ICANN
Transcription
IRTP Part D Working Group meeting
Monday 14 April 2014 at 15:00 UTC

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 14 April 2014 at 15:00 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-20140414-en.mp3
On page: http://gnso.icann.org/calendar/#apr

Attendees:
Graeme Bunton - RrSG
Barbara Knight – RySG
Volker Greimann – RrSG
James Bladel - RrSG
Angie Graves – BC
Chris Chaplow – CBUC
Bartlette Morgan – NCUC
Avri Doria – NCSG
Rob Golding – RrSG
Kevin Erdman - IPC

Apologies:
Paul Diaz – RySG
Holly Raiche – ALAC

ICANN staff:
Amy Bivins
Marika Konings
Lars Hoffmann
Berry Cobb
Nathalie Peregrine
Terri Agnew

Coordinator: Record lines are in.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the IRTP Part D Working Group call on the 14th of April, 2014.

On the call today we have Volker Greimann, Chris Chaplow, Bartlett Morgan, Barbara Knight, James Bladel, Angie Graves and Avri Doria. We have apologies from Paul Diaz and Holly Raiche.

From staff we have Lars Hoffman, Marika Konings, Berry Cobb, Nathalie Peregrine, Amy Bivins and myself, Terri Agnew.

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

James Bladel: Thank you and welcome, everyone, to the IRTP-D Working Group call for April 14. And I was not able to join last week due to a conflict with a registrar and staff call but I understand that last week may have been cancelled. Is that correct, Lars?

Lars Hoffman: Yes, I'm sorry. This is Lars for the record. Yes, James, correct, last week we were short in attendance and there's no registrars on the call and so we canceled the call.

James Bladel: That makes sense. Thank you, Lars, for confirming. And given the fact that we are still in the midst of an open comment period on our draft report it is sort of a quiet period for right now until that comment period and reply period closes so that was probably prudent.

So let's work through our agenda. The first item is to ask if anyone has any updates to their Statement of Interest, if so please raise your hand in the Adobe room or get my attention on the phone.

Okay hearing none we'll then ask if anyone has any questions or additions to the proposed agenda, which was circulated earlier this week from Lars and is listed there in the Adobe chat room. Any update? Okay then we'll consider that agenda to be adopted and move on to Item Number 2 which is, unfortunately, many of you may have noted that our co chair, Mikey, - Mikey O'Connor has withdrawn from all ICANN activities.

I spoke with Mikey last week and he assured me it's not - he's not in an angry place he's just, you know, spread very thin and over-committed like many of us are. And while it's not due to anything - any particular issue it's just more of a desire on his part to sort of pull back and refocus on things, you know, outside of ICANN.

So that raises the question for this particular working group are we comfortable going forward with a single chair? If so - if not, I'm sorry, do we have any nominations for a replacement co chair for Mikey? And if that's the case I would just personally suggest or recommend that that candidate be non-registrars. I think that, you know, we try to balance this particular working group between registrars and non-registrars. But I know that that may be a challenge; I know everyone (unintelligible) replace.

And then of course my only concern is that, I mean, given my track record for travel commitments and other conflicts I have missed, you know, it hasn't been too much. I would say I've probably missed 15%-20% of our meetings that we've held so far. So, you know, if we decide not to go forward with another co chair then I think that we should get comfortable with more staff-led discussion like from Lars and Marika.

So with that I will take a queue and we'll start with Graeme. Go ahead, Graeme.

Graeme Bunton: Hey, James. This is Graeme Bunton. Just sort of saying that I'm perfectly comfortable given where we are on this process moving forward with just a single chair. And I suppose if it does come up that we - you're unavailable then - this group has been sort of getting smaller and smaller then maybe we can discuss amongst ourselves who wants to lead the discussion on an ad hoc basis or give that up to staff. That is all.

James Bladel: Thank you, Graeme. And an excellent suggestion. And I have actually participated in working groups in the past where exactly that arrangement has been employed. And myself and I think a couple other folks, Avri, I think you were in that particular group where we would frequently be called upon to act as ad hoc co chairs.

So that is certainly one approach and I would be happy to continue forward under those circumstances recognizing that we are perhaps not near the end but certainly past the middle of this process, you know, depending upon what we receive from public comment, you know, we may just be a few more months left in this particular PDP.

So any other thoughts? I thought those were good contributions from Graeme. Anyone else have any strong feels any one way or the other? Certainly don't want this become a peer pressure exercise although folks at ICANN and particularly this group are not shy around each other anymore. So if anyone has any strong opinions please let's hear them.

Chris Chaplow: James, Chris Chaplow here.

