

**ICANN
Transcription
IRTP Part D Working Group meeting
Monday 05 August 2013 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 05 August 2013 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-20130805-en.mp3>

On page: <http://gnso.icann.org/calendar/#aug>

Attendees:

James Bladel – RrSG
Chris Chaplow - CBUC
Avri Doria – NCSG
Kevin Erdman – IPC
Rob Golding - RrSG
Angie Graves - CSG
Barbara Knight – RySG
Bob Mountain – RySG
Mikey O'Connor – ISPCP
Graeme Bunton - RrSG

Apologies:

Paul Diaz – RySG

Resign from Working Group:

Michele Neylon - RrSG
Jill Titzer - RrSG

ICANN staff:

Marika Konings
Lars Hoffman
Julia Charvolen

Coordinator: Today's conference is now being recorded.

Julia Charvolen: Thank you. Good morning, good afternoon, good evening everyone.
Welcome to the IRTP D Working Group call on Monday 5 August 2013. On the call today we have James Bladel, Barbara Knight, Bob Mountain, Mikey O'Connor and Graeme Bunton.

We have apologies from Paul Diaz, Avri Doria and Alan Greenberg. And from Staff we have Lars Hoffman, Marika Konings and myself, Julia Charvolen.

May I please remind all participants to please say their names before speaking for transcript purposes? Thank you very much and over to you James.

James Bladel: Thank you Julia and as we were discussing prior to the recording starting, we have two individual participants that have withdrawn from this group. Could you list that for the recording?

Julia Charvolen: Yes sure. We have Michele Neylon who has withdrawn and Jill Titzer who - Jill Titzer yes who is - who has withdrawn as well and Angie Graves who is now stated as an observer.

James Bladel: Thank you Julia. Okay and welcome everyone to a very sparse group of die-hard IRTP D participants. We had to cancel last week due to low attendance but also particularly because we were missing entire Stakeholder Groups.

So this group although also small has a little bit more of a representative flavor, so I think as we were discussing - Mikey and I were discussing we'll just press on.

As per our usual SOP if anyone has any updates to their Statements of Interest please indicate so at this time. Okay, nothing in the chat relative to SOI changes.

If anyone has any questions or suggestions relative to the draft agenda, which is posted in the right most window in the Adobe room it was circulated to the mailing list earlier.

Could I hear any suggestions or edits on that? Okay, we'll consider that agenda adopted for this call and we'll move forward. So we custom ran a Doodle poll as a result of the cancellation of last week's meeting due to low attendance, and I'm looking at the poll now.

I don't know if you can pull that up in the - I don't know if Staff can pull that up in the Adobe room. I'm just switching out to a different window. But it looks like the overwhelming preference with perhaps the exception of Simonetta is for the current time slot, which is I believe 15:00 UTC on Monday, 10:00 am Central.

That's what I'm showing here and that is our current slot here, so I can see that Seth is switching to presenter mode to put the Doodle poll into the Adobe room, so that should be coming up here in just a moment.

But I think that the hope was that we were finding - that we would find a different time slot that would result in a consistently higher level of attendance for this Working Group, and that does not appear to be the case.

So my recommendation is that we keep the current time as it is and - because I think changing it at this point might actually make things worse, and that we instead focus on just continuing to remind participants and stakeholders that we need active engagement in this particular group so that we can drive it to its conclusion before - well we're shooting for Buenos Aires.

But it's possibly going to be towards the end of the year so that we can wrap up this fourth and final installment of these series of IRTP Working Groups, which I understand not everybody thinks is the most exciting thing to do with their morning but it is important to our industry and we need to lock it down.

So okay, I guess we're having some technical issues displaying the poll. So, you know, if anyone needs any confirmation here it looks like everyone except for Simonetta accepted the current timeframe.

And I think Rob Golding indicated that it was not his preference but he could make it. Otherwise it was agreeing so this is the time we have. This is the time we're stuck with.

So okay, so let's push on but let's - Lars and Mikey, maybe the three of us can discuss via email how we can drum up continued or reboot the interest in this Working Group at the stakeholder level.

Okay, taking stock of our discussion I'm actually combining Agenda Item Number 3 and Number 4. We do have one charter question, Charter Question A, talking about reporting requirements.

And I think that we're fairly close on - based on the feedback that we've received and our discussion on previous calls and in our face-to-face meeting in Durban, I think we're at a point where we can probably say that based on our challenges in gathering this data for discussion earlier on in the Working Group, that it would be nice if there were a single source of data for TDRP statistics.

