

**Inter-Registrar Transfer Policy Part B PDP
Transcription
Tuesday 25 May 2010 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Inter-Registrar Transfer Policy Part B PDP call on Tuesday 25 May 2010 at 1400 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-b-20100525.mp3>

On page:
<http://gnso.icann.org/calendar/#may> <<http://gnso.icann.org/calendar/#may>>
(transcripts and recordings are found on the calendar page)

Participants on the Call:

Michele Neylon – Registrar SG – Working group chair
James Bladel - Registrar SG
Paul Diaz - Registrar SG
Matt Serlin- Registrar SG
Robert Mountain - Registrar SG
Barbara Steele – Registries SG
Mikey O'Connor - CBUC
Berry Cobb - CBUC
Chris Chaplow - CBUC
Michael Collins - Individual

Baudoin Schombe (last 15 minutes)

Staff:

Marika Konings
Olof Nordling
Alice Jansen
Glen de Saint G ry

Apologies:

David Giza – ICANN Staff
Eric Brown – RY (all Tuesday calls)

Glen de Saint Gery: Thank you. Would you like me to do a roll call Michele?

Michele Neylon: I would love it. That would make me very happy.

Glen de Saint Gery: (Okay). Good morning, good afternoon and I don't think it's evening for anybody yet. It is the 25th of May and this is the IRT PB call. On the call we

have Mikey O'Connor, Michele Neylon, James Bladel, Chris Chaplow, Paul Diaz, Robert Mountain, Barbara Steele, Matt Serlin, Michael Collins.

And for staff we have Marika Konings, Olof Nordling, myself Glen de Saint Gery and Alice Jensen who is the staff person helping Olof Nordling. And over to Michele. Thank you. I don't think we have apologies from anybody.

Michele Neylon: I think we'll do is we'll work on the basis that we have apologies from David Giza.

Glen de Saint Gery: Okay.

Michele Neylon: I know he was out sick. He might still be out sick.

Glen de Saint Gery: Okay.

Michele Neylon: So we'll consider him that he gave us apologies since he did tell me he was out sick. Anybody else? Anybody else we don't give that kind of dispensation to but I haven't heard anything.

Okay. Good afternoon everybody. Hope you're all full of fighting form. I don't think - I don't think (ferry time) will take beaver pelts. But I'm sure we could ask Barbara. Barbara do you accept beaver pelts as a valid currency?

Barbara Steele: You know, I'll have to check with our account team but I'm thinking it's not looking too good right now.

Michele Neylon: How about rabbits?

Barbara Steele: Although bullion may not be bad.

Michele Neylon: Okay.

Barbara Steele: Never know.

Michele Neylon: I think rabbits would work better for me because I'm actually trying to work out where on earth I would find beavers to shoot (an island). And that wasn't - and that wasn't meant to be a double (entante). Oh God, (you just caught) me saying that on a recording. Never mind.

Okay. Moving swiftly onto something which is vaguely related to domain names. We have our agenda up on the Adobe Connect. Apologies for not circulating it earlier. Marika is running around like - is running around like a headless chicken and I'm running around like a headless chicken. So we didn't get it sent out to any - to the list in advance for which I do apologize most humbly.

One bit we were looking at there is a proposed modification to Recommendation D from Mikey. The current part of Recommendation D is that the working group is considering recommending that Whois status messages related to registrar lock status be mandated in order to provide further details to registrants on why the lock is being applied and what can be done to change the status.

The new version that Mikey is suggesting, the working group is considering a recommendation to standardize and clarify Whois status messages regarding registrar lock status. The goal of the changes is to clarify why the lock is being applied and how it can be changed.

Does anybody have any feedback, issues, thoughts on either version? Do you prefer Mikey's version? Do you prefer the original version? Anybody? Mikey. James. James, go ahead.

James Bladel: Yes. I'm trying to think here Michele and Mikey. I don't - what is the - what is the exact change? It looks like we've broken it into two sections - two sentences.

Mikey O'Connor: Yes that's - this is Mikey. The only reason - I was just reacting to the long run on sentence. I wasn't trying to change the content at all.

James Bladel: Okay. Those - I thought more of a construction change, less of a material change. Right?

Mikey O'Connor: Yes. Hopefully no material change.

James Bladel: Okay.

Mikey O'Connor: In fact, no - the intent is no change in meaning.

Michele Neylon: I think it's actually clearer from - than the original.

((Crosstalk))

James Bladel: Okay. I wanted to make sure that I wasn't missing something because I wasn't seeing a material change, so good job Mikey.

Michele Neylon: Okay. So James likes it. I like it. Mikey likes it. Does anybody not like it? Okay. Then we'll accept the new version as being the definitive one moving forward.

Next item on the - on our agenda. Okay. The leases changes and okay - we talk about this. Something - some discussion about a dispute mechanism and there's also registrants title concept. Marika what is the registrant title concept? Would you refresh my memory please?

