ICANN
Transcription
IRTP Part D Working Group meeting
Monday 04 November 2013 at 16:00 UTC

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 04 November 2013 at 16:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: http://audio.icann.org/gnso/gnso-irtp-d-20131104-en.mp3

On page: http://gnso.icann.org/calendar/#nov

Attendees:
James Bladel - RrSG
Avri Doria – NCSG
Volker Greimann - RrSG
Mikey O'Connor – ISPCP
Angie Graves – CBUC
Graeme Bunton - RrSG
Kristine Dorrain – NAF
Paul Diaz – RySG
Rob Golding – RrSG
Bob Mountain - RrSG
Barbara Knight – RySG
Kevin Erdman - IPC

Apologies:
Holly Raiche – ALAC
Chris Chaplow – CBUC

ICANN staff:
Lars Hoffmann
Nathalie Peregrine

Coordinator: Excuse me, everyone. This is the operator. Just need to inform you that

                 today's conference call is being recorded. If you have any objections you may

                 disconnect your line at this time. And you may begin.

Nathalie Peregrine: Thank you ever so much, (Laurie). Good morning, good afternoon, good evening everybody. This is the IRTP-D meeting on the 4th of November, 2013.

On the call today we have Volker Greimann, Mikey O'Connor, Angie Graves, Paul Diaz, Graeme Bunton, Kristine Dorrain, James Bladel, Bob Mountain and Avri Doria.

We have a tentative apology from Barbara Knight who might be joining late. And we have apologies from Holly Raiche and Chris Chaplow. From staff we have Lars Hoffman and myself, Nathalie Peregrine.

I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you very much and over to you, James.

James Bladel: Thank you. And good morning, good afternoon everyone. Welcome to IRTP-D Working Group call for November 4. As per our usual order of business does anyone have any updates to their Statements of Interests?

Seeing none I would then direct your attention to the tentative agenda that was posted on the mailing list and appears in the right hand column of the Adobe Chat room. Does anyone have any questions or updates for that agenda? Okay I guess we can consider that agenda to be adopted.

The first item that we have - and it looks again like the bulk of this call will be focused on Charter Question C but we do have a note here to discuss our approach for the workshop time that we have established on the calendar for Buenos Aires.

And, Lars, do you know specifically is that Thursday or what day will that workshop be held?

Lars Hoffman: Hi, James. This is Lars. It's held on Wednesday. And I believe it's 10:30 am but I'm just double checking right now.

James Bladel: Thank you. And so that's breaking with the IRTP tradition of having these workshops to an empty room very early in the morning with coffee and danishes or actually we've got a- we should thank staff for getting us a more respectable hour and hopefully we'll have better turnout.

I think that we should consider what we would present as a draft agenda for that. And I think is there's something on the Buenos Aires schedule as an agenda for that session? Does anyone know if we have - thank you, Lars. The link has been posted there. And perhaps we can take that agenda and maybe just copy that into the - oh it looks like Mikey has the screen right now so perhaps we can't...

((Crosstalk))

Lars Hoffman: ...there's no agenda posted yet though.

James Bladel: Okay.

Lars Hoffman: We have not posted an agenda as of yet.

James Bladel: Just the charter questions.

Lars Hoffman: Yeah.

James Bladel: So the agenda, I would suggest or perhaps I'll just throw this out here is that the agenda will probably look very similar to the update we provide for Council which is a quick background on the issues, a status of the group's work to date, touching base with our work plan between Buenos Aires and Singapore.

And then, you know, an open Q&A where we can present - I believe we have, with the exception of Charter Question C we have arrived at some rough tentative recommendations or conclusions but we can present what we have with the understanding that a initial report is still forthcoming and will not be ready for the Buenos Aires meeting but that an initial report will be forthcoming shortly thereafter with the associated comment and reply period.

So I don't know if that follows with what the group's expectations were. If you think perhaps we're not ready to present those, you know, those initial recommendations, you know, we should probably discuss that. If you feel like there's something else we should be discussing that I left off then let's discuss that as well. So we can take a queue with that and, Lars, you're up first.