So whether that was at a provider level or whether that's housed by ICANN, whether that's conducted by the second level providers or the Registries, I think that clearly getting all that information in one place would be helpful to this discussion.

Excuse me. So I think that we can probably proceed to a point where we start to discuss the who, what, where, how and when of reporting as opposed to whether or not it should occur at all. Mikey I saw your hand.

Mikey O'Connor: Yes. Sorry I had to click a bunch of stuff. I have a point that I want to add later. I don't want to interrupt you. Sorry about...

James Bladel: Oh okay, well that was a pretty good time actually because I've got a little bit of a cold here and I keep hitting the mute button to cough. So - but I just - I think we're at a time where we can maybe flesh out some recommendations on Charter Question A, for example determining who should be collecting and reporting the information.

I believe the answer currently is the Registries and the second level providers with the understanding that if that changes and only the second level providers are executing this process, then of course the reporting requirement would drop for Registries, how often they would issue these reports and what the mechanism for submitting them would be, whether that would be an inclusion into the monthly Registry reports that are already required.

I think, you know, we can kind of start to see how we can put some meat around a recommendation for Charter Question A. Mikey.

Mikey O'Connor: Yes this is Mikey. One of the things that we may want to add to that is a post that popped up in the blogosphere over the weekend. I think it was on Michael Berkens' site and that's the - what information gets published.

I think that I have to kind of go back and check but I think the request was made of a second level provider for the decision that was arrived at fairly recently in a TDRP proceeding.

And the second level provider responded by saying that in the absence of any instructions to the contrary, they kept that information private in terms of that decision.

And since the policy is moot - mute on that, it doesn't speak to that. We may want to add that to our list of conversational topics when we do this. It's not just who/when/where but also exactly what is published in that. That was the addition I wanted to make.

James Bladel: Okay thanks Mikey. I agree. I think I remember seeing that. It's not - so I think I initially saw it on Twitter, which is a question of, you know, you're familiar with UDRP, but do you know anything about TDRP? And the media blogger then...

Mikey O'Connor: Yes that's right. That was...

James Bladel: ...notes - yes, so I thought was a very timely article - did not generate a whole lot of traffic except for maybe certainly caught the eye of the folks, you know, on this group.

And I agree that any recommendation would have to include what the - data would have to be included in a report and whether that would just be summary data or aggregate statistics or specific data on each particular case. Bob you're in the queue. Go ahead.

Bob Mountain: Hi James, this is Bob. Sorry, and I'm clicking as well. Yes I guess the question - are we thinking about a centralized, you know, warehouse or resource for all TDRP where then one source would contain all of them regardless of entity or are we thinking of, you know, distributing it, you know, in a different way?

You know, I'm not sure if it's viable or practical to have a central location for everything, but it certainly seems like that would be the most convenient way if that's possible.

I'm not sure if ICANN has a resource where they could at least track those or not. But my feeling is that I think, you know, if we were to just serve the

general public or people who were inquiring have a central clearinghouse or a central repository for all this would be the best if that's practical.

James Bladel: Okay thanks Bob. I think all options are on the table at this point and while we're fleshing this out. I think the model at least that I was initially latching on to was the Registry monthly reports where Registries submit on a monthly basis their various statistics about the activities of their TLDs, and all of that is displayed I think three months in arrears but it is displayed and aggregated on the ICANN Web site.

So I guess that's a sort of a centralized location for that data and that this would be essentially a new line item or a new section of those existing reports.

However that doesn't cover the second level providers. That would be something that we would have to invent. Mikey go ahead.

Mikey O'Connor: Thanks James. This is Mikey. Just to add one more dimension to this we've got a drafting team that's firing up right now about reporting across the GNSO.

And so one way we might finesse this is to state what we would like to see happen a little bit less precisely than we normally would and defer to that soon to start I think Working Group for specifics as to the mechanics of how it all happens, because this is the Working Group that came out of the uniformity of reporting recommendation from Registration Abuse Policies Working Group.

And I see that Marika's on the call. I - am I presuming too much for that Working Group Marika? I mean, we're sort of pre-drafting team so it's a little early to say but it might be good to sort of try and dovetail with the work that's coming in.

Lars Hoffman: This is Lars and if I can just make a quick note, although Marika will know more about this. She's actually listening in over this but I'm not sure how good her line is to actually speak. She's in Spain at the moment.

Mikey O'Connor: Yes.