James Bladel: Chris, please go ahead.

Chris Chaplow: Thanks. I'm not in Adobe, I'm just out and about so apologies if that
                   (unintelligible). No, I would concur with that. I don't think we need to
                   have a co chair. And it sounds quite a good idea going forward if you
                   can't make it then we'll (unintelligible) take turns on an ad hoc basis
                   (unintelligible) to responsibility, yeah, the practice to chair a meeting.
                   So that might be a good way going forward (unintelligible). Thanks.

James Bladel: Thank you, Chris. Good contribution. I see Barbara has indicated her
                   agreement with a green checkmark. And I am happy to continue in that
                   mode. And so, you know, we could certainly change course on this if
                   find, you know, a couple meetings down the road if it's not working if
                   I'm just missing too many calls or folks really feel like we need some
                   additional backup I'm certainly willing to revisit this question.

                   But does anyone - if we don't have any strong feelings in the other
                   direction then I would propose that we just kind of move on with this
                   approach and then certainly leave the door open to revisit it if we find
                   that it's not working.

                   So then that raises the question of just as far as our due diligence I
                   think that we should probably report back to the GNSO Council
                   regarding this change as I know that they will probably be looking for a
                   status update on how all the various working groups are adjusting to
                   Mikey's withdrawal, including the Council itself.

So I believe Volker, you are our Council liaison on this group so is this something that you can bring back to our next meeting, which I believe is scheduled for early May?

Volker Greimann: Yes, sure. I don't think that should be a problem.

James Bladel: Or should we...

((Crosstalk))

Volker Greimann: We don't have - and I think - I don't think we have a Council meeting before then but we can probably do something on the Council list.

James Bladel: Okay. Excellent, thank you Volker. And once again I just want to emphasize to folks that we certainly will miss Mikey and we appreciate his contribution but certainly can empathize with being over-committed. And we will do our best to carry on without him and we will certainly miss his charts. So with that said we can perhaps close this issue and move on to Agenda Item Number 3 which is a review of our meeting in Singapore.

So just - if memory serves - and I may lean on Lars a bit to fill in some of the details and provide a little color. But if memory serves we had a short meeting in Singapore. It was lightly attended mostly working group members.

At this meeting we reiterated some of our draft recommendations that were presented to the Council on the weekend session and also

highlighted some of those points for discussion that were fairly open questions.

We did not have a lot of interaction. I believe there were discussion on a couple of points. But, Lars, you know, I wonder if you could - and we did also - I should mention we did adjourn fairly early due to just the lack of attendance or issues involved. So, Lars, I wonder if you had any other specific items coming out of the Singapore meeting that you wanted to raise? I don't know that anything concrete or any specific action items were raised.

Lars Hoffman: Thank you, James. This is Lars for the record. No, I just wanted to - for those who were not able to be in Singapore or were able to join remotely just to clarify that it was, as you said, a very short meeting; very few people showed up.

I think the consensus was that next time we'd go back to the usual 7:30 am meeting time so that people show up in greater numbers, that seems to be the case. Said with a smile obviously.

James Bladel: Yeah.

Lars Hoffman: And...

James Bladel: We should move it to 6:30 in the morning so we can have even more turnout.

Lars Hoffman: Absolutely. Absolutely. And, you know, it's London time so 6:30 in the morning it's 7:30 my Brussels time anyway so that's just - it's just good for me.

Then I think the only other thing to add is that we also presented to the Council on the weekend is that the only issue, if my memory serves me correctly, that was brought up by Council members was the issue of the extension of the statute of limitations that the group recommends to be extended from six months to a year.

And a couple of councilors - I think Thomas Rickert notably - asked why it was the case why it was going to be a year and whether it shouldn't be even longer than that. But I think that's something we can discuss.

((Crosstalk))

Lars Hoffman: I've reached out to Thomas since to elaborate maybe on the reasoning a little bit because that I think got lost or he didn't elaborate very much on that. And I think that's something we can talk about when we look at the review of public comments in a couple of weeks. And I think that's it, James.

James Bladel: Okay yes. And I do recall that from the weekend session if memory serves Thomas was questioning why 12 months for statute of limitation for disputed transfer, why not 15 months. But I was not - like you, I wasn't clear on the context for that comment so perhaps in the interim we can reach out to Thomas and see if he could submit something into the comment box I think that would be helpful because I think we do need to capture that.

Yeah, I think that that was, you know, again emphasizing that it was a very brief meeting and it was not - despite the presence of food and

caffeine it was not that lively. So, Marika, I don't know if you have anything to add - anything from memory or from transcript or is this aligning with your memory about our session in Singapore as well?