Lars Hoffman: Thank you, James. This is Lars. Yeah, just very quickly for the record it's actually Charter Question B and C and the multiple (hops) there. So also there was some tentative language but (unintelligible) questions also need to be answered, yeah.

James Bladel: Thank you, Lars. Excellent point. And I apologize if I tend to lump all of that into - under the heading of Charter Question C but you're right it is Charter Question B and C.

And I think asking for feedback from those attending the workshop in Buenos Aires would certainly also be a worthwhile exercise if we can get their thoughts on where we are with Charter Questions B and C and ask for their comments or their thoughts on some of the challenges that we've encountered or some of the issues that we've identified in our discussions with those charter questions would also be, I think, a useful way to spend that time.

How much time do we have? An hour?

Lars Hoffman: An hour and a half.

James Bladel: Oh...

((Crosstalk))

James Bladel: Okay.

Lars Hoffman: ...10:30-12:00.

James Bladel: Okay great. I think we were perhaps expecting to have maybe almost a draft initial report ready. And I think we're close but - it will be - and we'll still have some blanks that will need to be filled in.

Does anyone have any other thoughts, questions, concerns about the workshop in Buenos Aires? Do you feel that there's something else that we need to be covering? You know, one other item might be to - since this is the last opportunity on this, you know, well it remains to be seen whether we'll address this in Singapore. But this is potentially one of the last public workshops or discussions on this series of IRTP PDPs.

So we want to have an item on the agenda for a catch-all or, you know, miscellaneous transfer issues where other folks can raise something that is not in our charter question perhaps like the implementation of IRTPC or transfer issues that were not covered by this series of working groups or anything like that.

That might be something else we could throw the floor open to or perhaps it might more appropriately be a topic for the presentation of the final report in Singapore although I can certainly see where some might feel that that's too late.

No - I see some chats here going. But no hands, no one wants to speak to the other - okay, maybe by a show of green checkmarks how many of the participants expect to be in Buenos Aires and will attend this session? All right. Good, so it looks like it won't be just Mikey and I and staff. It looks like we have a pretty healthy group of folks that will be there.

Okay so if there are no other comments or thoughts or concerns about the session in Buenos Aires then we can maybe wind up discussion on Agenda Item Number 2 and move back into the discussions on TDRP.

And I will probably then turn it over to Mikey who has another one of his super cool mind maps ready on...

((Crosstalk))

Mikey O'Connor: Well that's the same old one. This is Mikey. I'm going to speak really loud because it turns out my Internet connection is a little goofed up so I can't come over my usual voice over IP line. So if people can't hear me well do let me know in the Chat.

But what's on the screen in front of you now is precisely the mind map where we left it last week. And to sort of replay the bidding for those of you who weren't on the call what we've got in the - this is a mind map that we're using as the basis for drafting essentially an extensively reworked TDRP that does two things.

It clarifies the existing policy and in that effort attempts not to change anything. And then also drives some of the things from our charter questions into that policy. And essentially the drafting team got to a series of questions that we felt we needed to get an answer from the group on.

And so here's - here's where we laid them out. And the one that I think, you know, during the call last week and then we had a conversation where we

tried to sort of clarify that. And all of these are sort of revolving around two, I think, fundamental puzzlers.

The first is this notion that registrants have access to the TDRP. And we had a conversation primarily I think between James and Volker as to what that means and how we might approach that.

And then another puzzler that sort of raised its ugly head is how does the change of registrant piece that got developed in IRTP-C, the last one, fit into the TDRP, if at all.

And as we got to the end of the call we seemed to be coming to agreement that understanding the relationship between the TDRP and the change of registrant process is probably our next step that the TDRP, as it's designed right now, is pretty slow, pretty expensive, it's entirely designed as a way to resolve disputes between registrars. And it may be overloaded trying to put resolving disputes between registrants into that same policy.

And so where we wound up last week was to say maybe we need to define that change of registrant process first and then see how that dispute resolution process fits within the TDRP if it does at all.

So that's sort of where we left it. And I pondered a little bit about that over the course of the week. And I think that one of the things that would be helpful, at least from my vantage point, is to sort of separate some things.