Lars Hoffman: The drafting team - I think the corporate drafting team didn't attract very many people and so I believe there's a discussion now whether to go on to a second call or to - it was put to the Council to maybe have a Staff-led effort with this whereby Staff reaches out to the various interest groups and then it comes up with the - with an industry report or with a charter at the very least.

So I will take that on board and pass it on to Berry who's responsible for this. But at the - I'm not sure that there'll actually be a drafting team as such coming forward.

Mikey O'Connor: Yes this is Mikey again and I guess the thought I've got is not so much the mechanics of getting that started, but just since that's a whole Working Group that's going to be working on sort of the mechanic reporting, we may want to look forward to that when we do our recommendations and simply cast our recommendations in a little bit broader terms.

This is circling back to Bob's question about centralized or decentralized. I think maybe what we do is we say, "Look, from a policy standpoint here's what we're trying to accomplish, and we'll leave the specifics of the mechanics as to how that's done to that subsequent PDP."

James Bladel: Okay thanks Mikey and I see a green checkmark from Bob. I think that there's definite benefits to just leaving the recommendations high level, and then referring that over to the Uniformity of Reporting Working Group.

Two comments on that and I'm - put myself in the queue I guess. Two comments on that or concerns. One would be I'm not sure what the timeframe is for that particular group.

If this is something that we wanted to achieve fairly quickly, it might be like tagging a PDP lifespan onto the end of the PDP lifespan. And I'm just stating out loud here that it might be another, you know, year or 18 months before those reporting requirements became a reality.

And then the second thing, and this is more of a benefit of that approach, is that if we were to confidently say that we were just looking at statistics - TDRP statistics from Registries and from second level providers, I think that we could probably just say, "Well hey let's go.

Let's get this into the existing monthly reports and we're done." But I think that there is a possibility that this could also include reporting requirements for Registrars, and I think that's one of the things that the Uniformity Group might be looking at.

And so any reporting requirements for a much larger group of Registrars I think would be a little bit more of a involved task, and then therefore that would be more appropriate and more suited for that Uniformity of Reporting Working Group.

So just a couple of thoughts there off the cuff. And I see Marika has her hand up and we always give Marika the floor, so Marika go ahead.

Marika Konings: Yes this is Marika. Just to note that the Uniformity of Reporting, which I think now has been called Matrix and Reporting Working Group, I don't think would be looking at, you know, specific requirements on what Registries and Registrars need to publish.

It's really focused on data on abuse so that they can help inform PDPs as well as, you know, how effective do policy recommendations work after a policy has been developed.

So I think it's taking more of that angle and not necessarily looking at, you know, what should be reported in relation to, you know, this specific policy. So I would be a little bit hesitant to maybe link those two especially as well, since that effort is really at the starting phase and we're actually trying to see how to most effectively do that work because it's a non-PDP Working Group.

We're actually struggling there to get some volunteers going so it may - we're probably going to suggest to the GNSO Council that as Staff we may, you know, propose a first report or after, you know, discussing the different Stakeholder Group constituencies in a different format to make sure that we can move it forward.

So I would be a little bit cautious to actually link the two at this stage if there's something that you can already as this Working Group concretely recommend with regard to its Charter Question A.

James Bladel: Okay thank you Marika and I think we would be wise to take that caution under advisement. Mikey?

Mikey O'Connor: This is Mikey. I totally forgot that this is not a - that it's a Uniformity/Matrix reporting thing. It's not a PDP thus wouldn't drive anything into the picket fence. So I want to vehemently agree - withdraw that whole suggestion.

James Bladel: Okay thanks Mikey. And I think that brings us back perhaps then to where we were a few moments ago, which is that we can probably start looking at how - for the multimedia term we can look at how we could include some provisions for reporting in the existing monthly register reports, and then also tackle how we would include second level providers information in some other reporting mechanism.

And I think that's probably the one part that is unprecedented or new to this model. So maybe let's take a few moments to discuss what would be included in the report.

What data would be collected and reported? Do we have - I think alluding to the blog post and some of the responses there, do we have concerns regarding sensitivity to releasing certain types of information?

Should this be aggregated? Is this the - acceptable for TDRP information to be publicized? Is it acceptable for it to be summarized perhaps or can it be summarized or sanitized so that it is publishable?

I really don't have a - an answer for that initially except to say that for a Registry or a second level provider to indicate that a certain number of TDRP proceedings had occurred during a given time period I think would be certainly acceptable.