Lars Hoffman: James, this is Lars. Marika just posted - think she...

((Crosstalk))

Lars Hoffman: Yeah, she's - I'm not sure she's on the - she can hear us but I'm not sure the audio is connected at the moment.

James Bladel: Okay. Yes she did post in the chat...

((Crosstalk))

James Bladel: Yeah, okay. Thank you, Marika. And that's - I think that's the general shared opinion all the way around. So anyone else who was in Singapore or I know in the case of Barbara was our remote participant. Did anyone else have any items that were raised in Singapore or perhaps that have occurred to you since returning from Singapore that you would like to address at this time? Otherwise we can close the review segment of this meeting and move on to our work plan. Okay the queue is clear.

Thanks, everyone. And thanks to everyone who did turn up for the meeting in Singapore. I know that, you know, those calendars can get very busy and just holding that spot I think was invaluable so I do appreciate that.

So moving to the work plan, which Lars has posted in the Adobe chat and sorry to Chris and others who are just on the phone but we will work through this here.

We have laid out the work plan between now and ICANN 50 which is in London in mid to late June. And the objective would be to - between now and that time - to review the public comments received, discuss the context of those comments and modify, if necessary, the draft recommendations that we have put together.

We would then - so and just noting the schedule here that the reply period for that comment period closes on April 25 which is a week and a few days from now. And that we would then spend approximately five to six working groups reviewing the public comments, modifying the language of our draft recommendations and then performing a test - consensus test on the level of support in this working group on each of those recommendations.

And that's essentially the direction that we're going in until early June at which point there is a publication deadline on June 2. So the - and I'm reading this here. "The final report does not have to go out for public comment so this deadline is somewhat optional." That is the publication deadline for the London meeting.

We have an additional meeting allocated on June 9 which is I believe right about the time that everyone's wrapping things up and the mad scramble for London begins. And then on June 15 we actually have a motion deadline for submitting motions to, for example, to make a motion to submit the final report to Council. And that occurs on June 15. And then the London meeting, including the weekend sessions I

believe - does someone have the calendar handy - would occur fairly shortly thereafter on June - I'm guessing the 22 or something is when that - the weekend following the 15th I believe.

Angie Graves: Yeah, 21 of June is Saturday and 22 is Sunday.

James Bladel: Thanks, Angie. So that's - the 21 would be the weekend sessions for the Council. So that's the general plan. If I look at it I think that we have ample sessions allocated to review public comments. I did note, checking this morning, that we had received two public comments to our initial report; one from a reseller turned registrar and another from the Registry Stakeholder Group.

Both are generally supportive of our initial recommendations so far but have some questions, comments or concerns about some of the specific details. And of course we're expecting that we may receive some additional comments between now and the end of the reply period approximately 10 days or 11 days from now.

So that's the work plan. I think it is fairly doable. Again, very much dependent upon the number - the volume of comments that are received and also the substance of the comments and whether they materially alter our recommendations.

So does anyone have any thoughts or comments on this particular work plan? Certainly it's not carved in stone. We can adjust as necessary if we get further down and we feel like we're just not going to make that London meeting. But I believe that it's - there are ample opportunities to review and get the work done that we'd need to do but the critical path does take us to the London deadline.

So with that we'll open a queue, see what anyone else wants to weigh in on that. What a quiet group this morning. It must have been Mikey that was the catalyst for all the comments because it's just so quiet. But okay so I guess the, you know, the absence of objections would be an indication that we can go ahead and consider this tentatively adopted, Lars, so thank you again for updating this schedule.

And maybe you can make a note that we'll revisit this in some time towards the middle to the end of May. Is that acceptable?

Lars Hoffman: Sorry, James, I was on mute. I put a green checkmark in, yes, yes absolutely.

James Bladel: I just saw it. Thanks, Lars. Sorry about that. I'm a little slow on that myself. And actually I was just checking my calendar because we do have a May 26 - we have allocated as a working group but that is a US holiday. I think that there is a - in the UK there's a spring banking holiday coming up here. So the only other caution or asterisk I would attach to this work plan is that we've got a couple of holidays that we're going to start bumping up into.

And I think in particular the US holiday on the 26th would probably mean that we wouldn't have much of a turnout for that particular meeting so I don't know, do we want to preemptively strike that one, Lars? I can tell you I won't be there. So, you know, just let's keep that in the back of our mind.

So okay so let's move on then to - I'm sorry?

Lars Hoffman: I said no problem. I'll bear that in mind.