Marika Konings: This is Marika. I think it was the addition that was proposed by Kevin and I think Paul raised some questions in relation to that on the email discussion last week. I think it raises the fact that the -- I hope I'm saying this right -- that the registrar provides the registrant with a kind of title or a document that

proves that he or she is a person that's entitled to make the ETRP and then in first stages it can prove in that way that it's the person that's started the process.

Michele Neylon: Okay.

Marika Konings: I don't know if Kevin is on the call to clarify if I got that wrong.

Michele Neylon: Is Kevin on the call? I don't think - I don't see him there.

Woman: No.

Marika Konings: No, I don't think he is.

Michele Neylon: Paul Diaz.

Paul Diaz: Yes. Thanks Michele. Marika, you got it right and unfortunately Kevin's not with us because the question I have - the concern that I raised on list about this registrant title concept is simply as I read it, registrars would now be required because IRTP and this related ETRP policy will be mandatory.

That means that registrars would now be required to issue every registrant under their management one of these titles. Kevin was offering flexibility - what that may mean. But to me this is a radical change in the marketplace because whatever this is going to entail and every registrant will have to get one because there's always the possibility that the name will be transferred at some point during its registration term.

If you wait until the point of transfer request, it sort of defeats the purpose, right. And you've to have it in place because you want to in theory provide the registrant this credential. But for me it's just wait a minute.

This is going way beyond any of the sort of tweaks that we had originally proposed in offering this which will be to use a, you know, U.S. political term an unfounded mandate. This will be a significant administrative cost for registrars and honestly I can see it bleeding into other contentious policy debates like vetted Whois, vetted registrants in Whois and others.

So I just was, you know, hoping and if Kevin doesn't join us in a few minutes can explicitly make the question on the list and hopefully get his input. But it seems to me this registrant title is a huge can of worms that really should be avoided.

Michele Neylon: There's Mikey and then there's James. And I also put myself in the queue as well. So Mikey, James and then me. Go ahead Mikey.

Mikey O'Connor: Thanks Michele. It's Mikey. I have another angle on why I think this is probably something that we should pass on this time around. I think that the scope of a title conversation is much broader than just inter registrar transfer policy.

I'm not necessarily ruling it out. I understand Paul's point and agree that it - I would also be pretty uncomfortable trying to insert it into what we're doing. I wouldn't necessarily rule it out forever for all of ICANN. But I'd be comfortable trying to drop this concept from what we're doing right now.

Michele Neylon: James.

James Bladel: Yes, very similar to what Mikey was saying. Regardless of where I come down on this particular debate and not surprisingly it's probably closer to Paul's position.

But just more of a feeling that not really an appropriate inclusion into this particular process because we're looking at something that's very narrow, IRTPs and now we're - could solve a small problem and in that realm we're

creating much larger problems elsewhere. And I think that, you know, it's possibly it's worthy of discussion just not necessarily here.

Michele Neylon: Okay. I put myself in queue. I would strongly support everybody who has spoken previously. I don't think this is really suitable for discussion within the boundaries of IRTP and it's like using a bulldozer to crack a walnut. I think it's - I think it's going way, way, way beyond scope. I can see it causing more headaches than solutions.

Marika in terms of the report - sorry Barbara, go ahead.

Barbara Steele: Thanks Michele. It's Barbara. I agree with that and I almost see additional security measures as being ways that registrars would be able to differentiate themselves in the marketplace. You know, go out and market themselves to registrants who have high value domain names and, you know, put in place whatever mechanisms they feel appropriate whether it be, you know, some type of an authentication or what have you.

But I really think that it should be left up to the registrars versus being, you know, kind of pushed down their throats. And, you know, I agree wholeheartedly with Paul that it is really - it's a huge effort that I think will be used probably fairly seldom and I don't know that you could justify the expense associated with rolling something like that out.

Michele Neylon: Thank you. Michael Collins.

Mikey O'Connor: I bet he's on mute. Michael I bet you're on mute.

Michael Collins: Let's try this this way.

Mikey O'Connor: There you go.

Man: Hello.

Michael Collins: Thank you. Thank you for your patience. You know, I just wanted to remind everyone that while I agree with all the other speakers so far, I would like to remind everyone that because there is no real title to domain names, there isn't anything like this that exists that quite often for the purpose of proving title or changing title that IRTP is used. And that really comes into play later on. But that's all for now. Thanks.

Michele Neylon: Okay. Thank you. Marika, as you're the - I consider you to be our expert on process. As Kevin has made this suggestion, can we include something in the report about his suggestion but also that we - other members of the group disagree with its inclusion or how would we handle that?

Marika Konings: This is Marika. I think we can indeed add - we can take maybe out the paragraph and put it a little bit separate and just saying like one member suggested to include such a provision noting that there was objection from other members to this and maybe leave it like that and then maybe suggest that the comments are invited on that specific part.

Michele Neylon: Okay. Fair enough. Anybody else have any other thoughts on this? Mikey, I see your hand up.

Mikey O'Connor: Yes. This is Mikey, Michele. Thanks. I think we might want to expand the nature of the description of why the rest of us are a little uncomfortable with the suggestion. This is almost verging on RAP scale.

Michele Neylon: It's almost verging on what, sorry?