Whether listing individual parties or domain names or outcomes, I think that it's probably something that bears further scrutiny. But that's just me just off the cuff.

Would be interested in what other folks think on this issue, particularly the Registries and other Registrars if they have any concerns about any information that certainly should not be included in a report of TDRP activity, or any information that would if it were left out would be effectively making the reporting useless.

And maybe we can start by looking at the data that we collected when we kicked off this group as far as TDRP statistics, frequency and the resulting decisions. Lars go ahead.

Lars Hoffman: Hi James, this is Lars. And just a quick note - Kristine who's replied to the blog note on the TDRP/UDRP and saying that they don't publish any records, just to let you know that the Asian Domain Name Dispute Resolution Center actually does publish all their TDRP outcomes including the cases and all relevant information. It's available on their Web site. I'm going to put the link into the chat.

James Bladel: Okay thank you. I see that Kristine and Mikey were weighing in on that through - as well as the author. So encourage folks to take a look and get caught up to speed on that particular exchange. Mikey?

Mikey O'Connor: Yes this is Mikey. I sort of want to weigh in on this from the Non-Contracted Parties' position, so I'll sort of take off my Co-Chair hat and put on my lobbyist hat for a minute.

I can - with the premise that Michael was putting forward in that article that TDRP information - there's a fair number of parallels between TDRP and UDRP kinds of things.

And so I too - I like the way you framed that question James, because I would like to hear a case for keeping the information secret so that I can evaluate that.

And unless there's a compelling case of some sort I tend to support the idea of publishing, you know, as much as we can. I think that it runs along the lines of the open and transparent, et cetera, et cetera DNA that we have here at ICANN.

And especially given that these right now are quite infrequent, you know, I think it would be good to be as transparent on these as we can especially if we've got one provider that's already doing it, you know, let's try and broaden that out as much as we can.

James Bladel: Thanks Mikey. And I tend to agree. I think that the burden of proof or the burden of argument is on those who would assert that this information should be private.

I'm trying to think of particular vulnerabilities that would be exposed either at a Registrar level or at a TLD level or for a particular party if it were seen or observed from this data that they were a frequent subject of TDRPs.

I don't - I'm having a hard time kind of getting my mind around what harm that would cause, but Bob you're up next.

Bob Mountain: Yes this is Bob. Thanks James. The only thing I would potentially suggest is we look into the privacy policies and, you know, the shareability. Is that data or process something Staff could weigh in on?

James Bladel: And it's - yes and I think that's exactly right Bob is we probably would need an opinion from ICANN legal on, and really take a look at what information is being asked of these parties when they either file a TDRP or are responding to a TDRP.

You know, perhaps there's some meat and potatoes in those complaints or responses that are not suitable for publication. But I think certainly summarizing a complaint saying, "Party A filed a complaint against Party B due to Domain Name C and the outcome was D," I don't - I'm struggling with why that would be a dangerous bit of information.

But - and maybe I'm just overlooking something. I think we had Lars - or Bob did that address your - okay there goes Bob's hand so I think we have Lars and then Mikey. Lars?

Lars Hoffman: Sorry that was an old hand. I put it down.

James Bladel: Okay thanks Lars. Mikey you're up.

Mikey O'Connor: Thanks James. This is Mikey. I'm just reading the findings from the Asian, you know, I just clicked on the first one and downloaded it so I am in a real - I haven't given real review except to very quickly scan it.

And I really like the idea of sort of treating this as a model and, you know, I think that this format that they're using and the approach that they're using is terrific.

And if we could sort of all take a look at these - I've only looked at one of four, et cetera, et cetera so I don't want to completely go overboard. But at first glance this certainly looks like a great model, and if we could just sort of highlight that as a standard or a best practice and encourage people to tell us why we shouldn't ask all the rest of the resolution providers to come up with information on this level, you know, I think would be pretty far forward.

This looks pretty comprehensive, very much kind of on the lines of the summary of a UDRP decision. You know, it looks really good to me.

James Bladel: Okay and Mikey just for the benefit of the group, can you paste the URL that you're working from...?

Mikey O'Connor: Yes Lars is ahead of me. It - just before Graeme's comment Lars has posted the link that I followed to get to that. There he's just done it again. This is their TDRP decisions page on that.

James Bladel: Oh okay.

Mikey O'Connor: And so...

James Bladel: And my screen had already scrolled well beyond that so yes. Okay so this is kind of - it - yes agreed Mikey. This is very much in line with what I was

thinking as well just to - that summary page and then, you know, looking at the individual report.