James Bladel: Yeah. Yeah, I don't - yeah, I see Barbara is already opting out. A lot of folks, you know, they want to shed their winter clothes and go on vacation for the first time during that Memorial Day weekend so after this last winter nobody blames us hopefully.

So let's see, then if we could then move on to the next item on our agenda which is to refine the use cases. And, Lars, I don't know if you have those handy and you could load those into the Adobe room?

Lars Hoffman: This is Lars. Yes, James, I'm just bringing them up right now.

James Bladel: Thank you. And while Lars is doing that I would just like to position to this group at some point along the way I kind of lost the handle on where we were going with the use cases. And I'm looking maybe to Lars and to some of the others to help me - were they meant to substantiate any particular recommendation? Were they meant to serve as an aid or a guide to understanding how the TDRP works?

Where - they were attached as an annex I believe to our report. So, Lars, maybe you could help us with some background?

Lars Hoffman: Thank you, James. This is Lars. Yes, the use cases came out of the effort originally to modify the TDRP and open up for registrants - for the registrant to initiate the TDRP. And so the group realized that some discussion that a lot of these cases that - or the hypothetical cases they came up with were the TDRP doesn't work on the current - on the current system and should maybe be open to registrants.

But in fact those are all issues that are inter registrant transfer related. And so the idea was to draw up a list of use cases that are currently not covered by the TDRP. And the not see whether either the implementation of the working group IRTP Part D - the recommendation of that working group will cover those and if that is the not the case that then a new issue report should be drafted in order to see what that new policy needs to be developed to deal with these use cases.

James Bladel: Okay. Thank you, Lars.

Lars Hoffman: And now obviously these cases where, you know, Mikey put them all together and put them in this format and the idea was that we would go through then during this period and see whether we leave them as-is or whether they would then need to be refined any further. Thanks.

James Bladel: Okay. Thank you for that, Lars. So then I propose that we, for the next remainder of this call, and perhaps for the next call while we are still awaiting the closure of the final public comment period, that we review these use cases and see if we still want to keep them, combine them, modify them, et cetera.

So if that's acceptable to everyone then let's dive in. And we can start with Page 1. It looks like there are 20 pages of use cases, is that correct, Lars?

Lars Hoffman: I'm afraid so although I have to say printing it to the PDF was not as straightforward as I hoped because it was originally a Word document and with the landscape format it's not great. So it's a bit less than it

looks but, yes, it's a longer list. But most of them I think should be straightforward and could be (unintelligible).

James Bladel: Okay. So okay so then hopefully we can get through them fairly quickly and I'll apologize for the formatting but it probably doesn't look this way in the final report. So the first one is a registrar is not authorizing a transfer out or is not providing an auth info code in a timely manner.

The first column indicates that the existing policy covers this scenario. And then I believe can you help me what the middle column means again? Is this a responsible party?

Lars Hoffman: Yes I believe it is.

James Bladel: Okay. And then the final column is the enforcement mechanism?

Lars Hoffman: Yeah, it's also - it's the enforcement mechanism and also the question of whether Compliance or not has a pull on that as things stand I believe.

James Bladel: Okay so...

((Crosstalk))

Lars Hoffman: Yeah, absolutely it's based on the feedback we received and the call that we have with Carlos Alvarez from Compliance...

((Crosstalk))

James Bladel: Okay. Okay.

Lars Hoffman: I think that's why Mikey added that last column.

James Bladel: All right. So okay fair enough. And in this case I think we indicate that the registrar and registrant are both parties that were involved in that. I don't know if that's correct. I think in this one it would be simply just registrars. I don't understand the registrant role in this first use case.

But I agree with the final column that Compliance has a role. You know, basically this is clear cut case of a registrar not meeting its obligations under the policy. So second use case for registrars not participating and resolving an issue with a transfer several attempts have been made to engage by the registrar including a message to the emergency action contact to no avail.

Really I'd like to clean this up and just essentially say registrar not responding to TEAC requests. Because, you know, a registrar is not obligated to just, you know, respond to casual inquiries regarding a transfer. We may think that that's poor form on that part but, you know, it's not a matter of compliance. It is, however, a matter of compliance if they do not respond in a timely manner to TEAC requests.

So, Lars, and to the working group I think that this needs to be narrowed down and targeted a little bit better and the statement needs to be essentially that a registrar is not responsive to TEAC requests regarding a - regarding an issue with the transfer. I see a green checkmark from Barbara. I don't know if anyone else feels the same.

If we make that change - oh, sorry, go ahead, Lars.

Lars Hoffman: Yeah, I just wanted to check, James, whether it's the case - and I don't know how you want to proceed because I've got the Word file open too. Whether it's okay that I capture this straight away and track changes and then send updates around to the group.