Mikey O'Connor: Well, you know, in the registration abuse policy stuff we launched into some very broad, very fundamental discussions about domain names and title is one of those. And so in addition to - rather than just sort of the matter of fact summary that the rest of us disagreed, we may want to give a list of reasons as to why.

Michele Neylon: Okay.

Mikey O'Connor: Because I would hate to have that sit out there and have public commenters under the misimpression that this is something that we're really going to entertain...

Michele Neylon: Okay.

Mikey O'Connor: ...and (suddenly) find ourselves in the middle of a big debate about titles on domain names and holy cow, I mean that's probably a PDP in and of itself.

Michele Neylon: I'm going to allow Marika to jump the queue. Sorry Paul. And then I'll come to you.

Marika Konings: Yes. This is Marika. Just to respond to Mikey. It would be really helpful if, you know - I know some of you already gave some arguments but if you want to put in something in the chat and I can incorporate that into the report and the reasoning for the objection by several of the working group members.

Michele Neylon: Okay. Thank you. Paul.

Paul Diaz: Thanks Michele. Mikey I respectfully disagree. I don't think it's appropriate to have this group including in this report the list of reasons why. Quite honestly, I don't want to raise any attention - any more attention to this particular suggestion than those members who support it feel its due.

The appropriate way to handle it is to say, you know, there was minority support for a concept like registrant title. You can even say there was one member of the working group support. You leave it at that. If it becomes an issue in the public comment period, you already hit on it; this would be appropriate for its own PDP. It's not appropriate for us to - basically it becomes a rabbit hole that we'll be going down.

So I feel pretty strongly that just take it out, put it in its own separate area, identify it for what it was, the view of one member and, you know, if the rest of the community wants to choose to weight in on it, you know, we can cross that bridge if and when we get to it. And quite honestly if we do, it's going to go back to Council because it's going to become it's own policy initiative.

Mikey O'Connor: This is Mikey. That's okay with me.

Michele Neylon: Okay. Then so - does anybody have any strong objections to following the line of action as outlined by Paul? No. I'll take that silence to mean that everybody thinks that Paul is wonderful.

Paul Diaz: No. Michele, it is Paul. Because Kevin couldn't be with us today and we don't know if he didn't send regrets what the circumstances, I think it would be a good idea to shoot him directly an email and say look, this is what we plan to do.

At least give him a chance to weigh in on the list, you know, responding to the exchange that was going on because he may have a very persuasive argument and convince some others in the group; well wait a minute, that's what he mean.

Remember the word title. We went around looking for a different word. He may not mean title in some grandiose way. It was just a noun that he picked. I just feel as previous chair for the other group and what not when you have active members, it's great to give them an opportunity to flesh out their idea ideally on the list because he can't be here today. But before we just pack it out of the report, drop it into effectively a footnote, let's give him a chance to make clear what he's talking about.

Michele Neylon: Okay. Could you email him and cc the list Paul?

Paul Diaz: Sure. I think that's probably the best way just to keep the conversation we're going and everybody sees the full exchange.

Michele Neylon: Oh yes. No, I mean I'm all for - I mean just I would send it to him directly and cc the list...

Paul Diaz: Yes.

Michele Neylon: ...just to make sure that he actually sees it as opposed to it ending up (so put out) the emails while they're filtered off God knows where, so.

Paul Diaz: Okay.

Michele Neylon: I don't know. I mean I know I have some of my ICANN list filtered somewhere where I - which I look at from time to time whereas other ones end up in my inbox.

Okay then. Looking at the rest of the - the other thing was with relation to the dispute mechanism. I think there was some fairly heated backwards and forwards on this as well. James.

James Bladel: I don't know about heated.

Michele Neylon: Okay. There was some lukewarm - there was some lukewarm interaction.

James Bladel: Well I think there was just a discussion and I'll just go ahead and jump in with the - just an observation on my part that not - while not quite as, you know, obvious as the title proposal, the disputing of the ETRP does get into an area where I'm concerned that, you know, that would receive significant pushback in the community it expands the scope beyond just, you know, the narrower question of disputing transfers and getting into a larger question of disputing control.

And again, I'm not discounting that there is a problem there. I just want to be sure that we're, you know, undertaking this cautiously and putting out the idea that it might make sense to have a means to decouple that particular proposal from the overall ETRP.

I'm concerned if they're handcuffed together that, you know, pushback on one might mean we would lose support for the entire proposal. And I just, you know, I didn't want to see, you know, our baby go out with a bathwater. That's all. I'm not saying it's bathwater. I'm just using a metaphor.

Michele Neylon: Okay. Thank you for the explanation about the use of metaphors. Michael Collins.

Michael Collins: Thank you. Well, first I think that - I think that we're - we should at least not - you know, I think that we have to be honest about this a little bit and admit that we are talking - the ETRP is talking about a mechanism to change the control of the domain name. It's not just to reverse a transfer.

If it were to reverse a transfer, we could require that the registrant - that the gaining registrar be the one that has to initiate it and then it would resolve any problems about control. I think it's clear that the ETRP is about changing who controls the domain name. And in fact we all talked about it. It's created to resolve hijacking.