It seems to me that if we - let's, for the moment, leave the TDRP fundamentally the same. I think the one thing that I carry into this discussion as - now speaking as a registrant rather than as an ISP, is the need to solve the problem when my registrar is recalcitrant and elects not to pursue the process when I think it should be pursued. And, you know, this was a - so that's one question. You know, how do we solve that puzzler?

The other question is the broader one of essentially how do we address the hijacking issue which is a combination of change of registrant and change of registrar. And, you know, with that it's sort of - that's the end of my little summary. And I think if we can stay zeroed in on this part of the topic today the rest of those questions sort of fall in line once we've gotten through this, you know, this core one. So there, that's the history.

James is in the queue. Before I go to James just - Volker's in the Chat saying, "Define recalcitrant. It may be the case that the registrar merely sees the chances of prevailing in the TDRP differently."

And I think that's true, Volker. But I think that from the registrant's point of view they want a button they can push when they disagree with their registrar. And with that over to you, James.

James Bladel: Thanks, Mikey. James speaking for the record. I think, you know, we opened this can of worms and inside this can of worms there were more cans of more worms. And I think we've uncovered some sort of recursive issues associated with that.

And it is possible, like you said, that the policy is overloaded and maybe we as a working group are trying to solve too much with one, you know, one document or one spreadsheet or one mind map so here's a thought on an approach on how we can sort of divide and conquer all of the - all the issues that we've identified here.

The first one, I think, is - and I think that this can be done probably in advance of the meeting in Buenos Aires is to just focus on the reconstruction of the TDRP in the - what are we calling it, the more accessible organization of the TDRP but leaving the material substance of the policy intact as the status quo.

And then coming up with a list of what we would consider to be amendments or changes separate from that that would have - that we believe have, you know, have steady support right now. So, you know, for example, removing the registry layer as an example. And what would that modification look like and where would those changes go?

And then the third task an the harder one would be to put these fundamental questions on the table. How does this address change of registrant? How does this address hijackers? Do we want to give registrants direct access to the panelists or do we want to mandate that registrars pass through those requests?

And then if so, you know, what do we do with the fee structure because we certainly can't require a registrar to pass through something that they know they're going to lose. I think just to Volker's point. Is - they're on the hook for the fee as the loser pays. You know, sort of like we're painting people into corners here. So I think - so really kind of start, you know, with status quo, reorganization, minor changes and then major changes.

And I think realistically that's what we could and should expect to be able to take into, you know, into the meeting in Buenos Aires and put it on the table and hopefully we'll have a healthy turnout, you know, for this session. And say, "Well, what do you think? Here's what the working group is wrestling with. Here's some of the issues that we've uncovered." Some of them, I think, are fairly easy to nail down and some of them aren't. And see what sort of feedback we can elicit from that discussion.

So that's just my proposal. And I would certainly entertain any criticisms or suggestions on that but I just was throwing that out there as a starting point.

Mikey O'Connor: This is Mikey again. I think that's not a bad approach. I think that one of the things that we need to do is break this into pieces. And I think that that would

be a good way to trigger a really strong discussion in Buenos Aires. And I think that's a great thing to strive for.

James Bladel: Yeah.

Mikey O'Connor: Volker's in the Chat. "Radical thought bordering on heretic. Could such issues not be better included in the UDRP?" And, you know, I think that's the kind of discussion that James and I will - I'll sign on to this at least tentatively. James and I are aiming for is, you know, let's put the collective wisdom of the community together and figure out which of these things fit in this TDRP policy and thus if we go back up layer the IRTP policy.

Because, remember, the IRTP is the inter registrar transfer policy.

James Bladel: Right.

Mikey O'Connor: And we may have accidentally overloaded that with what we did in C. And so we may want to kind of put that on the table as well. So and then in the Chat we've got Avri saying, "And then again if they want it back it needs to be more UDRP-ish..." Oh I'm sorry, I haven't gone far enough back. Wow, that's - let's see. Hold on a minute.

