to know about you. You grew up on the East Coast, didn't you?

**Patrick Byrne:** I grew up in New England, I spent a few years just outside of Washington DC. I was born in Indiana and then grew up around New England. I think of myself as being basically from Vermont and New Hampshire. But then I lived all over the country and really different places around the world, but I also spent a lot of time in the Bay Area at one point in my life.

**Adrian Bye:** Alright. So, your father was the CEO of Geico, so you spent time with a certain guy named Warren Buffet.

**Patrick Byrne:** Yes, amongst the tailwinds, and I certainly had many, but amongst the tailwinds was when I was about 13 years old, this funny guy from Omaha started turning up and staying at our house, and my parents would let me skip school, so I know he was pretty special, because they never let me do that, and I just got to hang out with Mr. Buffet. Back then, nobody really knew about him, he was just this funny guy from Omaha, and I look back through the course of my life, the whole trajectory of my life changed from a half dozen conversations I had with him as a teenager.

**Adrian Bye:** Really? What was it that changed?

**Patrick Byrne:** Well, he taught me ways of thinking about business, but then also certainly molded how I think about other aspects of life besides business. Really interesting thing about Buffet isn't just that he's the richest guy in the world, it's that he's a fellow who has figured out life and then applied those rules to businesses...he's made a lot of money doing that...but what's really interesting is the things he has figured about life really rather than just how to make a nickel.

**Adrian Bye:** So, you were talking with him twenty years ago, were you?

**Patrick Byrne:** Oh, longer, thirty years ago.

**Adrian Bye:** So, you talked with him thirty years ago and he wasn't known then, but I guess even by then he was a pretty successful guy. Did he come across as a compelling man? Did you know he was special apart from what your parents said, or did he really impacted you? What do you think?

**Patrick Byrne:** Well, he very much impacted me with what he was saying, I could tell he was extraordinary but it's in a different way. He's a very plain spoken fellow. It's like you're getting to talk to a really, really, really smart farmer from the Midwest is what it feels like, just a guy with no pretension, no attitude, he's not uptight like a bunch of rich people are and he's just a cool guy. He would explain things about business or about things, he would say, "Look, I am going to explain something that people either get in five minutes or they never get in all their life." Then he would explain something, and when he's done, I would say, "Are you kidding me? Adults don't get that?" and he'll say, "98% of adults don't understand that." As I grew older, I learned that he was generally correct.



**Adrian Bye:** So, he is a nice guy.

**Patrick Byrne:** Oh, he's a wonderful nice guy.

**Adrian Bye:** Do you still have a relationship with him today?

**Patrick Byrne:** Yes, we have an agreement, I don't talk too much, I mean, he's fine with me telling about our history and the different things that I have learned from him, but I don't really like to talk about our relationship.

**Adrian Bye:** Fair enough.

**Patrick Byrne:** I mean, he's fine with me talking about the lessons I've learned from him, I just don't like to talk about anything more other than that.

**Adrian Bye:** So, you moved around a lot, why did you end up in Salt Lake City?

**Patrick Byrne:** Well, in the nineties, I spent a lot of time backpacking, climbing and skiing. Utah is such a great place for the outdoors life, I think it's the best, except maybe Alaska, or something. It's just a fantastic state for that. So, I made it my home base, my business home, I would say, and through the nineties I was moving around the United States doing lots of different things, but this has always been my business base of operations, and then in 1999, Overstock came along. It was a little company that was in the flea market business, basically, it's where it's at. It was supplying people who were selling things at flea markets, and they were just struggling to open a site, and started what I say is a fax broadcast model, originally. They were going

out of business, they couldn't make payroll, so I stepped in and invested and bought a majority share, and 3-4 months later, that launched as Overstock.com.

**Adrian Bye:** Just one more quick question before because that's a good lead into that is that are you with LDS? I've been to Utah a bunch of times, and most of the guys I know are, are you as well?

**Patrick Byrne:** I am not, but I like the LDS people very much.

**Adrian Bye:** Yes, they're easy to get along with. So, you came along, you bought out a company that was failing, and that became Overstock? Did it just appeal...I guess you are into value investing, and that's one of the things that you've picked up from Warren Buffet. Is that why it appealed to you, and you want to drive it further? What was it that made you want to bring it to where it is now?