I guess the question, and maybe we need to punt this over to Staff, say to ICANN legal, is there any expectation of privacy for any of the information submitted either as part of a TDRP or a part of a response that would merit some sort of sensitive protection?

Or is this all in the public arena, fair game and available for inclusion in reports? And I think perhaps Lars and Marika if you could take that question back to ICANN legal? I think we - we're sort of circling around what we think the answer is but it would be nice to have their opinion on this as well.

(Kevin)? (Kevin) you may be on mute. (Kevin)?

Mikey O'Connor: Still can't hear you (Kevin).

Kevin Erdman: Can you hear me?

James Bladel: Now we hear you. Thank you (Kevin).

Kevin Erdman: Okay yes. I just wanted to make the comment that I know there are a lot of privacy concerns about, you know, the Whois records and the publication of lots of information like that.

But I think when you do into the history of the NAF decisions and I know when I talked to (Christine) about it they just basically took the position of we're not (unintelligible) to do it.

No one, you know, and if it's not that we have to do it then, you know, it's up to the parties to worry about what's going to happen to it. And that's in a contrast to the UDRP where UDRPs are decisions are commonly available.

And, you know, there are similar privacy concerns about, you know, UDRP decisions but they seem to have been dealt with pretty, you know, uniformly. And, you know, basically all the legal and factual basis of all the UDRP decisions are available publicly.

So it just seems to me a matter of getting our ducks in a row and, you know, having a similar procedure as the UDRP for the TDRPs.

And to me that makes the most sense of anything. And I'm pretty confident ICANN legal will come up with a similar methodology so that's my comment.

James Bladel: Okay. Thank you (Kevin). I think that's in line with what we were discussing as well so I appreciate that. And I think that we're all kind of thinking that ICANN legal might be able to confirm what we're all thinking on this point.
Marika?

Marika Konings: Yes. This is Marika. I think I can sort of predict what ICANN legal's response is going to be because I think is exactly going to be along the lines that (Kevin) has said.

That as currently there is no requirement on the TDRP it's not really for us to say what can or cannot be published.

It's more the other way around if the working group would determined that you say well we believe that it should be published in a similar way as is done for the UDRP at that point I think we could go to ICANN legal and say well this is what the working group is considering are there any concerns about that?

I don't think it really works the question the other way around because as said I think it can predict the answer of saying while currently there are no requirements so we can't, you know, it's not our job to tell you what we think

should be published you should be telling us what you think should be the information provided.

And then we can, you know, provide some feedback based on that if we believe there are certain concerns that need to be taken into account.

And as I think, you know, as (Kevin) suggested and I also suggested in the chat it may be worth looking at the language of the UDRP to see how it's specified there that decision needs to be published.

And maybe work on that basis. And indeed see if anyone within the working group or, you know, possibly as part of public comment at this stage anyone has any concerns about adapting that language to the TDRP and maybe take it from there.

James Bladel: Okay thanks Marika. And I think you raise an important point about when you ask a lawyer for permission blanket permission you usually get a sort of a qualified answer but if you go back and say this is what we want to do you can get a I think a more specific response.

And I think your advice is well taken that if we say we want to use the UDRP as a model. We want to require the same level of publication of data and reports of - for the TDRP do you for see any particular problems with this? I think that's a much more answerable request than what we had previously.

So I think that's kind of the way we're going. I see green checkmark from Mikey. I did click through and look at some of the Asian dispute provider statistics where they have the overview report there and then they have the specific full text of the decision listed as a PDF.

I think that is probably as others were saying a good model of where we're thinking whether that is the best way to do that for the second level providers since they don't have a monthly reporting requirement currently in place the

way the registries do or maybe we have some sort of a bifurcated process where second level providers are doing something like this and their registries are doing something along the reports.

Of course we've also I think further down in our charter questions we've discussed whether the registries even need to continue to offer this service. So I think that is something to bear in mind also. Mikey.

Mikey O'Connor: This is Mikey. I - I'm pretty attracted to the idea of having the same standard for registries and second level providers in that it looked like what the Asian domain name dispute resolution centers are doing but, you know, I think it would be very helpful to have this all in this format.

Whether it came from registries or second level providers but that would be my sort of going in favorite anyway.

James Bladel: Agreed Mikey. Thanks. And I think that the only catch would be the including a PDF in the register reports would be a challenge.

They would probably have to put a link to it or something like that. So that would be the only I think difference between the two otherwise they would be consistent.