James Bladel: Yeah, can we maybe ask some of the folks that are - there's a really good exchange going on, I think, in the Chat. And I'm wondering if we can get that into the audio and into the transcript because I think that that - I don't want to dismiss the Chat as a resource...

((Crosstalk))

James Bladel: ...but it seems like we're losing some things there.

Mikey O'Connor: Yeah. Well let me capture it just speaking it off. So this was triggered by Volker's thought that maybe this is more like the UDRP. Avri came in and

said, "Well and maybe even the URS which is lighter weight." And then she backtracked on that because - in a minute.

But Kristine came in and said, "That would be super-radical because the UDRP only deals with brand owners." And that is a key point (unintelligible) in case of hijacking that's pretty alien thing to load the UDRP with.

Volker then reminded Avri that the URS has no transfer element. Avri then started to back up. And Volker is in the queue. Let's let Volker speak and then see where we wind up.

Volker Greimann: Yes, a couple of the issues that we're dealing with I'm not sure if the transfer is really necessary to solve - or to have these problems. I mean, I could imagine circumstances where a registrar transfer had not occurred, only a registrant transfer because, for example, the domain name was pushed from one account to the other and it might still be hijacking.

So having a transfer element baked into the policy might even prohibit the new policy from dealing with certain cases that it might otherwise be able to deal with. And so having a special registrant owner change transfer, whatever the way the domain name can go away, is being defined as can be might be better than having something baked into the transfer policy which is currently specified for very rare cases.

Mikey O'Connor: Let's see, Kristine is agreeing with that. James, are you back in the queue?

James Bladel: Yes I am.

Mikey O'Connor: Take it away.

James Bladel: So I think this is along the lines of where Volker was going. I think that one possible route - and we should discuss this - is that, you know, mainly this topic of who adjudicates disputes between registrants, whether it was transfer

to registrar or not, whether it was a hijacking or a, you know, hey my Web designer took my domain name and I thought it was mine and I thought I could go to another Web designer and the Web designer is saying, no that was part of the service, you know, things like that.

I think that all of these issues that can result in disputes between two parties claiming to be the registrants of the domain name maybe this is screaming for a different policy unrelated to the IRTP. Maybe this is something that, you know, is now a bigger dragon that needs to be slain here and was not - doesn't shoehorn easily into TDRP, IRTP or UDRP or URS but maybe needs to live on its own.

Mikey O'Connor: And this is Mikey again. That's sort of where I started to get as I thought about this over the course of the week. And then I started to wonder, well, could we - then we run into the scope issue of our charter. And I started to puzzle about that a little bit and decided at least tentatively that because of the IRTP-C inter registrant transfer stuff that we did last time, that it's something we could claim is in scope if we decided that we wanted to do that.

And I think that's where we, I think, had a really good idea that maybe we, as the IRTP-D, ought to at least take a try at describing in more detail what's going on in the change of registrant as a first step there.

Because I think once we have a better sense of the - to quote our friend Berry Cobb, use cases, we'll have a better basis on which to decide whether this could fit within the existing IRTP policy and consequently the TDRP or not.

And we might also have the happy accident of some of them do fit and some don't. And it would give us a better basis to make that choice as well. Volker, you're next.

Volker Greimann: I apologize. That was the old vestigial hand again, sorry.

Mikey O'Connor: Oh, like the vestigial tail. Okay we have an empty queue. And if people are feeling fairly comfortable with this I think we could probably use the rest of this call pretty productively by zeroing in on this chunk of the mind map that I started today and see if we can develop a list of questions for Buenos Aires that we could put out as sort of a discussion outline. This is pretty rough. We might want to come back through and tighten this up a bit.

And I'm not seeing anybody throwing their body on the track so let's go ahead and do that. The way James started us off was saying - and this was more our process so maybe I'm going to do two things here. Okay so I'm going to do a new thing. Tighten this up a bit.

And say, okay, our approach to tackling the work - people are dropping off this room a lot. Volker's trying to get back in. Pull some of this down. The whole - whole shebang works.

I think the way I want to do this is tell a story that says, look, we're kind of stuck right now. We're not terribly stuck but we are right at the heart of the issue. And this is the way that we think we want to approach it. So one of the things we want to do for sure is make the TDRP more accessible.