**Patrick Byrne:** Well, I saw there was this niche in retail that was perfect for putting online. What that niche is in normal retail...the retail supply lines were optimized for mass quantities of identical goods from a small number of suppliers, and so when sometime the goods become available in small quantities, either somebody cancelled an order, or they only sold through 9/10 of an order or a truck turned over, there's a hundred different reasons, somebody went bankrupt, but you end up with these small quantities, and by small it may be 50 or it may 2,000, but generally, it's too small a quantity for the mainstream retail system to want to work with, well, there are people that step in and clean up those small lots, and they are called jobbers. They tend to be vavavim vavavoom guys, these are the guys who wheel and deal at the very fringes of retails, that clean up the edge of the supply chain of mass retail. The market compensates them for the fact that they don't have mass efficiencies by letting them take half of normal wholesale. So, that's what this company was doing that was buying and using faxes to resell to people who sold at flea markets, so I said, "Gee, that's just a perfect little business to move on to the internet.

**Adrian Bye:** Would you say that as a model it impacted you because of your conversations with Warren Buffet, like if you have not had the influence of Warren Buffet, you think you might not have gone down this path?

**Patrick Byrne:** Yes, absolutely. I would never have seen this for what it was had not I didn't get exposed to Mr. Buffet. I would never have seen this opportunity.

**Adrian Bye:** You have had a lot of growth, but also as a company, it has not been that easy, I mean, as I look at the financials today, I don't think you're a profitable company this year, is that correct?

**Patrick Byrne:** Well, we've not. I would say that we had 4-5 good years, fat years, and a couple of lean years, but we are coming back into the fat. We're on a positive cash flow situation, and positive EBITDA and such, which typically doesn't matter...I hate EBITDA as a measure in general. The only time it's a good measure is when you are low on cash, which we were for a while, but we are out of that...

**Adrian Bye:** That is a measure for unprofitable internet company, isn't it? When I lived down Silicon Valley, that's what everyone used.

**Patrick Byrne:** Well, actually EBITDA is used by Wall Street a lot. It has crossed all kinds on industries. It's not a good measure. I used to work in Wall Street, and people used EBITDA all the time then. I remember Mr. Buffet telling me what a dumb measure it is then. It's not that to use EBITDA minus capital expenditures, that's a good measure. When you start getting in these different ways in encapsulation operating cash flow, but depending on do you want to count stock based compensation or all kinds of things, but EBITDA minus

capital expenditures is a good measure. EBITDA on its own is a bad measure. It becomes a good measure when you're short on cash or if you're in the point where you don't have to make much capital expenditure. We ended up in a situation where both of those things were true, so EBITDA started to mean something. But even then, I don't rely too much on it, it's not as good as gap profitability under generally accepted accounting principles. But in terms of measuring whether you are in the woods or out of the woods, EBITDA is a good measure. I think we have been positive for three quarters now, and things are coming along rather nicely, but we are looking forward to gap profitability.

**Adrian Bye:** How far off do you think that is going to be?

**Patrick Byrne:** Well, I think there are estimates out there, for this year, I pay almost no attention to Wall Street and what the analysts say. Somebody told me recently that the consensus was people thought we're going to lose about \$12million this year, it sounded, to be honest, a little overly pessimistic. I think I said somewhere publicly that we can make as much as \$10million, so if the range is from -\$12million to +\$10million in terms of gap profit is probably a good range, \$10million if things rather worked out nicely, then -\$12million if they don't, and then in terms of what the cash flow would be would be that number + about \$25million or a million or more. So, in other words, if we made just zero On the gap basis, we will actually end up with about \$25million in positive cash flow, EBITDA and such.

**Adrian Bye:** How long can you just keep going? You're getting close, but how long can you keep going with losing money? Surely, there's some point that you would have to shut things down? You guys have been going for a long time now.