And I think by definition a hijacking is a loss of control of the domain name. So I think that, you know, we have already created something and so we're creating a mechanism to reverse a transfer without any dispute concerns me.

However, I will say that as - completely respectfully to you Barbara that as it's written now, the dispute mechanism is not particularly helpful. In fact I don't think there's much point in having it in the document because if one registrar is going to decide a dispute between itself and another registrar, how to think

that is going to - how often do you think they're going to hear for the opponent. It seems unlikely.

So I would like - I'd like to see a meaningful way to initiate a dispute if ETRP is used. And if we're going to not produce that, I would like to just remove the entire dispute part of the document because I don't, you know, there are some people that oppose it and I don't think it's meaningful.

And yet the fact that it's in there may cause people to just glance at the document to think that there is a means to - a meaningful means to dispute an ETRP reversal. That's all.

Michele Neylon: James.

James Bladel: Hi Michele. And just to be clear what I'm advocating here is that we put some portability around the dispute mechanism so that it could be removed if necessary. I'm not suggesting that we throw it out completely. I want to see what kind of public comments we receive on this section.

But I also don't want it to be tied quite so tightly to the rest of the process that it becomes a problem that we would lose the other work that we have. So again, I just want to be clear on what I'm advocating here is just a more modular approach to this particular section.

Michele Neylon: Mikey.

Mikey O'Connor: Thanks Michele. It's Mikey. Remind me how the process would work. Is this a - is this a mechanism where - you know, I've been distracted and so I'm a little bit far away. But in the early part of the conversation where we were describing this, my recollection was that this was a mechanism to move quickly to restore the domain to its prior state.

But then the other half was in order to allow time for a more orderly process to resolve the dispute to take place. Have we lost the second half of that? If so, then I'm with Collins for sure. But I thought that the main objective here was to have a quick way to get the domain back to where it was primarily aimed at hijacking but still allow a more thoughtful due process to take place to ultimately resolve the dispute. So if somebody could clear that up for me, (it'd help).

Michele Neylon: Anybody want to respond to Mikey?

James Bladel: This is James. I just - I think that that was our original intention Mikey and, you know, I think that's a reasonable goal for an outcome.

Michele Neylon: Mikey.

Mikey O'Connor: This is Mikey again. You know, I apologize for not staying on top of this document. But if we were to read through the red line right now, is the reference to that sort of more orderly dispute - ultimate dispute resolution process, is that now not in here anymore? Because if it is then yikes, I think we need to at least acknowledge the need for that somehow.

I'm with Michael. If we have a one-way ratchet that could be abused and not unwound, that could get pretty difficult especially in transfers of high value names where the losing registrant has second thoughts and uses this to unwind a transaction that the other party did in good faith, you know, that's troubling.

Michele Neylon: Michael Collins.

Michael Collins: Yes. I was off - the operator took me off just for a moment so I may not have heard the last comment. But I wanted to at least share my understanding of the dispute as it stands - the dispute portion of this ETRP as I - as it stands now.

I wrote something trying to accomplish what I thought we had originally intended. And it's changed now such that the original registrar, the registrar of record, a PTRR, excuse me for forgetting that for a moment. The PTRR is responsible for hearing any dispute between PTRR and the gaining registrar.

And to me that, you know, there isn't any point in having a dispute resolution - I mean a dispute process where one of the parties is responsible for hearing the dispute. It's just not - it's not (unintelligible). That's where it stands now. Originally we had no means for disputing the ETRP in the document and I tried to fix it. I may not have accomplished fixing it in a way that would have worked due to rules of the TDRP.

Michele Neylon: Does anybody have any comments on that?

Mikey O'Connor: This is Mikey again. Sorry to jump in without getting in the queue, but - is there any disagreement with the notion that we need some sort of mechanism to unwind this. You know, there's really two disputes now. There's the dispute over the name and there's the dispute over whether the ETRP was legitimate.

And I'm less concerned about the dispute over the ETRP but if there's no way to ultimately resolve the dispute over the name with some sort of (interested party in this).

Michele Neylon: What's the - what's the difference - what's the difference between the two Mikey instead of having a problem unraveling?

Mikey O'Connor: Well, it's subtle and, you know, I don't think it's a real important point. But, you know, you think about the really famous cases like sex.com where those parties would have used this to great advantage to one side and there wouldn't have been any real clear description of how that got resolved.

Now that's an extremely high value name. But, you know, there's lots of disputes that run down the spectrum just, you know, you image going back down to the Web service hosting provider who is - hasn't been paid and there's a dispute over whether the service provider actually did a good job and deserves to be paid.

Suddenly the service provider yanks the domain back and holds it hostage. And those are sort of the two ends of the spectrum. There's got to be a mechanism in here to do dispute resolution or else...

Michele Neylon: Okay James.

James Bladel: Yes Mikey, I mean I think what you're getting at is the area where I think registries and registrars are reluctant to wade into those alligator infested waters and, you know, will point to the most appropriate and competent court of jurisdiction to resolve those type of issues.

