

**ICANN
Transcription
IRTP Part D Working Group meeting
Monday 29 April 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 29 April 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-20130429-en.mp3>

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

Attendees:

James Bladel – RrSG
Kristine Dorrain – NAF
Kevin Erdman – IPC
Barbara Knight – RySG
Bob Mountain - RySG
Mikey O'Connor – ISPCP
Holly Raiche - ALAC
Paul Diaz - RySG
Jill Titzer – RrSG
Graeme Bunton – RrSG
Bartlett Morgan – NCUC
Avri Doria – NCSG
Chris Chaplow - CBUC

Apologies: Simonetta Batteiger - RrSG

ICANN staff:

Marika Konings
Berry Cobb
Lars Hoffman
Nathalie Peregrine

Coordinator: Go ahead. We're now recording.

Nathalie Peregrine: Thank you very much, (Ricardo).

Good morning. Good afternoon. Good evening. This is the IRTPD call on the 29th of April, 2013.

On the call today we have Mikey O'Connor, Holly Raiche, Barbara Knight, Graeme Bunton, James Bladel, (unintelligible), Bob Mountain, Paul Diaz, Jill Titzer, and Kristine Dorrain.

We have an apology from Simonetta Batteiger.

From staff we have Lars Hoffman, Marika Konings, Barry Cobb, and myself Nathalie Peregrine.

I'd like to remind all participants to please state their names before speaking for transcription purposes.

Thank you very much, and over to you, James.

James Bladel: Thank you, Nathalie, and welcome everyone. Good morning, good morning to the IRTPD working group call for April 29th.

The agenda - our draft agenda is posted on the Adobe Connect screen in the right hand column, but first I would ask if anyone has any updates or changes to their SOI, please indicate so by raising your hand.

Okay. Seeing none, we'll consider that to be closed and we'll ask if anyone has any updates or edits to the draft agenda?

I think it's a good high level outline, but I'm sure we'll change things as we go along.

So first off, I'll start this week with a bit of a mea culpa. I had last week committed to sending out a summary of our conversations about TDRP, and I completely dropped the ball on that one. My to-do list one the day - as sometimes is the case, and I apologize for that.

I do think that it was a worthwhile discussion. I don't know that we necessarily had any - drew any conclusions or changed course or anything like that. I just thought it was a worthwhile topic to discuss.

But I do see that it prompted a number of exchanges on the mailing list, and so I wanted to say thank you to Lars, and Kristine, and Barbara for - and I believe there were a few questions in there as well from folks like Kevin and some other folks. But we have some statistics now on TDRP usage that were posted to the Web.

So I wonder if Lars, if you wouldn't mind maybe just giving us a summary of that exchange? And particularly, I think there was some confusion over whether the TDRP usage was being double-counted by both the claimant and respondent?

Lars, can you maybe give us a summary on what that was, including a breakdown by TLD?

Lars Hoffman: Yes. I there. This is Lars.

I just pulled it up on the Adobe Connect I believe, so this is what we received from the various records that were filed by the different registrars. There's a total of - if I counted correctly, 152 cases of which, as you can see, 76 - (unintelligible) won or lost, meaning that one party prevailed over the other. And in 76 cases, no decision was made, so it's - this (unintelligible) remain.

And then if you look at the actual domains it falls under, it's the (unintelligible) that falls under the VeriSign - two VeriSign domains, .com, .net. And then the (pros), the only other of gTLD's that had any TDRP's reported.

And then below, you see the (opposite) numbers. So 72 - 142 all together for .com, 9 for .net, and the two for (pro). So those are the numbers we received.

And then also earlier (unintelligible), that counts for (that other phrase), Kristine kindly sent around the numbers for the NAF, who I believe had six cases in total. And, I also just sent around the numbers a couple of minutes ago from the Asian provider, and they had four cases in total.

Kristine indicated however that they received a lot of complaints by registrants who tried to file (TRDP)'s, and obviously they cannot do that under the current policy though. They had to be declined.