And in that first effort we would leave it essentially unchanged. And then come up with this list of - in that process come up with the amendments that we think we are pretty much in agreement on.

And the trick there - and I think this is where we get stuck - is that I think the answer on whether or not to remove the registry level depends on some of these other answers. And so I'm a little - a little reluctant to do more than just identify them for the discussion and say, look, some of these have - are going to - our answer is going to change depending on how we answer some of these other questions and hence the term, can of worms, within can of worms.

James Bladel: Mikey?

Mikey O'Connor: Yeah, go ahead, James.

James Bladel: I still think we can proceed if we consider them to be proposed amendments. And the proposed amendments have dependencies with other proposed amendments. I think that's fair, you know, to indicate that something is conditional if we decide to take the registries out, you know, this is what the amendment would look like and this is where it would go.

And, you know, I think it's perfectly acceptable to have that sort of a fuzzy disclaimer at the beginning and then structure that to what it would look like.

Mikey O'Connor: Yeah, that was helpful.

James Bladel: At least it gets us out of the mud a little bit.

Mikey O'Connor: Yeah, yeah. Yeah, I think that's good. And maybe then talk about sort of the fundamental questions that we're still really working hard on. And let me just expand some of these because I typed them pretty fast. And I think that that - I think the who adjudicates might be the most fundamental of the fundamental questions.

Now Avri's in the Chat. I haven't been paying attention to the Chat. Hang on a minute. Avri's not understanding this. "Are we going to change the TDRP but not change it?" I think the way we're going to do this, Avri, is sort of in layers.

One goal is to make that thing easier to understand. And I think what we need to do is write one version of it that's essentially unchanged and get people to agree that in so rewriting it we rewrote it in a way that didn't change it. And then once we've got that baseline established then develop this list of amendments that would get inserted into the rewritten one.

Because right now inserting amendments into the current PDP - TDRP is just a nightmare. That's what - especially Kristine and I ran into when we started trying to work with it. And then we wrestle with these fundamental questions and figure out which things should go into the TDRP and which things shouldn't. And for those things that shouldn't where should they go?

Should they go into a new policy? You know, whatever. I mean, we are juggling several plates here. But I think that the way to tackle this is to sort of take, in a way, the rewrite just to make it simpler of the TDRP. The cleanup, to use your term, Avri, is the easiest and most straightforward thing. But it may also make it easier to think about some of these more complicated puzzlers that we're working on.

Okay so, you know, I think what we could do - and I'm sort of playing the script out in my mind here, James, so feel free to just barge in and give me course corrections is that, you know, we could - if we were to - we might even want to do a history of IRTP changes.

You know, I was wondering whether in one place - well, I'm going to put that down here in the discussion. You know, I don't know that any - there is in place a document that says, okay, IRTP-A did this, IRTP-B did this, etcetera.

We might want to develop that document and then introduce, you know, then use the update deck that we're going to talk to the GNSO off of to introduce what we're doing. And then essentially give them, you know, this whole list of puzzlers that we're working on as a discussion outline and then hand it over to the group and see if they - see what they think.

Volker's typing. James, what do you think?

James Bladel: Yeah, I think - I really don't have any objections to this direction, Mikey. I think that my concern here is that some of this is predicated on the assumption that

we have a really healthy turnout and vigorous discussions in Buenos Aires and that's kind of hit or miss for this IRTP series of PDPs.

So perhaps one takeaway from this part of our agenda is we would ask that all members of this group go back to their constituencies and stakeholder groups and really kind of wave the flag a little bit and say hey, everybody, make sure that we, you know, I've been participating in this PDP and we've uncovered some pretty sticky issues and would like to make sure that we have healthy turnout for this session for folks who are going to be attending in Buenos Aires.

And I'll go ahead and volunteer to take that to the Registrar Stakeholder Group. If we can find some volunteers for Registries and Non Contracted Parties as well I think - and ALAC and everywhere else that we can go to really (unintelligible) up some excitement about these issues and get a wide variety of input at this workshop.