**Patrick Byrne:** Well, once you're in the position we're in, once you're in positive EBITDA, or positive operating cash flow, the answer is forever. In other words, we're generating more cash than we've consumed, so the answer is we've crossed that line a year ago, where we are in the position of we are not losing altitude, we are gaining altitude.

**Adrian Bye:** I think I saw some comments somewhere where I think it may have been you they were talking about, Amazon, in the park, somehow they had some slightly different metrics that Wall Street was then celebrating one on park, so is now starting to do reasonably well, and you're like on a similar trajectory just a couple of years behind.

**Patrick Byrne:** Yes, except the thing is they made up, to be honest, a bunch of metrics that nobody ever heard of, and let's not count this, let's not count that and all those kinds of stuff. I don't do that. My first thing is gap profit. I want to get to that, but then secondly EBITDA, we have explained in our income statements when there are extraordinary events, like last year, we spent millions of dollars buying out contracts and closing down warehouses and stuff. We try to identify, some people can understand the difference between...but we don't make up proforma numbers. Anyway, Amazon got through it, and built a great business, and we think they built a business that reached scale, in other words their infrastructure was built so they didn't become profitable until they were a multi multi billion dollar company. I forget just how big, must have been a billion or \$10 billion something, I forget. We've built ourselves that we should be profitable at around a billion dollars of net sales.

**Adrian Bye:** So, you're around \$800million now, so you're getting pretty close.

**Patrick Byrne:** We were \$800million last year and we were growing 27% in the first quarter.

**Adrian Bye:** So, you're well on your way. I guess something I don't understand is how the model works. You're liquidating stock, the internet is very good at that, and information is pretty free on the internet. If these guys are out there liquidating stocks, can't they go and get a better return, I think you call them jobbers, can't they go and get a better return by just going into liquidation and sell on eBay rather than sending it over to Overstock?



**Patrick Byrne:** No, not at all. There's a lot of disadvantages for a high-end brand to be liquidating on eBay, it's just the tail conflict is enormous. Their own distributors will desert them, their own stores will desert them. Also, the English auction is a very good system for liquidating one-offs. The English auction, which is a classic auction that eBay uses, is not a great system, if you have a thousand identical north faced parkas because your first one, and maybe it's a \$100 parka, your first one auctions for \$30, the next one for \$28, your next for \$27,

and by the time you are a number of auctions in, the prices has just collapsed, you're giving away...So, you cannot auction off large numbers of commodity goods that way, one at a time. Then you have the problem of how long...if you have a thousand of them and you set it up so that you have one ending every 8 hours, then, that's going to take a year to get through a thousand. Well, if you compare that with someone who would make a deal with us, and we buy their overstock, load it into our truck, take it to our warehouse, put it on our site, and they have cash, most manufacturers are more attracted to that than the liquidating through eBay, setting aside the fact that if you have a nice brand and you start liquidating on eBay, how would you like to be a retailer selling Cartier, trying to get \$2000 a watch have Cartier there liquidating watches on eBay at \$500? You'll be furious. So, for all those reasons...eBay is a great business, and it has a great role and such, but there are some types of products that work much better in this kind of a sales channel.

**Adrian Bye:** So, Cartier will come directly to you and say, we've got this inventory we can't get rid of, can you buy it? Then you buy it from them at 50% of wholesale, and that's it. You do that directly with Cartier?

**Patrick Byrne:** No, I don't. I was drawing up Cartier as a potential eBay supplier. I don't really talk about our suppliers. I don't think we are doing business with Cartier. So, I'm not talking about them in specifics...

**Adrian Bye:** So, you used Cartier as an example of a manufacturer...

**Patrick Byrne:** Yes, manufacturers come to us and we typically buy directly from the manufacturers. We also work with distributors and some retailers. It's just the attraction of getting cash up front, and working like that, not having to drop ship one at a time, is generally more attractive to manufacturers.

**Adrian Bye:** Do they have an inherent advantage to be working with someone like you that has cowl versus a small operation?

**Patrick Byrne:** Yes, because the thing that you want to do in this business is do large amounts of take-alls...take-alls is when you go in and buy all...somebody when they want to get out of a warehouse or a product, they want somebody to come in and just take care of all of it and not just cherry-pick, and we're up to scale now where we can do that.