And my concern is that, you know, I don't know that we can - I don't know that we can create an ICANN policy that can cover all of those scenarios that you've described. And I think you rightly pointed out that those would be a very small minority, very specific cases and would, you know, would likely be the boundary condition.

And that is kind of my purpose behind want to decouple this a little bit is that we have a template of a proposal here that can let's say 80% of hijacking cases could be addressed satisfactorily by this. And I'm concerned that if we over reach to get that 20% that's out there that probably should belong in the courts anyway that we could lose the whole thing.

So, you know, and again, that's just what I'm after here. I understand the problems that Michael has identified and I don't have a good answer for them. I, you know, I recognize that they are problems. But I just want to make sure that we're being as practical as possible as well.

Michele Neylon: Barbara, Michael Collins and then Mikey O'Connor.

Barbara Steele: Thanks Michele. This is Barbara. I mean I think that - I think we're missing one thing that, you know, the TDRP can be used in some cases. I don't think we want to, you know, go into how the TDRP is to be applied as I think that's pretty clear as to how it works.

But I think that we need to also take a look at, you know, the fact that if they're finally a TDRP then they need to be able to do it based on the grounds that are available to them within that mechanism.

And so, you know, if they're able to basically dispute this by stating that the authorization from the registrant was there and the registrant has appropriate rights to the domain name, then I think, you know, then it's one that can be filed on - basically asking for a remedy of approval of the transfer.

But, you know, one of the main concerns that I had with the way this was written is it really put in place some things that really were not contemplated by the TDRP itself. That's all I had.

Michele Neylon: Okay. Sorry, who's next? Michael Collins then Mikey.

Man: It's that mute button again Michael.

Michael Collins: The mute button is causing part of it. Part of it was I was really trying to - how to address - how to change my statement based on what Barbara just said. I think that if there is a way to be sure that we can identify the TDRP can be used to hear a dispute caused by ETRP, not, you know, not caused by an initial inter registrar transfer but one that is reversed by ETRP.

If we can specify that - is some authorization because I'm not - you know, the ETRP was not envisioned when the TDRP was written. And it's not clear to

me that it can be used to reverse and ETRP. That's why I had written this - the dispute that I did to basically put it back - to put it back as if the ETRP had never occurred if there is a dispute and let the TDRP dispute be heard as if the ETRP had never occurred. That was my motive.

Now if that doesn't work, you know, I can understand why. It gets kind of confusing. But it seems that if we can authorize the TDRP to be used in cases where there's a dispute caused by the ETRP, you know, I might see that as a solution.

I'm not trying to specify how we resolve it. It's just that the clear thing is that inter registrar transfers are used to prove control of a domain name often in cases of a sale of a domain name. And having some history, I can tell you that many times when I've worked as a broker to sell domain names where I was neither the buyer or the seller but putting the two together.

And sometimes the seller of the domain name was quite happy early on but when they found out that the buyer of this domain name was a, you know, a Fortune 100 company and they felt like they could have gotten ten times as much money for it, they were on my back as a broker or as a - we were not brokers actually but we provided a means to exchange these domain names confidentially.

And I know that I've been involved in many cases where the seller of the domain name would have reversed the transaction and taken the possession of the domain name back if they could have. And I'm just trying to avoid that possibility. And that's all.

Michele Neylon: Okay. Mike and then Barbara.

Mikey O'Connor: This is Mikey. I think that I'm with Michael on this one in that at a minimum we have to point to something to resolve disputes. I think without that, you know, and I...

((Crosstalk))

Michele Neylon: Sorry Mikey. Could you please specify which disputes are you talking about?

Mikey O'Connor: Well, originally - I mean presumably if it's a pure hijacking case and the person gets caught, then there's no dispute because the hijacker never comes back. But the situation that Michael's talking about happens a lot. It's not an edge case at all. There are all kinds of buyer or sellers remorse situations where the sale happens. All of the losing registrant's pals call him up and say, "What? You sold it for that? I'd have bought it for twice that. Gees you got robbed."

And then bingo, they've got this little mechanism that they can yank the domain back. And then no way to resolve what is now a dispute over a transaction. That's, you know, that's going to cause registrars all - I mean Michael was speaking as a registrar when he told you that story. That'll cause you all kinds of headaches.

Michele Neylon: Okay. Barbara.

Barbara Steele: Yes. I can see that happening and I would like to think that there would be some due diligence on the part of the - I guess it's the PTRR to make sure that that's not, you know, what the case is when they're filing an ERTD; that is truly a hijacking case.

I mean the other concern that I had and I think I put this on, you know, in one of the communications on the list is, you know, the way the current dispute mechanism is worded I have some concerns that -- and I think James may have made comments relative to this as well -- what I call the ping pong effect because it sounds like there's an automatic reversal in some instances on that.

I just really see domain names being ping ponged back and forth between registrars. One of the other items that I had pointed out is, and I mentioned earlier, is that yes, the TDRP could be a viable option. But the TDRP is really only a good tool if there's active participation from both the registrars.