Okay any other thoughts or folks want to weigh in on this particular topic here. The only other thought I would want to throw out there just in general is that we did discuss the potential that registries would at some point be dialed out of this process. And this would be the exclusive purview of those second level providers.

And I think that perhaps any recommendation we put together would be qualified by some sort of a statement that, you know, if the registry is not required to initiate the TDRP then they're not required to report on them. I think that just makes sense.

But I think we can leave that sort of as an open ended question for now but recognizing that that's another bridge that may have to be crossed at some point in the future.

Okay any other thoughts on charter question one or charter question A depending on whether we're looking at the agenda of the charter? Is it possible that no one else has any other thoughts on this?

Okay. So here's what I recommend for next steps on this particular charter question. If we can ask for a summary to be posted to the mailing list since we have such a light attendance so we can get folks to weigh in on that but otherwise I think that we're getting close to some language that can be included in our initial report.

Next up and we have about 20 minutes remaining on our call so I think we can possibly begin the conversation on the charter question B which is -- and I'll read it to the group -- whether additional provisions should be included in the TDRP on how to handle disputes when multiple transfers have occurred?

So looking back to the discussion that we had when we went through the initial feedback we I'm going to scroll down here just a little bit. I think everyone has scroll control.

You know, we - I think we noted that multiple transfers particularly in the case of a disputed transfer or a domain name hijacking is the problem.

Whether we call it laundering, or hopping, or whatever we wanted to whatever term we prefer. It is an issue because it does put - it does complicate any efforts to reverse the transaction.

So some of the thoughts here from the working group were that the - if there were a provision that allows a registrar to transfer to block a transfer within 60 days I think we noted that that was currently optional.

Many of the major registrars do in fact reject transfer requests when it's less than 60 days from a creation or previous transfer request.

But it is not uniformly implemented. Previous working groups I believe discussed this issue and determined that it should remain optional. Not my preference but that's where the group came down on.

And I think that we need to take a look that at any initiation of the TDRP should at least consider the transfer and how long a previous transfer had occurred.

And then the question was well should the TDRP include any registrar over a certain timeframe. And I think that the first working group the first stab at that was six months.

And I think that this creates some vulnerabilities here. I think we were talking a little bit about the potential for clawback and whether or not that was, you know, a potential downside of this.

I'd be interested in hearing folks discuss that and whether that vulnerability outweighs the need for some sort of mechanism to extend just beyond the most previous registrar in the transfer dispute so thoughts, reactions? Mikey?

Mikey O'Connor: It's Mikey for the transcript. I think one of the most interesting ideas - and it's too bad that she's not on the call today -- is (Simonetta)'s idea that shows up sort of in the next section of that summary where maybe what was insert a requirement that if the TDRP could be expanded so that all registrars that were in the transfer chain would be required and maybe not put a time limit on it.

Maybe say -- and sort of sidestep that issue -- and say look if we have a dispute. The bad actor lies in wait for six months and a day thus sidestepping the six month requirement which we know is something that happens today.

Maybe we just eliminate that and say it doesn't matter how long you wait but when there's a dispute chain every registrar in that chain has to participate in resolving the dispute and essentially step around that issue a different way.

James Bladel: Okay thanks Mikey. Bob?

Bob Mountain: Yes thanks James of this is Bob. Yes I guess Mikey a question then what undoes the restriction then at that point in that scenario?

How does the thing get cleared up and what is the trigger that then enables that domain to be treated back to normal?

Mikey O'Connor: This is all sitting under the TDRP. And so presumably at the end of the discussion the dispute resolution provider would rule one way or the other.

And either the whole chain would get unwound or it would be permitted to stand depending on, you know, the conclusion of the discussion.

Bob Mountain: Now is there in fact a transfer lock imposed on the domain once it enters into the TDRP process?

Mikey O'Connor: That's another one that I was thinking as I was rereading this we might want, you know, Michele and crew just finished a transfer locking under UDRP PDP.

And we might want to take a look at sort of thing essentially incorporate either that language or at least a very similar language into the TDRP basically with the same rationale.

Bob Mountain: Yes this - yes I would agree Mikey. This is Bob. That would seem if registrar hopping is a problem than one easy way to put a stop to that I would think would be maybe too simplistic but it would just be to impose some kind of block until everything is sorted out.

And then providing we have as you said pointed out a mechanism which clearly has says this has been resolved than the domain has moved to where ever it needs to be moved to as part of the final reconciliation blockage removed then I think we potentially, you know, that's a solution to avoid the hopping or stop the continued hopping problem.