We have not received any information from the Asian provider on that yet, but I've contacted them and I'm sure that (Dennis), who's their contact person there, will get back to us very quickly, and I will be happy to relay that to you.

And I think that's it. (Unintelligible).

James Bladel: Okay. Thank you, Lars.

I'll take a queue if anyone would like to discuss these particular statistics. But, I'm going to put myself in the queue as well.

So I see K. is that Kevin? Kristine? Who is K?

Your microphone may be muted.

Okay. Maybe they can connect here in just a moment. I wanted to ask a quick question here.

Kevin Erdman: (Unintelligible).

James Bladel: Oh, hello?

Kevin Erdman: Yes, this is Kevin.

James Bladel: Hi, Kevin. Are you the K?

Kevin Erdman: Yes, I guess so. I raised my hand, the K raised their hand, so - my basic question, which I think is the most pertinent, which is when a transfer dispute has occurred, how many of those has all been the reversal of the transfer? Because I - my guess is that we have - you know from our TDRP survey, 72 no decisions, where there may not have been a decision in that particular dispute. But if the domain was actually transferred back, that is a, you know, resolution that we care about, and it's interesting.

I think the other statistic which is where there is a dispute resolution provider, which probably - you know, my guess is that the registrar's agreement with the registrant says that if there's ever a dispute about something, then it goes to arbitration, and so they invoke that.

And you know, when there was a - you know, a continuing dispute between registrars and the dispute resolution procedures of their, you know, agreement kicks in, and so they go and they and they shove it over there. So, I'm trying to get a gauge of how many times did people - you know, someone - the registrar or the registrant complain about a transfer and get it reversed?

And it would seem to me that if, of those 72 that were no decisions, you know, most of them resulted in the transfer being reversed, then I think that the TDRP is being used a lot, and we may - you know, kind of the conclusion that it's you know working really well.

On the other hand, you know, we may find that if there's 72 files and only you know a handful ever get reversed, we may come to an opposite conclusion.

So that's why (unintelligible) to try to get more behind those numbers. And, that's my comment.

James Bladel: Okay, thank you Kevin. I think if I'm understanding these numbers correctly, you're asking if the transfers that were overturned are counted amongst the no-decision versus the transfers lost one?

My first reading of these summary numbers was that the - that any transfer that resulted in any decision, either to leave the transfer in place or to reverse the transfer, would be counted in the lost one column.

And that kind of segues into my question is why would more than half of the disputes result in no decision at all?

So I'm wondering if Lars or perhaps Barbara, who I see has her hand up, can shed light on those two questions.

Barbara, if you're available, please feel free to weigh in.

Barbara Knight: So in the case that there's no decision, then nothing will have happened to the domain (unintelligible).

James Bladel: I'm sorry to interrupt, Barbara, but you're very faint. Is there any way you can - I'm having - maybe it's just me.

Man: No. It's her.

Barbara Knight: Is this better?

Is it better now?

Man: Not hearing either.

James Bladel: If you can get closer to the phone or computer, I think that might help.

Hello?

Barbara Knight: Is it better now?

James Bladel: Marginally. I'm wondering if - well, go ahead and we'll...

Barbara Knight: Okay, is that better?

James Bladel: Yes, much. Much. Thank you.

Barbara Knight: Okay. Sorry about that.

The first time with the Adobe Connect (unintelligible) here.

So basically, if there is a no-decision, then at least at the registry level for the .com and the .net versions, then nothing would've happened to the domain name in those cases. So in essence, the domain name would not have you known been - any transfers associated with those domain names would not have been reversed.

In answer to your question, James, relative to why there would be no decision; in many cases, there may not be enough information on which to make a decision. You all obviously know that VeriSign is the (unintelligible) operator for .com and .net (unintelligible) though registry.

So without good information, and you know that history to be able to see who the registrant of record was, if it's not a domain name - they haven't transferred it. If that's not provided by the either filing registrar or the

respondent registrar, there's very - you know, there's very little way to be able to determine whether or not the transfer was legitimate.

So that's the reason why there are so many no-decisions.