**Adrian Bye:** So, there's almost a barrier of entry to scale this for you?

**Patrick Byrne:** Yes.

**Adrian Bye:** I was extremely interested reading that you went public via a Dutch auction.

**Patrick Byrne:** Yes.

**Adrian Bye:** I'm interested to know, you mentioned you worked in Wall Street for a while, did you come away with some really bad feelings about Wall Street?

**Patrick Byrne:** Well, I actually probably went in with some bad feelings about Wall Street, I was raised around Wall Street, I have been hearing about Wall Street. Mr. Buffet said you should work on Wall Street for a year and learn it, but don't spend more than a year there, so I went to work for a friend of his for a year. Then the group I worked with was a fabulous classy outfit, but over the course of a year, I definitely had my eyes open about Wall Street, and I left in the early nineties and never missed it. Like I said, I had my eyes open about Wall Street to the extent that there was still any misunderstanding what they were about. Not only...I mean, I'm cleaning with a broad bust, there are terrific people on Wall Street and they are people trying to do their jobs and doing good things or think they're doing good things. I think a funny crew has shown on Wall Street since the mid-90s which has made it a worse place than it was before.

**Adrian Bye:** You had problems going with your Dutch auction, I didn't follow your going public but I certainly followed Google's, and I remember all the negative stuff that came out about them. Is your feeling mainly that the negative stuff is caused by going public through a Dutch auction and not using the regular IPO process.?

**Patrick Byrne:** Well, the negative stuff there was caused by the banks. The banks hate the Dutch auction process, and they hate it because they like to be in a position of allocating guaranteed profits, because that's where they get kick-backs, so Dutch auction take away the allocation mechanism so they don't get kick backs, so they stand shoulder to shoulder and try to keep anyone from using the Dutch auction. We went public two years before Google using the Dutch auction, and we saw the banks stand shoulder to shoulder. I was actually told, you'll be a pariah for life if you do this. You're breaking up basically an old boy network when you go with a Dutch auction. That wasn't the quote, the quote was "You'll be a pariah for life if you go ahead with this." So, other bankers said, look, even if we want to cooperate with you, there'd be repercussions for us up and down Wall Street if we did. So, they really don't want to see the Dutch auction get any traction. Google, I think, made a tactical mistake. They announced they were going with the Dutch auction, they decided to go with the Dutch auction. They even evidently said at one point look, if no one will work with Hambrick who does the Dutch auction, we'll just do it without. Well, at that point, some of the banks buckled, Goldman Sachs didn't, but the other banks buckled. Nobody wants to be left out of the Google deal. It was the tech deal of the year, of course, tech deal of the decade. So, no one wanted to be left out, so they all said okay, just this once, we'll work in the Dutch auction. Then they got in, and they did everything they could to sabotage it. I think it was an very organized, orchestrated attempt to sabotage the Dutch auction for their own clients.

**Adrian Bye:** Well, I got to say congratulations on doing what you did. That takes up.

**Patrick Byrne:** Well, I'm a child of the sixties, I remember being taught, if you got a black friend, and you want to go to a party, and everybody says you can come but you can't bring him, you're obligation is to stay friends with him and not the other people. The fact that everyone on Wall Street...Hambrick was willing to work with everybody but the fact that they all said if Bank A will work with Bank B and bank B will work with Bank C but none of us will work with Hambrick, made my decision for me that that is who I was going to work with.

**Adrian Bye:** Well, you're risking a lot by doing that...good job.

**Patrick Byrne:** I didn't make any friends since then.

**Adrian Bye:** Well, really, I can bet you that you haven't, for sure, but some people like you sometime stand up and say what you think, so good on you.

**Patrick Byrne:** Thank you.

**Adrian Bye:** I read about World Stock and was very impressed with that. One of my friends here in the Dominican Republic she's doing the best she can, she has a job but not that great, but it's sort of the best that she can get, she's making things work as much as she can, she's very creative. One of the things is she's been selling some stuff locally to different stores around here in the Dominican Republic through its outlets. One of the things she was talking to me about was, "Man, how can I sell this stuff in the US? It will be such a big market if I knew how to sell it, but I don't know how to do it." And I said, "Well, you need to learn English better, then you need to go on and start selling on eBay."