James Bladel: That sounds perfect. You know, I think that speed is of the essence here and if that's the fastest way to keep everything organized that'd be great. And I see a green checkmark from Volker as well so.

Okay and I agree that all those other columns are correct. The third use case, registrar is not unlocking a domain name. I believe that everything looks correct there. I don't know if it's - yeah, I think that that's fine. I think that we have some specific language in the existing policies about either unlocking or providing a means for the registrant to unlock the name.

Okay Page 2 - or allow the registrant to unlock the name. There we are. The next use case follows on with that. Oh got much larger. Thank you, Lars.

Okay so the next use case where the forms of authorization are - I'm sorry, Lars, one other change. Could we number these so that we can refer to the use cases by number? I think that's going to help us...

Lars Hoffman: Yeah, I will do that. I'm sorry, I didn't clean this up before the call, I just took them out of the report. I hadn't looked at them in a while because it was Mikey who started them off. And I will clean them up for next week, I apologize.

James Bladel: Yeah. No problem, that's what we're doing now so this is - I think for some of us this is our first time we're actually spending some quality time with these use cases so. Next item where FOAs are not sent to the two transfer contacts existing policy applies. I think this is correct.

Next use case, a third one on this page. The administrative contact authorizes a transfer but the registrant is challenging it. So ICANN policy does not apply but an inter dispute transfer can be made available.

I'm not sure I'm completely on board with this. I believe, as we learned in the first IRTP, that the policy is very clear that the registrant, you know, in the case of a dispute between the registrant and the transfer - administrative contact the registrant prevails.

I think that we discussed how do we find that out but in general I think this is covered. Barbara, go ahead, please.

Barbara Knight: Thank you, James. This is Barbara. Hopefully the volume is okay and the mic on my Adobe connection so. I agree with you, James, I do think it was covered by the policy, at least the transfer dispute policy portion of the policy. It does state very clearly that the (unintelligible) administrative contact. And I also agree that I think that the only way we do (unintelligible) that is if a dispute's raised.

James Bladel: Okay, Barbara (unintelligible). Oops. Thank you. So I think that what we're saying here is that we should note that existing policy does apply as the previous use cases. I think there is an open question about how a registrant or a registry will become aware that the transfer was being challenged by the registrant.

Yeah, I think that the rest of it could be okay. I'm still reading the last column. Sorry, folks. Compliance may have a role as the inter registrar rules (unintelligible). Actually Compliance may have a role now under the existing policy if it can be shown that the registrar very clearly had conflicting instructions from the registrant, the administrative contact and instead did not go with the wishes of the registrant.

So I think that I'd be more comfortable using the language from previous use cases. Compliance has a role under existing policy. And then I'm not sure about the word "clearly" or "may" I think that we could probably remove those in all cases and be a little more comfortable and tighten up this language a little bit. I get agreements from Lars. Okay thank you.

So moving to the fourth use case on this page, when an auth info code is sent to the wrong Whois contact, to the account holder that sometimes is not listed in Whois. Existing policy applies. Between registrars and Compliance has a role.

I agree with that; that's a registrar that doesn't understand how the process works. Okay, moving on to Page 3. Two registrants are disputing a right to a domain name after an inter registrar transfer. Registrars went through the process and have no further information to add. ICANN policy does not apply.

That is correct. I think that if it is essentially a dispute over control or who is the legitimate registrant that is - we get into a gray area here. If this is a general, you know, I guess where I have trouble with this use

case is the term two registrants. There is only one registrant at any given time on a domain name.

There could be two parties claiming to be the registrant so in that case we would say two entities are disputing the, you know, the right to be the registrant of a domain name or two registrant claimants are disputing a right to a domain name. I think that I would be happier with that kind of language as opposed to saying two registrants. I think it's very clear that a domain name can have one and only one registrant. I don't know if anyone else has any thoughts on that.

I don't know. Sometimes - please don't let me go off on a limb here folks and just start rewriting this but it seems to me that that sentence has - it's just factually incorrect.

Okay well I'm taking silence as agreement and moving to the next column here that this is - this is correct, there is no policy currently governing this and that this is entirely between registrants. I would say entirely between parties - between private parties - or registrant claimants, if that's a term. I would say, correct, Compliance does not have a role in resolving or adjudicating those disputes.

I think we're going to see this issue throughout the use cases, Lars, so let's just make a note here that whenever we see something referring to two registrants or both registrants we should confirm that that means some sort of claimants or parties or would be registrants or aspiring registrants or whatever. But we'll just move on from here.