And typically I think, you know, some of the other conversations that we've had is a lot of disputes never actually get to a TDRP because the, you know, if the registrars are able to cooperate and communicate with one another, a lot of times they are able to resolve the issue amongst themselves and they never have to take it to the TDRP.

So, you know, I know that there's been concern over having, you know, registrars determining who is the appropriate registrant of the domain name but it just seems to me that, you know, one of the reasons the ETRP is out there is because for whatever reason the, you know, the PTRP is not able to get in touch with them, work out the dispute with the - I'm not sure what I want to call it - the new registrar, yes, all of the terminology gets a little confusing after a while.

And so, you know, they feel as though, you know, it isn't a urgent situation. They're not getting cooperation so they feel that they need to pull the name back.

Michele Neylon: Okay. Does anybody else have any other thoughts on this? I haven't heard anything from Matt or Bob. But I do have Marika's hand up so you're safe for the moment. Marika.

Marika Konings: This is Marika. Maybe this is just a suggestion is, you know, I'm not really sure whether we're going to be able to resolve this question before the end of this call and before the deadline for publication. The suggestion would be to include like a more general statement. Take out this part on the disputed ETRP claim and just put in something there.

The working group, you know, is of the opinion or sees that there's a need to be able to dispute an ETRP but hasn't reached agreement yet on the appropriate mechanism to address such a dispute and is requesting input from the community on how such a dispute mechanism might look or which element it might have. Maybe that's a way the group might want to consider in moving forward on this issue.

Michele Neylon: Okay. I've managed to oust Matt Serlin so let's take advantage of that. Matt, go ahead.

Matt Serlin: Yes. You pulled me...

((Crosstalk))

Michele Neylon: ...Mountain as well. Oh this is really good.

Matt Serlin: You guilted us into it Michele.

Michele Neylon: Hey listen, what do you expect?

Matt Serlin: Yes. Exactly that. I'd actually agree with Marika. You know, the reason that I sort of stayed quiet on this is because anytime you're talking about dispute resolutions in the ICANN world, I mean that to me as previous folks have said, that really is a policy development initiative in and of itself.

And yes, we're talking about a dispute resolution process specific to transfer disputes but I think Marika's suggestion of throwing it out there that the workgroup feels that there needs to be some sort of work done on some kind of dispute process but we're not in a position to make that recommendation at this point and ask for further input from the community. I think that's probably the best way forward that I've heard.

Michele Neylon: Okay. Bob.

Robert Mountain: Yes. I would agree with Matt. However, one - just wanted to make one very (just type of) question on the ping-pong affect. You know, I assume that when one of these is filed, an ETRP is filed, there's some sort of decision as to whether it has merit or not. So there won't - I would hope that, you know, that sort of vetting or even if it's light vetting would slow down this frequency of having these domains yanked back and forth.

But I think the point made where if a domain is transferred and then there's the seller's remorse would not be considered an adequate reason to reverse the transfer of a domain. You know, there would have to be some kind of - some basis for transferring that domain that would be awarded. Right?

Michele Neylon: I think we - and just to (unintelligible) because I'm not sure what the exact status of the current wording on this is. But the original discussions that a subgroup of this working group when we were working on this, this was something that we did consider. And Paul or James might be able to speak to this. One of you please - we did do something but I can't remember where it went to. Paul. James.

Paul Diaz: Michele it's Paul and I'm sorry, I'm trying to remember too. I'm not clear.

Michele Neylon: Because I know we did discuss it as being a problem that we wanted to avoid. But I can't remember how we dealt with this. See the main thing was that we were trying to come up with some way that a genuine case of a domain being hijacked could be reversed in a quick - in a timely fashion. However, we didn't want it to be a case of buyer's remorse or people just being awkward or whatever. Michael Collins.

Michael Collins: I've got to find that mute button a little easier. Yes, I just wanted to say that to answer Bob, I think that it's possible according to the way it's written now that a disgruntled seller may not necessarily disclose that to PTR. That he may

make that a false claim of hijacking. At least that would be possible. That's all.

Michele Neylon: It is possible is what you're saying.

Michael Collins: Yes. I think it's possible. I mean who's to say what people would or wouldn't do but I think it would be - it would be impossible or it'd be very difficult for PTRR to know if he was given a false claim of hijacking where in fact the registrant sold the domain privately.

Michele Neylon: Okay. Bob.

Robert Mountain: Yes. I guess that would come to then, you know, during the domain transfer how was that document delivered - sold on (unintelligible) or domain sales platform. At that point the buyer of the domain would, you know, come up with the document that proved that they had a - that they closed a legitimate sale. Right? And, you know, that sort of...

((Crosstalk))

Michele Neylon: What if the person selling the domain didn't have the right to sell the domain Bob? I could prove that I bought the domain but how can you - but that's not the problem.

Robert Mountain: So the problem then is a different - so the seller is claiming that he was hijacked - the legitimate owner of the domain was claiming he was hijacked and it was sold - well I guess you'd have to prove, you know, if the owner - the burden of proof is that on the seller at that point?

Michele Neylon: Well that's the problem.

Robert Mountain: Yes.

Michele Neylon: Well I - Michael Collins has a hand up. Go ahead Michael.