**Patrick Byrne:** No, perish the thought. That's exactly what we are looking for. We and in fact the woman who runs it is from Columbia, so your friend doesn't even have to learn English. Hook them up, we get a supply line going from the Dominican Republic. What does she make?

**Adrian Bye:** She makes mosaic...it's like little pitchers out of mosaic, kind of a little bit like the Star from Barcelona but then with a very Caribbean theme. I have on one of the walls of my office here, of a palm tree. They look pretty good, and I think they're selling well locally, in some of the places here locally.

**Patrick Byrne:** You should drop me an email after this, Campton can do it, and introduce you to Angela Ramirez, who runs the World Stock program.

**Adrian Bye:** It's an amazing idea. You've like hit the nail on the head. I know that my friend needs that, but there's a lot of other people who do it, too. How is that actually doing?

**Patrick Byrne:** It's actually doing beautifully, it just had a great month in May, it's holding it's own...like the rest of the company, we had a two year down trend and we've come out of it. World Stock is coming out of it swimmingly. It's a terrific program.

**Adrian Bye:** So, as well as being a regular entrepreneur that wants to make cash, you're also being a social entrepreneur by doing this.

**Patrick Byrne:** Yes. Our dream is to see tens of thousands, or even hundreds of thousands people making a living around the world by supplying that in an non-exploitative circumstances, and keeping alive traditional crafts, in environmentally friendly ways. I mean, it can just be, I think, a very powerful developmental tool,

and to me, it's real development as opposed to what the West has largely tried for 60 years now, which is very top-down egocentric IMF World Bank kind of stuff. This is grassroots bottom-up development. I'm a big fan of microfinance, too. I think this is the counterpart to microfinance. It's microsupply.

**Adrian Bye:** Right, and let them become independent and all that sort of stuff.

**Patrick Byrne:** Exactly.

**Adrian Bye:** I saw that and I'm like, wow, that's exactly...I'll start mentioning it to people here, maybe we can start having some people sign up from over here.

I'm very interested. I read that you're libertarian, and I went and visit a Cuber about a year ago, and I was reading some Ayn Rand stuff, I personally became quite a fan of Ayn Rand, and I think it's important for entrepreneurs to understand some of that kind of thought. I'm very interested on where you stand on that.

**Patrick Byrne:** Well, on libertarianism, or Ayn Rand? Randians view themselves as much superior to libertarians, I don't know if you're aware of that. To outsiders, they look pretty similar, but Randians, in fact...

Well, first of all, libertarianism. I think you got to break libertarians into two camps in the US. Those who think it's all about carrying guns, and those who are political libertarians. I'm the latter. I guess I would say a small libertarian. Then, among libertarians, I still think libertarians miss some stuff, which is basically there are ways in which the market fails, the environment, security, there are market failures that you need the government to address, and we also need the government to address false and fraud. As far as Ayn Rand goes, I think she was directionally correct. I think her emphasis in terms of selling it as selfishness was the virtue of selfishness and everything, was probably not a great marketing choice, because it just gave her such an uphill battle, and there are ways that she could have expressed some of those ideas without being as tendentious, but I never considered myself a Randian, and it's kind of funny because there are days I feel like I'm living in Ayn Rand hot mold, to tell you the truth. I don't know if you're familiar with my battle with Wall Street, it sounds like you've probably come across some of that, but on those days...



**Adrian Bye:** I hear you're good friends with Herb from PBS Market Watch.

**Patrick Byrne:** Oh, my buddy, Herb. Fluffy. Yes, well I think herb spent 20 years talking in a book of a few headlines. He never wrote a story that did not represent the interest of a small circle hedge funds, so you just



get...you know he's just a shell...anyway, I'll stop there. Do you want me to talk more about Ayn Rand or Wall Street?

**Adrian Bye:** Just in general, just to know, you are libertarian, but you consider yourself not for Ayn Rand, but you maybe familiar with some of the little lines of thoughts?