James Bladel: Okay.

So don't interpret - I think this goes back to Kevin's question. Don't necessarily interpret no-decision as transfer upheld. Is that a correct statement?

Barbara Knight: That would be a correct statement.

I mean I think that Kevin was asking whether or not, you know, those would be, you know, reversals or transfers. And in that case, nothing would've happened to the domain. And so it's the case - and there are a couple of instances when a registrar obviously can file a case, you know if he felt that a transfer occurred in violation of the policy, or in the event that you know maybe a (unintelligible) registrar is inappropriately denying a transfer.

So I can't say that most of these cases that have been filed with VeriSign have been for the former, where you know a transfer has occurred in violation of the policy, (unintelligible) - you know, somebody not being able to transfer their domain out.

James Bladel: Okay, thank you.

I see Marika has her hand up, but I also see that Kristine is posting some I think relevant information into the chat box. So we'll go to Marika next, but Kristine, perhaps might call on you afterwards to address some of your comments.

Marika?

Markia Konings: Yes, this is Marika.

I just wanted to clarify that the only data that ICANN receives is basically from the monthly registry report. I'd just not whether, you know, how many cases there have been, whether they've lost one or where there was no decision, we don't receive any information on the nature of the case or reasons for filing.

And, I think that goes as well to Charter Question A, whether there should be reporting requirements and - in order to make precedent and (unintelligible) information available. So I think that probably links back to that. So I just wanted to make sure that it's clear that we don't receive any further information as to what is currently in the registry report, which is the (unintelligible) data that Lars has provided to you.

James Bladel: Okay, thank you Marika, and I think that circles all the way back to Kevin's question, which is we've got some summary data here, but what's the story? You know, we've got the difference between data and information. We've got some data here. We're trying to understand the information behind it.

And, I think that the response there is that it's difficult to draw any precise conclusions because of the lack of uniform reporting standards.

But I see that the queue is clear. I wonder if - Kristine, if you could elaborate on - there are two comments here. One was pointing out that a TDRP is not just necessarily in response to a transfer. It could be in response to a transfer that was requested but did not occur. And then it was another bit from the policy itself.

Would you mind expanding on that?

Kristine Dorrain: Yes, that's no problem. This is Kristine from The National Arbitration Forum. And my first comment was basically in response to Kevin's question about, "Well, how many of the transfers are - in how many cases was a transfer, you know, revoked or whatever?"

But one of the things - it's hard to come up with that information because each decision would have to be analyzed, at least from the provider standpoint. I'm not sure if the registries keep better data than we used to. But not every request that we - or every appeal that we've dealt with was because somebody fraudulently transferred the domain name.

At least one, maybe a couple of our requests have been because somebody tried to transfer the domain name and it was denied. And so it's a little bit misleading to only look for did a transfer occur or not? Because in some cases, a transfer needed to occur. In some cases, it was - it should not have been denied. It should've been allowed through.

So that was the only thing that I was commenting on in my first comment.

And my second comment is just I copied and pasted from the TDRP a section from - that basically explains a no-decision.

So if there's an inconclusive - if the data is inconclusive, then the registry issues a finding of no decision, and then the appeal can be made based on that. And I know at least one of our appeals was based on a finding of no-decision.

James Bladel: Okay, thank you Kristine.

So my understanding is that registries probably, very similar to registrars, are -- I'm going to speak a little bit on the - for them, but I'm looking for the registries on the call to weigh in on this -- are reluctant to make a - or

adjudicate a dispute if it seems like that both claims to a domain name, or in this case a transfer, are substantiated.

And so I - you know, in that case, it looks like they're open - leaving open the issuing a no-decision but leaving it open to second level provider.

Kristine Dorrain: Yes, that's correct as I understand it.

James Bladel: Okay.

And I see Paul Diaz for PIR is also giving us a green checkmark.

Okay, so let's see if we can bring this in for a landing and translate our conversation into some action items. I'm going to pick on Barbara a little bit here. Not surprisingly because it looks like all except for two of the TDRP cases that were able to identify were common (unintelligible).