Using, you know, actions that are supported today so we're not creating new actions I don't think we're just triggering an existing action and to solve an existing problem.

James Bladel: Thanks Bob and Mikey. I've put myself at the back of the queue but we'll go to Barbara next...

Barbara Knight: Thank you James. This is Barbara. So I can speak for VeriSign. We tend to get the majority of the transcripts received at least that the registry level.

And at the time that we receive a dispute, a request for enforcement we do lock the domain name down so that it cannot be transferred while that dispute is pending a decision.

So from that perspective, it does stop. However that doesn't - that's not to say that because a registrant or registrar on behalf of a registrant can file a dispute within six months. We have to file it within six months of the date of violation or the alleged violation of the policy.

And there's only basically a 60 day restriction on transfers after a transfer has occurred.

You know, there are some instances where a domain name may be with yet a third registrar if you will.

It is our practice that if that is the case, you will get, you know, the transaction that occurs that is, you know, alleged in violation of the policy and the registrars that are involved in that and we obviously will receive the complaint. And then the nonviolent registrar has at least one day to respond to that complaint.

But when we do receive those complaints if the domain name is with a third registrar we do advise the third registrar that we received a complaint, an alleged I guess dispute or actually an actionable dispute alleging that the domain name was transferred in violation of the transfer policy.

And they are, you know, given a heads up. They are - they don't receive a lot of detail around it. But they are notified that the domain name is at risk should the dispute be resolved.

And, you know, it is determined that a fraudulent or a transfer in violation of the policy did occur between the first registrar and the second registrar.

So we've had a handful of those cases. I, you know, I don't know how many of those off the top of my head and I thought we'd pull some statistics on these but I may be mistaken.

I don't know how many of those may have actually resulted in a domain name being, you know, sent back to the original registrar. But it does definitely happen on occasion. It doesn't happen that frequently that we've seen, but it does happen.

And I do think that at a minimum, the registrar the is currently the registrar of record for the domain name does need to be advised so that they can let the

registrant of the domain name know that there could be an issue with the name.

James Bladel: Okay thank you Barbara. I think your comment was very helpful and in fact touched on a number of things I wanted to raise so I took my hand down as well.

I think that just to kind of sum up Bob circling back to some of your points, the difference between the six month time period to initiate a TDRP and the 60 day blocking of subsequent transfers still opens the possibility that there could be at least two or three hops, even if everybody is playing by the rules.

And then I think the difference being the pre-filing versus post-filing transfers. I think what Barbara is saying is that VeriSign and other service providers blocked the name so that it does not engage in some sort of a transfer flight.

Once the proceedings had been initiated but it's the untangling the chain that occurred before that was filed is also an important point.

So next we'll go to (Chris). (Chris)?

Chris Chaplow: Thank you yes. Just a few thoughts going around, certainly the locking would seem to me from the face here to be useful.

But I was thinking of the change something in the middle of - something Mikey said and imagining a situation, maybe it's an extreme example of five hops. So we've got registrar A and then the hijack occurred to B to C to D to E.

And TDRP process found that it was a hijack that it had to be returned to A. So I'm thinking aloud. It will go straight from E back to A or it won't go back down through the chain of registrars at all I'm assuming.

And whilst it would be prudent to let them know, especially the current registrar which would be E they would have to be told surely, because otherwise the domain would just be suddenly taken away from them. They would need to know why.

But where - exactly where or so that phase has got to occur between A and B. But the - anybody who bought it in good faith along that - along the chain I suppose it doesn't matter because we've already established the normal processes buyer beware on this.

So once it's been proven that there was an infringement between A and B it doesn't matter how far went down the chain and just revert straight-back to A. Am I sort of on the right thinking there?

James Bladel: Hi (Chris). Yes I think what you're saying makes a lot of sense. But if you're within six months of transfer from A to B it doesn't matter how many pops there been from B to C to D to E. If that first transfer was demonstrated to be fraudulent that the name just drops all the way back to that initial case.

I think that the other registrars involved in the subsequent transfers may not have any visibility to the dispute or any awareness that it's occurring.

I think that the concern would be that the registrar of record in this case, registrar E might feel like they're being blindsided a little bit from this dispute that's occurring between A and B.

And I know we're kind of getting into alphabet soup here. But just that there's this third registrar whichever one is the caboose at the end of that train may be surprised when it comes time for them to implement the decision from the TDRP that they were not aware of.