**Patrick Byrne:** Yes, I've read a whole bunch of her stuff. I don't think it has to be...since you asked...Ayn Rand's great project was to build a base in various fundamental philosophies of anthology and epistemology. You know, what there is in the world, and how we know there is...and from that, build this whole tower of ethics and political thought to which I say I don't think she got the fundamental stuff right. I don't think she got, basically, her anthology right. The universe isn't organized the way she thinks fundamentally but it doesn't matter. Wickenstein said in a painting of a lighthouse on a cliff, you can erase the cliff, and the lighthouse will still stand there. Well, similarly, you can erase half of Ayn Rand's philosophy and the rest of it, the political side still stands. Now, she would deny that, but I think she was wrong about that. So, I am more sympathetic to her basic vision that in the world there are creators and there is another set of people who are parasitic and value destroyers, and they, for whatever reason, go through life destroying things either from work psychology or they have ways of profiting from it, and the mass of people are just caught between these two opposing forces. That's a world view that has some resonance with me these days.

**Adrian Bye:** Yes, fair enough. I want to go on to another question. I'm just in general really interested to know, there's a lot of bad stuff written about you, there's a lot of people spending a lot of time trying to think of bad things to say about you, and all that sort of stuff, why is there so much negative stuff about you?

**Patrick Byrne:** Well, I'd also like to point out there's a lot of good stuff, too. But the bad stuff I would say, I came out three years ago and said the establishment is corrupt, there's a very deep problem in the system, hedge funds have found a way to rip off pension funds, the SEC and the financial press are too indolent, or stupid or bought off to do anything about it.

**Adrian Bye:** I've read through a lot of your stuff on yesterday...the presentation you made, the investor call you did in 2005, I went through a lot of that sort of stuff. Like when we have Watergate, for example. Watergate came along and then a couple of young reporters and exposed it all. If this stuff is really going on at this bad of a level, surely it would have been exposed by now.

**Patrick Byrne:** Well, actually I make the comparison with Watergate all the time, because when Bernstein came along, evidently, a lot of what they publish was already well-known in sort of the circles that know in DC, but the press has just gotten so chummy with powers that be that certain things weren't written about that took sort of iconic classic young reporters to do something. As far as, virtually everything that I've talked about that I talked about three years ago, in the Miscreant's Ball, has come true. Look at...and my first claim, and there's a huge...

To finish off the other answer, the reason where there is so much bad stuff said, is first of all, when you come out and say those things about the establishment, you can be sure that the establishment is going to react. Secondly, a great deal is a blue smoke and mirror attempt, to keep the public from understanding what it is that I am saying, or what it is you could have said...

So, for example, three years ago I did this call called the Miscreant's Ball, and the fundamental claims that I spent an hour talking about is first of all, the SEC had grown inappropriately close to Wall Street. Well, the New York State Attorney General was too close to a bunch of Hedge Funds and was actually a dirty guy. That journalist had grown too close to Hedge Funds, and that there was a crime going on called...the Hedge Funds

were taking down companies. They were doing it using class action law suits brought by Milberg Weiss. Independent research which in fact was not independent, and make it short selling. Pretty much, everyone of those points has either been proven or developed a tremendous amount of supporting evidence over the last few years. A senior investigator from the SEC quit the SEC, came out and wrote a public letter and said that yes, the SEC had become bought off by Wall Street, the Senate judiciary committee investigated and completely vindicated his side of the story, of course, New York Attorney General Eliot Spitzer became Governor, and he turned out to be, it's clear what kind of a guy he is, but what isn't gotten public is...well, we'll come back to that as well. Jim Cramer himself was caught on tape, and this is on my site Deep Capture. He didn't mean for this to become public, evidently, but he was caught on tape explaining exactly how it works, the Hedge Funds and how when he run the Hedge Funds, how he would manipulate the press, and he's got bozo reporters who he just fed stuff to and CNBC is just part of it. Jim Kramer has now come out and confirmed exactly what I was saying. Naked short selling, and its effects has been confirmed by Chris Cox, again, there's links to this all on Deep Capture. Milberg Weiss...shoot I think just yesterday that whole law firm has been indicted and the top guy has been out in jail, just yesterday Melvyn Weiss got his 30-year jail sentence. The independent Research? That still remains to be tried in Court, but we have affidavits from people at one of this independent research offices that it's as crooked as a valentine leg.