Both registrants were acknowledged at some point in time of being registrants - as being the registrant, how about that - both parties -

both names have appeared in Whois but now disagree as to who the true registrant is. I'm having a hard time making a distinction between this use case and the one above it. Perhaps they could be combined.

You know, that's - maybe we can mark those two, Lars, and come back to them. But I think that that is a different way of - or a different wrinkle stating the same thing as was said about - I see Barbara agrees they can be combined and Volker has his hand raised. Go ahead, Volker.

Volker Greimann: The only situation where I could see that there would be a difference between the two is when one party has never been in the Whois. For example, when you have a company that's providing web hosting services and puts itself into the Whois but the beneficial owner of the domain name has always been a third party then the transfer occurred and that would be a case where the first one applies but not the second.

((Crosstalk))

Volker Greimann: I'm not even sure if that's something that we should cover here.

James Bladel: Well it's a good point to identify it because it is, you know, as we discussed it is a common occurrence. But I think - I think that is an important distinction. However, we do arrive at the same answer. So maybe we can structure the description of the use case to account for both scenarios where we could say something like two parties who may or may not have appeared in the public Whois are disputing the right to be the registrant of a domain name immediately prior to or following a transfer. Something like that.

And I think that that would be a - sort of a - I'm going to draw a line around both of those cases.

Volker Greimann: Well the second one now - the look at it also has the distinction of not including any transfer of registrars so the second one is framed currently as regardless of whether there has been a inter registrar transfer. So it could still be with the same registrar essentially in the second scenario.

James Bladel: Oh I see, okay. So the first one is really about claimants, yeah, I'd hate for this to turn into - we were trying to combine them into one; I'd hate for it to turn into four but it does feel like we're having a conversation about, you know, whether there is or is not a transfer and whether or not both parties ever appeared as the registrant. I think those are, you know, I'm picturing a 2x2 matrix or truth table on that.

And so instead how about this, I propose that we leave the first one as two parties are disputing the rights to become - to be the registrar - registrant of a domain name prior, you know, or either before or immediately following a inter registrar or inter registrant transfer.

And then the second use case would be similar but would not involve the inter registrar transfer; no transfer would be required. We may have to come back to that one, Lars, sorry. This one I think is getting a little tricky. Let's flag that one and then maybe come - circle back to it.

Next one is administrative and registrant contacts are spread across two parts of an organization. There's disagreement between them in the validity of a transfer. I don't see how this one is materially different

from if we scroll back up to the third use case where basically the administrative contact and the registrant contact are disagreeing and the policy does apply.

Now I - I think this one does, at least, indicate that there is an inter registrar transfer or an inter registrant transfer. And I think both of those are covered under ICANN policy although IRTP-C is yet to be fully implemented.

So my recommendation would be that we change the - that we change this to green and say essentially that existing policy - I'm sorry, green or orange and say existing policy applies and that there would be a - Compliance would have a role to enforce this under the existing policy. That would be my recommendation for this. But color-coding is also throwing me off just a little bit here so.

Okay different contacts or different departments within an organization have conflicts. ICANN policy does not apply. I agree. It would depend upon whether or not any of those contacts are listed in Whois as the administrative contact or the registrant. Otherwise, you know, and if so then it would be I believe swept up under one of the use cases that we identified earlier, not the one immediately above it.

Fairly silent from the group here. I guess that means we're all thinking alike or we just - we don't care. I'm going to assume that we're all on the same page then. The next one and then I'm finally - turned over to Page 4 here. A registrant approaches a registrar - a registrant claimant approaches a registrar claiming that they are the registrant rather than the proxy service provider who the domain name is registered.

Well then I think that this really falls into a similar - similar bucket as the - one of the previous cases where we identified two private parties disputing the right to be the registrant of a domain name. I think the wrinkle of including a proxy service provider is from a policy perspective is not - not material. Volker, please go ahead.

Volker Greimann: Yeah, I would suggest that on this question we really kick the can down to the privacy proxy accreditation project and not deal with this on this level. Privacy proxy services and the obligations thereof I think are best dealt within that circumstance and are not really a question of transfer of registrants and registrars just because they are already dealing with that subject matter at hand makes it easier to delegate or try to push that to another level.

I think dealing with that at this level here in this group would probably go too deep into the field that the others are dealing with already.

James Bladel: I think you're correct, Volker. And I think that in general just for question of elegance is that this particular process, the transfer process, should be agnostic as to whether or not one of the registrants is a proxy service provider and treat them, you know, as functionally equivalent to any other registrant or registrant claimant.

And then you're correct, the rules and requirements that are being developed for proxy service providers may or may not want to put special best practices or contractual obligations around this here. But I think that we probably should not be building those special cases - baking them into this policy.