Michael Collins: Well I just wanted to answer Bob. I think that - but then he got off into the other topic. I was trying to keep that whole kind of admin versus registrant out of this although it could be related I think. It is another issue.

Oh shoot. Where did we go right before that Bob?

Robert Mountain: Legitimate...

Michael Collins: I think that - oh I think that the ETRP does not have in it a - there's no interpretation that PTRAs are going to contact the registrant at the gaining registrar. It seems to me that PTRAs aren't obligated to even contact the new registrant at all. I'm not sure that that would ever occur.

Michele Neylon: Okay. Guys, we're coming up to seven minutes to the hour. We still have a couple of matters on the agenda, which I just want to cover quickly. With regard to all of this - yes, Marika go ahead.

Marika Konings: Yes. This is Marika. And I just wanted to point out as well that there were some other changes and comments that were made to the latest version by Barbara and I just want to make sure that everyone has seen those and is okay with those.

And as well the question would be what do we do with the comments that are included? Do we leave those in or we just take them out and take them up in the second round after the initial report?

Michele Neylon: Anybody have any feedback for Marika on this? And Bob could you press the mute button on your phone please? Barbara and then Mikey.

Barbara Steele: I'm fin - this is Barbara. I'm fine with us, you know, kind of addressing the comments that I had after the comments period if that works for everybody else.

Michele Neylon: Mikey.

Mikey O'Connor: I am too. This is Mikey. And I think that clearly what we need to do is dig back into this one hard. Certainly now that the excitement of (VI) has sort of died down a little bit for me, I can dig in a little more on this one and I'll bet Michael can too.

I think that this is surmountable. It's just it's probably not surmountable A, on this call or even before Brussels. But I'm not ready to throw babies out with the bathwater quite yet.

Michele Neylon: Interesting use of a metaphor. I won't make any further references to it. Michael Collins.

Mikey O'Connor: Mute button Michael.

Michael Collins: I can't be muted. There's no way. I left it open. No I'm sorry, I am - I was.

Mikey O'Connor: Okay.

Michael Collins: I'm happy with doing what Marika suggested and taking out all of Section 5 and just suggest - and including that there is some concern about the need for a dispute mechanism but not try to define it until after we get public comment.

Michele Neylon: Okay. That works for me. James approves. I think that's probably the best way to deal with it. Marika, if you could proceed in that fashion.

Now, on the agenda we have here - we have a Brussels meeting scheduled requested for Wednesday, 23rd of June from 1600 to 1730 which is to be confirmed. Marika, when will that be confirmed? Do you know or do you have any idea?

Marika Konings: This is Marika. I think the schedule is supposed to be public 31st of May.

Michele Neylon: Okay.

Marika Konings: So that would be I think the date. I haven't heard anything back that that time doesn't work. But the problem is I don't have any insight yet if any other meetings have been scheduled at the same time that might conflict. So, that might be one of the issues if, you know, if the meeting would need to move for that reason, so.

Michele Neylon: Okay. (Unintelligible).

Marika Konings: As soon as I have a confirmation, I'll post it to the list of course.

Michele Neylon: Okay. Thank you. Now based on what we've - how far we've got with the report and everything else and looking at timelines and everything else, do we need to have - oh my ear. Do we need to have another meeting before Brussels?

Marika Konings: This is Marika. On the report itself I'm hoping to send out an updated version probably some time early tomorrow morning. And that would give everyone then still a chance to, you know, provide any last minute edits knowing that, you know, there should be just, you know, not making major edit changes to the content but just editing changes.

So for example Sunday night so I can actually post document on Monday. So then the question is if there are any other meetings needed maybe to discuss how to run the information and consultation session in Brussels or go through

the slides that we'll prepare for that meeting. But again, that can be done as well possibly on the mailing list. That would be the question.

Michele Neylon: James.

James Bladel: Hi Michele, just a procedural question here. When we kick off - release a report and kick off a public comment period in close proximity to an ICANN meeting, I think that in some cases we could request it an extended comment period to allow that folks are traveling to the meeting, traveling from the meeting and then, you know, they have a week where they're pretty much unavailable.

So if we can get an extended comment period, I would request that if we haven't already done so. And then the second thing is just as an observation from someone who is participating in a lot of different working groups, some groups are preparing initial reports and some groups are preparing final reports.

And I just feel like perhaps we could - the groups that are in the - that are putting out initial reports like this one could yield to those groups that are putting out final reports to ensure that they don't have a lot of spillover work after Brussels, you know, because everybody's kind of racing for the same document cutoff deadline. So I just wanted to put that out there on the table.

Michele Neylon: I was with you right up to the last bit. What do you mean by the spillover bit James? You lost me there. Sorry.

James Bladel: Okay. So if you have two working groups and one's putting out it's initial for Brussels, one's putting out it's final for Brussels and they start to overlap, it's possible that, you know, both of them could end up requesting extensions and that there could be based on the comments received that...

((Crosstalk))

Michele Neylon: ...comment period is what you're referring to is it?

James Bladel: Right.

Michele Neylon: Okay.