So, what happened though, in an attempt to cover it all up, this group of people on Wall Street, they created this public clogging that Patrick Byrne is just a guy mad, that Overstock stock went down, and it's about set lures, and stuff like that. That's all just public barrage to try to deafen the public to my actual claims.

**Adrian Bye:** So, if I came and said that there's something to this, Patrick is just a conspiracy theorist anyway, UFO's, who killed JFK, that sort of stuff, do you have any viewpoints on those issues?

**Patrick Byrne:** I didn't use the word conspiracy. Are you saying that you look at that set of dots and you see a connection there? Do you see a conspiracy there? I'm just saying here's a set of dots...

**Adrian Bye:** There's some points on what you're saying make a lot of sense. I didn't think that in the past, but as I was reading through and researching this today, it started to make sense. I just wanted to ask, in general, and I don't mean that in a negative way, where do you stand on some of the generally what are considered conspiracy theorist issues.

**Patrick Byrne:** It's kind of ironic. I'm an anti-conspiracy guy. All my life, I have been arguing against when people hold conspiracy theories, are you against them? And point out the flaws and thinking how different it would be for too many people to coordinate your activities, and so on. In general, I'm not a conspiracy theorist guy. I make a point never to use conspiracy in this stuff. I just put the data out there, and everybody reads it, and then say, wait, like you're saying it's a conspiracy...does that data look like a conspiracy to you? I don't take that stuff. I think what there is...I'm not sure, I used the expression Sith Lord once, I'm sure there is a Sith, I'm not sure there is a Sith Lord. Another metaphor I use is Al Qaeda, there may just be a network of people who share a certain operating agenda and philosophy and operating method, but it isn't like there's necessarily a cave or somebody sitting there issuing instructions. It's just a network of people who share a goal, and operating methods and philosophy. But, on the other hand, there are days when it looks like there is a great deal of coordination. Well, we know that there is some coordination...

**Adrian Bye:** When you are about to finish, we can move onto the affiliate stuff. Did you have anything else you wanted to say on that point?

**Patrick Byrne:** Well, beside my work at Overstock, I'm involved with the site [DeepCapture.com](http://DeepCapture.com) as a reporter. There, I have a colleague Judd Bagley, who has dug up some tremendous...we actually have emails from people that show that they do coordinate some of the stuff.

**Adrian Bye:** I was reading through that site this morning, and I saw the email that you sent to get back at...that's very funny, and I also noticed he didn't give a direct answer in his response.

**Patrick Byrne:** I haven't even published the...I'll get around to publishing someday the...CBS Market Watch kindly gave me a response too. I'll get around to publishing... their response was basically we're not going to comment on the departure of Herbert Greenberg.

**Adrian Bye:** So, let's talk about the Amazon attack. So you guys came out, you were going to drop all your New York affiliates, and the you've come in and you are suing New York State. How come the change, where do you stand, and what's happening in this area?

**Patrick Byrne:** We had to drop the affiliates because we can't take the risk of not collecting the tax, then someday having New York win and get the ding for it, so we had to drop the affiliates right off, and we had to let them know as soon as we made the decision, we felt we had to give them as much warning. But the decision to seek an injunction is the right long term thing to do. New York, I think, pretty clearly is doing something unconstitutional. Back about 15 years ago, the Supreme Court found that you cannot hold a catalogue company responsible for collecting out-of-state sales tax. There's 7200 taxing jurisdictions in the United States and it's impossible...in some jurisdiction cotton candy is candy, and in some it's food. There're different tax rates. There's no way that a company in Utah can sit here and know how in Paducah, Kentucky the right way to tax, every possible product, it's just impossible. So, the Supreme Court, I think, wisely said that burden cannot be put on the out-of-state retailer. So, I think that New York's argument is that there law is just directly unconstitutional. So, what we're suing them is, we're not suing them for any money, we're suing to enjoin them from ever acting upon this law, and we're trying to get a Court to try it out.