Does anyone feel strongly that that's not the case? I think, you know, as a very, you know, marginal software developer years ago it just feels to me that that's a more elegant process and not trying to overload transfers by building in contingencies for proxy services but just being agnostic as to what kind of registrant we're talking about.

Marika, is in that chat. Okay I'll read it because I think she still has audio. "It is a specific question that may come up in PPSAI tomorrow as the working group has specifically asked to consider how transfers and renewals factor into privacy proxy accreditation. That is correct.

And I can tell you as a member of that group that I can report to this group that that was the topic that was raised in our last PPSAI call and that it was discussed - I think there was a fairly solid discussion on that about how proxy and privacy services currently deal with these questions. Many of them I think simply just use their position as the registrant to (knack) transfer requests until that service is cancelled.

So - and James will be presenting on the IRTP so this is an ideal position to relay a scenario. I should probably prepare something for that then, thank you for the reminder, I guess. Because I think that meeting is tomorrow.

Okay so does anyone feel strongly that we should fold this into this working group? Or I think this use case is best dealt with as if it were any other registrant or registrant claimant. And I think that Mikey - when he was putting these together - acknowledged that by leaving some of these edge cases down here blank.

Now moving then to a little bit further down to the bottom of Page 4 there's a note here that a "Web site designer registers a domain name under their name on behalf of a customer for whom they build a web site. They are challenged by their customer who claims to be the registrant but has never appeared in any Whois record at any time. ICANN policy does not apply but an inter registrant dispute process could be made available."

I disagree with that - that first box. I agree that ICANN policy does not apply. I don't know that there is any dispute resolution process that could be created or implemented that would, you know, that would encompass this - this use case. I'm opening up the floor here to folks.

I think that if we develop a dispute process where an individual or an entity can claim to be the registrant I think that that is the camel's nose poking into the tent here a little bit and dragging ICANN into adjudicating disputes between private parties. And I think that that is a very slippery slope. Volker, go ahead.

Volker Greimann: Yes, thank you James. Actually I've dealt with a couple of these things in the recent past myself. And I always feel that it's not our role to decide what the contract between the two parties says. And it may be that they had in their original agreement agreed that the owner would - the web site designer would be - remain owner of the web site for a certain amount of time. And now the beneficial owner of the web site is trying to get out of an agreement.

So this is something that there is more layers there that we cannot know as a registrar or even as ICANN and therefore I don't think that this should apply. The Whois record should be at least some point the

basis for which we operate. And if someone has never been in the Whois well, he should have checked that earlier.

James Bladel: So just weighing in as a registrar I tend to agree with your assessment, Volker. This is a rabbit hole that I don't think we, and I say we as in ICANN, we as a community and we as registrars should be interested in going down.

As you mentioned there is some sort of an arrangement. We can only hope it was a written contract between a web site builder and their customer. There may not have been, it could have been a verbal, it could have been a handshake. They could have been cousins. It's really, you know, the varieties start to multiply fairly quickly.

I think that, you know, the legal-minded folks on the call might realize that we might be going down different, you know, we might be traipsing into mine fields regarding like work for hire type issues and when something is a work for hire versus when something has some kind of an ownership component to it.

I think that all of those, you know, red flags are screaming at us that this does not belong, you know, in the - under the ICANN umbrella. So - but I'm open to, you know, I would welcome anyone who wants to contribute or weigh in either in support or in opposition to that idea.

Chris Chaplow: Chris here.

James Bladel: Hi, Chris. Go ahead.

Chris Chaplow: Yeah, I thought of this one, I mean, this is a very common case isn't it and I've heard somebody said to me once when we discussed it maybe on this group, oh yes, that's equity law. And of course it is and I think we're right that we don't want to go down there.

But it does occur to me I wonder if there is a text or part of an FAQ on the ICANN web site maybe in the Compliance section or somewhere that if it was happening to me our comment would almost be not part of the work group's activity, not part of ICANN's responsibility but please refer here.

And then there's an explanation really to say if you're not the registered name holder and you believe you really are the owner of the domain then make sure you've got a good equity law contract between you and the person that is the registered name holder.

You know, it would just be a good cross check to see if that information does exist, that statement or that help sheet does exist anywhere. That was my comment. Thanks.

James Bladel: Thank you, Chris. I think that's an interesting component here as we talk about ICANN's role in developing and disseminating educational materials. I think making sure that people are or, you know, web sites, customer of web developers are aware that they should exist somewhere in Whois in order to have a legitimate claim to be the registrant of a domain name is important.