James Bladel: I mean this group for example RTPB will continue after Brussels. We know this. But there are some groups that are trying to not just wrap up their report but wrap up the entire effort by Brussels. And I think that, you know, we should just be respectful to a day or two, you know, in contending for the same resources, we should just make sure that they had what they need to do that.

Michele Neylon: Okay. I think from what I recall, we discussed previously something about where we would get the reports now but we wouldn't open the comment period until after Brussels.

Marika Konings: Yes Michele. This is Marika. That's correct because for PDPs there's a specific requirement in the bylaws the public comment period should be 20 days. So we don't there really have the room to extend that. Or I think normally we run them for 20 days.

So the idea or the suggestion was that we actually open the comment period after the Brussels meeting. So we have a discussion - an opportunity to discuss and alert people to the fact that the public comment period will come shortly and inform them on what is in the report and what they're expected to comment on.

And then only launch it after Brussels and then we can actually decide on, you know, which date will be appropriate taking into account that, you know, people might take a week off after the meeting. So maybe we'd - it would be

appropriate to start it, you know, one week after the close of the ICANN meeting and then run it for 20 days.

And just to note on the final report, we actually normally don't run public comment periods on those at least if you - if you're referring to the registration abuse working group, that report will just go to the Council for their consideration. There's no public comment period foreseen for those kind of report normally.

Michele Neylon: So just to clarify Marika, when would the - can we publish the draft report without opening a comment period?

Marika Konings: Yes. Yes.

Michele Neylon: So we can do that and then we can have a follow up announcement that we're opening a comment period on this report.

Marika Konings: Yes. I think with the publication my idea because normally we do write announcement when a document is available. We can point out there that, you know, we will open a comment period after the Brussels meeting and can provide a link to the comment forum. And then we can do another announcement when the forum is actually open.

I mean normally they would - those two go in conjunction but the problem is because we're limited here to 20 days if we open the public comment period now it basically means that, you know, we'd finish halfway through the Brussels meeting not allowing the group to actually present the report and the recommendations to the community.

So in this way I'm hoping as well that, you know, by discussing it with the community and putting some of the questions that the group has out there during the meeting, it might help us as well to get more and better comments for the groups take into account for the second phase.

Michele Neylon: Okay. Perfect. Anybody else have any other queries on this process or anything or any other comments at this time? So just to finally repeat the question. Do we want to have a meeting next week? Yes or no. Okay. I'll rephrase that. If I don't hear to the contrary, there will be no meeting next week. Okay. There is no...

Paul Diaz: (Unintelligible) Michele.

Michele Neylon: Hello

Paul Diaz: Michele, it's Paul. I would just say let's - because like what I did with Kevin, I pushed him to comment to the list. I would just say please everybody continue to monitor the list to weigh in because, you know, try to open the door wide to him to say look if you can convince people, give us your best shot and, you know, it'll get reflected n the draft report.

So please people, the point is check the list, make sure that you're monitoring it for anything that comes out because it may change your views.

Michele Neylon: Okay.

Mikey O'Connor: Michele, it's Mikey.

Michele Neylon: Bob. Okay. Bob's ahead of you Mikey.

Mikey O'Connor: Okay.

Michele Neylon: Bob.

Robert Mountain: Yes sorry. I guess I would - being new to this, I'm not sure if another meeting is merited or not. But it certainly seems like there's a - we have a ways to go

so to me it would be some way to continue making progress it would make sense at that point given where we're at, so.

Michele Neylon: Was that in favor of another meeting or against it Bob. I'm confused.

Robert Mountain: I'm not saying - I'm not weighing in. I'm saying progress - if we can, make progress without a meeting through the offline approach that was just mentioned previously. I think that's okay. If not - if that's not viable, then, you know, if another meeting is the only way to get progress done, then I would say maybe we should do that.

Michele Neylon: Okay. Mikey.

Mikey O'Connor: This is Mikey. I just drew a diagram out on the list about what's now called ETRP. Back when I was doing it I was calling it transfer restore. And I just wanted to highlight that I'd done that. And it might offer us a way to converse a little bit more about it and if folks wanted to do that on the call next week, I'd be game. But I'm fine either way.

Michele Neylon: With us working on the basis we weren't having a call next week because if we - that we were going to take a lot of these comments and put them in after Brussels.

((Crosstalk))

Michele Neylon: That was my understanding. Because I think we're kind of - I wouldn't say going around in circles because that sounds a bit negative, but that we - we're trying to finish this on a deadline, get that out, publish it, open a comment period and then we would restart - this is my understanding now, feel free to disagree with me.

That we would restart our meetings say a week for so after the Brussels meeting finished; but that to continue debating, discussing, arguing, whatever on the mailing list in the interim. Mikey.

Mikey O'Connor: Oh that was the whatever silence. I'm sorry about that.

Michele Neylon: Okay. All right then, unless - if anybody has any other strong feelings or otherwise please follow up by the mailing list and I will speak to some of you probably later this evening, my time, which is this afternoon your time, whatever. Okay. Have a nice week. Bye bye.

((Crosstalk))

Michele Neylon: Bye bye.

END