**Adrian Bye:** Do you have actually a large affiliate program? Did you care much about your affiliate program? Or most of your revenue comes in from Super Bowl ads and type-in traffic, and that sort of stuff.

**Patrick Byrne:** Oh no, affiliates are very nice part of our business. It's a double digit percentage I would say that to the outside we have this meteor growth of \$200 to \$800million and it may just look that it was all smooth, but what it really was 4-5 different waters we figured out, and one of the big one is the affiliate business. We were doing less than \$1million a year in affiliate business and when we figured out that this was a great opportunity for us, we call it Ho Chi Min's War of the Fleas against the Elephants, let's just nibble around the edges, get good with affiliates, and really work with them. So, the affiliate business has been a big...still a very healthy chunk, much larger than \$100 million, chunk of our business. We feel that we've been...

Last year, Amazon came out and dealt a real blow to their affiliate program, and basically said we're going to stop paying affiliates, or pay a drastically reduced fee on a wide range of products. So, we've hung in with our affiliates, we know that our affiliates bring us value, and we hung in with them. So, it's a big deal for us, the affiliate world.

We put such energy into it that Link Share for example, we've regularly won with Link Share their different kinds of prizes like Merchant of the Year, program of the Year, that kind of stuff, and I think that is a testament to the affiliate team, we as a company take that very seriously.

**Adrian Bye:** Are you interested in getting more support from affiliates? I mean, I have a lot of big affiliate network on my lists. Do you want me to reach out to some of those guys, and try to coordinate some sort of industry thing, or do you prefer just kind of go long with your losses.

**Patrick Byrne:** Well, we'll very much like any help. If you can reach out to anybody, have them get in touch with Jonathan Johnson, who is our Senior Vice president of Legal Affairs, or Mark Griffin who is our general counsel. We'd love to have anybody to help us put political pressure on the legislature, and this was Eliot Spitzer's idea, he's gone now, his replacement has signed this, we think it's a bad idea for New York to be doing this. Love any help.

**Adrian Bye:** This law suit, what kind of resources are you putting towards this? Is this an internal thing that you are doing with your General Counsel? Or do you have a big name law firm who is on the outside on retainer to take care of it?

**Patrick Byrne:** We have a law firm in New York, I don't think it's a big name law firm, but we're putting in the order of hundreds of thousands of dollars into getting this fought.

**Adrian Bye:** Long term, some people I've been reading are suggesting that this is going to be a trend across the entire United States. Is this why you're going in and doing all that as well, stop the dam from breaking, causing it to happen in every jurisdiction.

**Patrick Byrne:** Exactly. I think what is going to happen is other jurisdictions are going to watch us fight in new York and then based on how it plays out in the Courts there, they'll decide whether to go ahead with it or not.

**Adrian Bye:** Is there anything else in terms of the affiliate network or major publishers that they can do to help you? What kind of resources do you want them to bring in? Political act, political leverage, certainly. Is there anything else you are specifically looking from them?

**Patrick Byrne:** We don't need money. But what is great is people writing their state legislators. I have written in the last two years and spent a lot of time with politicians at every level, and people will be amazed at...I used to think I'm going to write a letter to my congressman, and you just kind of assumed that it went off and sat on the basket and that they didn't matter. It does matter. They track how many letters on every subject. They absolutely track it, they pay attention. It's actually much more effective than the general population understands, writing letters to, in this case, your State legislators. They will respond. Not only in the sense that they will answer back with a letter, but it matters. Out of the 3,400 affiliates that we severed relationships with, if a hundred or 200 wrote different State legislators, that could make an enormous difference in Albany.

**Adrian Bye:** Maybe my guys, they tend to be a small number of CEOs, they can maybe get their employees to do that sort of stuff. Maybe there are some ways they can get leverage there to make that effective.

Is there anything that we haven't talked about that you'd like to tell us?

**Patrick Byrne:** No. This is a nice interview.

**Adrian Bye:** It wasn't too hard, huh?

**Patrick Byrne:** No, not too painful at all.

**Adrian Bye:** Well, thank you very much.