So I'm not sure where we can kind of squeeze that in. Maybe there was an earlier recommendation about ICANN centralizing some of

these resources so maybe, Lars, if we could just capture this as an action to look and see if there's a place to make this recommendation.

I might, you know, I might add that, you know, if you don't have a contract, you know, with your web site developer, you know, the recommendation would be just if you do not appear in Whois you will have no rights to the domain name. You know, if you believe you should appear in Whois contact your service provider, in this case the web site designer.

We could go even a bit further as we have acknowledged, this is very common. And I can tell you besides this and the, you know, the disgruntled employee this is probably one of the more common cases of disputed transfers or disputed ownerships is, you know, one possibility is as we're - have other areas of the ICANN community are examining possible replacements for Whois do we want to consider that, you know, the idea of an administrative contact and a registrant contact are being used properly?

You know, do web site designers need to be, you know, similar to making registrants aware do we need to make web site designers aware that they should, as a best practice, list their customer's name as what, administrative contact? Billing contact, you know, something. You know, most of them won't but, I mean, it might do some good to publicize that should there be a separate contact, should be a beneficial user contact in the new replacement Whois directory service that lists the ultimate responsible party.

Would that be abused by spammers or bad people, you know, saying oh, no, no, I was just doing this for this invisible client that you'll never

be able to find. You know, I think it's an open question. I think but listing it here as - I think that we are all on the same page that this is very much outside the scope of ICANN policy. However, there could be opportunities for ICANN to develop and disseminate some registrant educational advice on this area.

So anyone else want to weigh in on this before we move on? And I notice we're getting towards the top of the hour so we may have to put a bookmark here and start here next week.

Angie Graves: James, this is Angie Graves.

James Bladel: Angie, go ahead.

Angie Graves: Yeah, I just want to say I do think it's a very important educational item. And I do think that the community could afford to be more aware of some of the things that they need to do. This is one on a list of many that responsible domain owners need to abide by. Thanks.

James Bladel: Okay thanks, Angie. And I believe we have a green checkmark from Lars that we will take this and try to find a way to neatly and succinctly insert this recommendation into our report when we talk about educational materials.

And maybe, you know, it's not just on ICANN, maybe it's something that can be spread around to other aspects of the community, the, you know, NCUC and the commercial users and registrars and as well might have a role to play in building some customer awareness around this issue.

So but I think we've captured that...

Angie Graves: This is Angie, I want to say one more thing. Sorry.

James Bladel: Yes, Angie, please go ahead.

Angie Graves: I've been working with ISOC and I think they would definitely be interested if there were materials available and linking to the (unintelligible) at the ISOC site. Thanks.

James Bladel: Excellent. Thanks, Angie. And, Lars, can you tack that on to this action item?

Lars Hoffman: No problem.

James Bladel: Green checkmark. Thank you. Three minutes before the top of the hour. So let's pause our review here. Hopefully this is helpful. I think that we're making progress through the use cases. I think that they, as an annex, will help provide some of the color to our report. I do think, however, some of the language and formatting needs to be cleaned up and that's just me editorializing so if anyone else has any thoughts or would welcome them on that.

Next meeting will be one week from today same time. On Tuesday the 21st. I did note - did someone - I think in the chat was it - okay, right, that is - next week is Easter Monday which I think is a holiday in some parts of Europe. Can we use this system to - the green and red to see - is anyone going to plan to attend to will know that they will not be able to attend next week? Can you give me a red if you know you'll be

absent and a green if you know you'll be present so we can get an idea. So...

Angie Graves: This is Angie Graves again. I'm not in the chat, I'm available. Thank you.

James Bladel: Okay. Thank you, Angie. Chris.

Chris Chaplow: Green, yes.

James Bladel: Green, yes thank you. Okay. So we've got a couple green. We've got red from Volker. We've got two greens on the phone. I'm assuming everyone else is just taking a nap. That was a joke.

Let's meet as planned next week and we'll see if we can't reach a quorum and by quorum not only in terms of the number just raw headcount of people attending but we want to make sure that we have some balance cross community representation as well. So let's proceed with next week's meeting as scheduled. And we will take stock at that time and determine if we should proceed.

And the agenda will be in the rough case to just proceed beginning on Page 5 of our use cases. Okay, thank you everyone for attending. I think we've had a productive meeting. We covered a number of items on our agenda. And we are well on our way of reviewing the use cases. If your constituency or stakeholder group has not yet submitted a comment please encourage them to do so either as a group or on behalf of individual members.

And with that I will close the call. Thanks, everyone.

Volker Greimann: Thanks James. Bye-bye.

Angie Graves: Thanks.

END