Because I think there are some reluctance, I think, on the part of this PDP and this working group to make bold decisions that would have far-reaching implications into things like, you know, disputes, transfers, aftermarket, all that stuff. And I think we should very correctly be cautious about doing that - doing anything that would affect those things. So that would be my takeaway, Mikey.

Mikey O'Connor: I'm just - I'm thinking that we should have a little promotional language that we hand out to us so that, you know, when you and me and all the others go out into the world it would be nice to have something that we could just forward by email rather than having to invent it.

And I'm sort of looking and batting my eyelashes at Lars for coming up with a first draft and then maybe James, you and I should comb it and make sure it's ready and then push it to the list. How about that for a...

((Crosstalk))

James Bladel: Sounds like a good plan. We should discuss - and maybe I'm getting ahead here jumping into the last item on our agenda for today but we should discuss our plans for next week.

Mikey O'Connor: Yes. That's probably not a bad idea. It's a quarter to the hour. If people are sort of comfortable with this general direction, you know, why don't we pause here, hit the save button on this deck and segue into that plan for next week's call and for BA.

                  Next week is the day that I will be leaving for Buenos Aires...

James Bladel: The 11th.

Mikey O'Connor: So I won't be on the call but I'll be distracted. Volker will not.

James Bladel: Volker, yeah. And I think that that's something we're kind of running into. I actually don't depart until I believe it's Wednesday the 13th. But squeezing in a call between now and then would be challenging.

                  So the draft that we're talking about on this last subject, Mikey, I guess the question is do we feel confident in our abilities and all of our various schedules that we can put something like this on the list on the mailing list, let's say, you know, later this week.

                  And that by the time we arrive in Buenos Aires later next week we will all have had a chance to review that and we will have had an opportunity to incorporate comments and edits into that. And I don't know, it feels like a bit of a stretch but I certainly don't want to sound defeatist on this point.

Mikey O'Connor: I think if, you know, if Lars can take a pass at the promotional paragraph or two, you know, I don't view this as a giant thing, you know, more highlighting some of these puzzlers. And then, you know, James, you and I can review it.

I've got a fair amount of time this week and I've got some down time where I've got maintenance on things where I have to sit so I've got some time to do some reviewing there. I think in terms of this part - oh - where, you know, we're trying to pose all these questions I'm happy to take that and pound them into a couple of slides in PowerPoint and, again, circulate it to you and Lars for review. And, again, I don't think that takes a lot of time to put together.

So I agree, if we were coming up with much in the way of substance rather than questions it would get tricky. But I think as long as we can stick to sort of broad tantalizing questions for people we'll be all right.

James Bladel: Okay. Well I don't have any objections to that. And I think my only concern is my availability this week is pretty much limited to Friday - Thursday and Friday. So we'll just have to work that out.

Mikey O'Connor: Yeah, I'm not sure we need a call for it, James.

James Bladel: Okay. We can just exchange some things and that will work as well.

Mikey O'Connor: That sounds...

((Crosstalk))

James Bladel: Okay so I guess we're a few minutes towards the end of the hour. But if there are no other comments or suggestions or concerns maybe Mikey and Lars and I will take that as our marching orders. The queue is clear. The Chat room is clear. I guess we have our answer.

Mikey O'Connor: I think we did good.

James Bladel: Okay. All right well thanks, everyone, for coming today and thanks, Mikey. And I guess our next meeting will most likely be in Buenos Aires.

Mikey O'Connor: You want to try and...

((Crosstalk))

Mikey O'Connor: I mean, you know, it's Monday. We could cram another meeting in if you want.

James Bladel: I think at this stage - well, you know, perhaps what we could do is just ask everyone who is going to be in Buenos Aires for the GNSO weekend prior to the official kickoff of ICANN calendar that we could make sure that folks are present for the update that would be good.

Mikey O'Connor: Yeah, that's a good point.

James Bladel: Okay. Well I'm going to drop as well, Mikey. Thanks, everyone. And see you on the other side.

Mikey O'Connor: All righty. Thanks, all. That's it for me.

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