So I'm wondering, Barbara, if we could - first off, I wonder if VeriSign has this data? So I think that's the first question.

And the second question would be - I'm sorry. I'm getting an echo. I'm not sure - okay.

And so the second question would be if just looking at the 150 cases in .com and .net, if we can understand one, whether they were the result of a transfer that occurred and was disputed? Or, a transfer that was requested and did not occur?

Two, whether they resulted in upholding of the transfer or a reversal of the transfer, or - and I believe is for one of the breakdowns we already have, no decision.

And three, whether or not the - I guess in all three of those cases, we're referred to the second level dispute provider?

I guess my first question is, is that even possible to get that breakdown, Barbara, from the common (unintelligible) that we have?

Barbara Knight: So James, this is Barbara.

We do not currently track which - you know, which type of request for enforcement they are, whether it be you know a request because a domain name was fraudulently transferred and the (unintelligible) is to be transferred back. Or, whether or not it was because a transfer was inappropriately denied under the policy. Because we aren't currently tracking and reporting on that information. We would have to go back into the (unintelligible) in some cases and determine that.

Other questions - I'm sorry. What were the other questions?

James Bladel: The other question would be if we could break down - I guess if we look at the 150 cases for .com and .net combined, it looks like we're saying 75 or half of those cases resulted in no decision, and that the other 75 resulted either in the transfer was upheld, or the transfer was reversed.

I'm wondering if we have any kind of a breakdown on what that latter category would be?

And then the final question would be if VeriSign is aware of how many of those cases then proceeded to second level - the second level dispute?

Barbara Knight: Very few of the ones that we have done have gone to the second level. It's up to the I guess registrar to subsequently submit it to the second level. Obviously after we render our decision, if they don't agree with it, then they

can go to the second level. And, they are required us of notice of that and then we wait for whatever the decision was.

(Unintelligible) - I would say probably of the number that we have had since the inception of the policy in 2004, probably I'm going to guess maybe five or six have gone. Probably five have gone to the second level dispute resolution provider.

That's not to say that, you know, registrars can't actually go to the second level and bypass the registry at the first level all together if they choose to do that. But if they do that and they're - if they're not happy with what the second level does, then they can't you know come back and appeal it too through the registry operators.

James Bladel: Right.

Barbara Knight: Relative to the breakout of the number of cases that are - resulted in the domain going back? Is that what you're asking? The other one?

James Bladel: Yes. I think so. I think this is kind of getting to Kevin's original question, which is that a breakdown between the transfers being reversed versus the transfers being upheld.

Barbara Knight: I don't have the specific breakout. I can say that of the cases that we receive, most of them are for inappropriate transfer of the domain name. I mean without actually going in and looking to see how many transfers really have to go in and pull the cases, and then determine whether or not a - I'll call it a transfer (unintelligible) as a result to determine how many of the cases the transfers were actually upheld versus - you know, versus reversed.

So, I don't have that information handy, and I don't know of a way out of our system to be able to get it to determine whether or not, you know, what the disposition was I guess.

James Bladel: Okay, thank you.

So any other thoughts or anyone else have any questions? We want to maybe wrap up the discussion of the TDRP statistics and - Mikey, go ahead.

Mikey O'Connor: I think the only - now that I realize that this registry data, I'm just curious if we could get similar data from the dispute resolution providers? I think that's what was confusing me is that some of that came across the list and we should probably consolidate these so that we've got them all in one place.

Am I confused about that? Because I think it would be useful to know the difference between how many cases the registry thinks went to a second level provider and how many the second level providers think they got.

That's all.

James Bladel: Thanks, Mikey, and I'm just looking back at the list. It looks like Kristine noted that there were six TDRP cases and that the other dispute provider - let's see. Lars, this is coming from you, right? Is it saying that there were four? Lars, you have your hand up. Go ahead.

Lars Hoffman: Yes. It's four in Asia and there's six with the NAF. So that's ten all together ever. That's the data we have.