So I think it's worth looking at. And I think, you know, it's a question of - it's not really a question of filing a dispute for each transfer in the chain. It's really just if you dispute the first transfer then the chain comes undone.

I think that's what we're saying. I think now putting on the contrarian hat which would say if I'm somewhere in the middle or at the end of that chain, you know, I might be able to make the case that my transfer was legitimate, or at least I thought it was.

But since it was all predicated on some hijacking earlier on in the process then I guess that is inherited by future transfers if that makes any sense.
(Chris) go ahead.

Chris Chaplow: Yes, if I can just go back and thinking obviously like, say, registrar E getting blindsided but actually, we must think more about registrant E because registrar E in a sense lose \$10 a year out of this.

Registrant E is going to be even more blindsided when suddenly he finds through a process he doesn't know anything about, never even heard of something that's happened a long time ago. He finds he gets his domain taken off him.

And the lack of expectation, you know, innocently I'm thinking, you know, ICANN are looking after him, or everything he's seen has heard of ICANN and there's a process and it's all being, you know, looked after.

He's certainly going to if he's not aware in any way of this, hasn't had chance to look into it, research it while the dispute process is going on or get his lawyers to look at it he's going to be extremely blindsided when his Web site stops working suddenly one day.

James Bladel: Yes. Okay thank you and we're getting close to the end. So I'm going to go to Mikey. And I'm going to ask him also to make his comment and then maybe wrap up our work for today if you would please.

Mickey O'Connor: Okay this is Mikey wrapping out for James with a cold. Thanks for running the call.

I just want to respond to (Chris)'s point. I think that's one of the things that appeals to me about Simonetta's idea (applying) everybody in the chain when there's a dispute filed.

Because (Chris) I think what would happen if I was a registrant in the middle and I, you know, either made or paid some money depending on which way the thing was going I think it would be helpful to get sort of an early warning that things are not right by being notified of the TRP that's been filed somewhere in the chain that I'm a part of so that as you say I could get a hold of my lawyers and, you know, inject them into the processes well.

So I think we're headed in a really productive direction because clearly a little bit more work to do and as James points out we are at the top the hour.

Any sort of last-minute thoughts? We do have a minute and a half maybe left before we wrap up. Otherwise, I'll close it off. But we seem to be going pretty well.

Oh Barbara please weigh in.

Barbara Knight: Thank you Mikey. This is Barbara. I guess I'm a little curious as to what value like those people in the middle to add.

More than likely there probably aren't going to be more than three or, you know, maybe four registrars involved so A to B, B to C, C to B thing.

More than likely the transfers from B to C and C to D may very well been legitimate transfers and they will look legitimate. But, you know, really the issue of the question is the one that was in violation of the policy pretty short time period.

So, you know, if they have to file within six months of transfer from A to B, you know, we're not talking about ancient history here.

I do think that whoever holds the name as I said before does need to be notified. And, you know, they, if they want to speak up they can. But more than likely it probably was a legitimate transfer between, you know, between whoever had it just prior to them and that.

I guess, you know, one of the things that we really need to also take into consideration is, you know, when there are change of a registrant at the same time. And likely there probably was because it probably is, you know, through hijacking versus just, you know, something that change of registrar.

If the change of registrar and the registrants remain the same throughout the course then it really is what the registrant wants and where that registrant wants the domain name to be managed.

So and I think there are a couple of other things that play that we just need to get into in more detail in the next call.

Mickey O'Connor: This is Mikey again. I agree Barbara and we do need - I'm starting to think we may need another picture to sort of weigh out some of these scenarios just so we don't miss one.

I think what I was hearing and (Chris)'s comment was not so we're going to necessarily want to or even be able to participate in the conversation as much as be aware of it so that if this chain of transfers gets unwound it doesn't come as a complete surprise to downstream registrants.

But I agree, I think we've got some scenario mapping to do yet.

So I think one last caveat and that is the six month interval may be something that we want to eliminate and instead leave it essentially open-ended so as to avoid the scenario of eventually a hijack or aging the domain six months in one day, but they move it and thus avoid the issue.

So there's plenty yet to puzzle through on this. But I think if we can get it figured out it will have done a great good to a lot of people.

So I think with that it's a minute - two minutes after the hour. We'll wrap up this call. Julie I think you can end the recording and we'll see you all next week.

And James and I certainly have an action item to go beat the drum and see if we can get a lot of participation coming into this working group.

Thanks all. See you.

END