James Bladel: Okay.

But (unintelligible)...

((Crosstalk))

Lars Hoffman: And we don't know - sorry. Yes, we don't know whether any of these are referrals or initial filings. So whether they are appealing one of their initial filings, we don't know yet. But, we're trying to find out.

James Bladel: Okay, thank you Lars, and I think that's - to Mikey's question is did they start with that second level? What was that? Was that an appeal of the registry decision or no decision?

I think we've - you know for whatever conclusions we can draw from this, I think that we can definitively say that we've answered Charter Question A. It's just we need some consistent and uniform reporting requirements for registries and dispute providers. I mean, I don't know if - is it easy enough to say that yes; this is the struggle to get these statistics in so you understand the meaning of what they're telling us?

I think this is a compelling case for why we would need some uniform reporting requirements.

I don't know if there's any - anyone wants to dive into Charter Question A in more detail? Certainly, there would be more work involved in defining what those requirements would be and what the standards and the format of those requirements would look like.

But I think that as far as the binary question of whether or not such formats should exist, I think we're making a pretty strong case that that needs to be developed.

I wonder if by base of comparison, and I'm picking on a day when there's very few registrars on the call, if it would be helpful for registrars to at least give us a ballpark of how many transfer disputes - let's call them - we need a name, Mikey, or an acronym. I'm thinking something along the line of informal transfer dispute or ad-hoc transfer dispute. Something that lives entirely

within the registrars and doesn't - isn't escalated to the formal policy with the registry.

I wonder if it would be a worthwhile comparison to see if, you know, we could compile some basic statistics on how often that is occurring - registrar mediated. Oh, that's a good term.

And I have Graeme volunteering to see what he can get.

I'll see if I can get some as well. And I don't know that I can get specific statistics here. I may just be able to get some ballpark aggregate numbers. Let's say you know in Q4 of 2012, we received X number of complaints and we took action in Y you know number of them, and then the remainder was referred to another thing. But if we can put those together, I think it would be - at a minimum, it would show the difference between these two.

The other thing that pops out here is you know, we have a process that is, I think as we've determined, fairly rarely used. But not only that, even when it is invoked, it looks like it's only resulting in a decision about half the time. I don't know if that's - you know, and perhaps I'm misreading the statistic here, but I think that jumps out at me as something interesting because you know you have something that's so little used. And even when it is used, it's so rarely effective.

Kevin, did you want to weigh in on that or something else?

Kevin Erdman: Yes. This is Kevin Erdman. I just wanted to add the perspective that I'm not sure that no decision means no decision was taken on the domain transfer. You know, that - one of my underlying questions, given the resulting discussion still doesn't appear to have been answered is when a domain is subject to a TDRP and the registry you know, does something about the transfer, and then the parties are satisfied with that and it all goes away, you

know no explicit decision is made but you know something happened as a result of the TDRP that satisfied the parties.

And so that - to me, that's just as - you know, I'm not confident that no decision means they didn't have enough you know to make a decision because this is such an informal process and the statistics that we have are so ununiform. So, that's my two cents on that.

James Bladel: Okay, thanks Kevin. And I guess I'd put that question back to Barbara and Kristine. I was going by Kristine's comment here that if the data provided from both registrars or from either registrar appears conclusive, then the registry will issue a finding of no decision.

So my question for Barbara is does no decision mean the transfer was upheld? Does no decision mean - what does no decision mean Barbara?

Barbara Knight: Thank you, James. This is Barbara.

So in the case that a decision is verified, it means specifically that we did not have enough information to really be able to tell whether or not you know the IRTP was violated if you will. So - I mean literally, we just did not have enough to go on.

What we have found is that you know in a lot of cases, you know, a registrar will file a dispute and the non-filing registrar you know basically - to kind of walk you through the process, you know, the registry operator, VeriSign or we receive a dispute, we will send a notification out to both parties saying that we received the dispute and advising the respondent that they have seven days to provide their side of the story (unintelligible).

What we find is that in many, many cases that the respondent fails to respond to the dispute. So they don't provide their response. They don't provide any information on which for us to really be able to make a decision.

So in that case, we have to just look at the information that we do have from the registrar who has filed the dispute.

So in many cases, there just is not enough information to really go on. So that's the instance in which we would render a decision of no decision. Does that help at all?

James Bladel: I think so. I think it's getting closer to what Kevin is asking for. And one of my questions would be - and this is maybe towards policy staff or to you, Barbara, or to any of the other registries or dispute providers is if a respondent fails to respond, are we saying essentially that that typically results in a no decision? Or would that typical result in a lost dispute claim?

Barbara Knight: This is Barbara, if I can jump in there?

It really depends. In some cases, we are able to render a decision because the information is provided by the party filing the dispute, the registrar filing the dispute did have enough to go on. But you know, it really just depends on what the (unintelligible) are and the grounds on which they're filing the dispute.

So without going into you know each of the individual cases to look at the specific detail, it's very difficult to speak to that. But I can say that you know if there is a way for us to be able to render a decision based on the information that we have, even in those cases where the respondent may not actually submit their response, then we will render a decision.

But in some cases, you just don't have really anything at all to go on.

James Bladel: Seems like in most cases.

Barbara Knight: It's difficult. I mean, there's no doubt about it. If you only have one side of the story, it is very difficult to determine whether or not the IRTP was actually violated.

James Bladel: Okay, thank you Barbara.

Mikey is in the queue and then we'll probably pick on Kevin just one more time to see if we're getting closer to addressing his question. But Mikey, you're up.

Mikey O'Connor: This is Mikey. I'm going to pick on Barbara too. Sorry, Barbara. This is just not your day.

But is there any way that we as the working group can get some insight into what actually happened in these 150 cases? Because it's striking me that it would be really helpful to get a sense as to the texture of you know, the actual cases. Are they secret stuff that you can't reveal? Is there some way to anonymize them? Could you take donations from us to hire a paralegal to summarize them?

You know, it would be really helpful to get back into those cases and get some texture there.

James Bladel: Barbara, go ahead.

Barbara Knight: Thank you, James, and thank you Mikey. This is Barbara.

I can have one of my folks that handles most of the dispute resolutions on our side, you know, go back through and see if she can summarize one. And I guess, you know from you all, that the (unintelligible). I'm assuming you're going to want to know which ones were asking for an undo of a transfer versus an approval of a transfer, if you will.

And then you know, just to give me more information about specifically what you want us to look for and pull, and we can see if we can pull that information out and summarize it. Obviously, you know, I am not comfortable and would not recommend that we provide any you know specific details relative to you know what you know registrars were party to the dispute and what the domain names were.

But you know to the extent that we can provide you know, an aggregate of information based on different categories that you're looking to obtain, then you know we can look to do that.

Mikey O'Connor: This is Mikey. Let me just wrap this up and then we can get on to Kevin.

Barbara, I think that would be fantastic, and I clicked my little agree box. I don't really want to see any identifier information, but I think if maybe we could bounce a few ideas around on the list to get a list of maybe three or four questions that we could get to you soon, like today or tomorrow, so that the staff person could go just to quickly tally those, it would be really, really helpful. Thanks.

James Bladel: Okay, thanks Mikey and Barbara. And Mikey, are you volunteering to lead the charge on getting those questions to VeriSign? And then, I'll corral the registrars into getting those registrar-mediated transfers?

Mikey O'Connor: Yes. This is Mikey.

Just to make my life easier and to make sure that we just tie this right off, why don't people just type your questions into the chat and I'll watch the chat, yank them out and consolidate them. If I have questions for you, I'll get you by email and we'll get all this out today.

Awesome. Thank you Mikey, and thanks Barbara for offering, and thanks everyone for contributing on that. I think the - you know, the best statistics in

the world are going to provoke a conversation, and I think that these are definitely doing that.

So the queue is clear. Any other comments or thoughts on the TDRP usage and outcome statistics that we have before we move on?

Barbara?

Barbara Knight: So I think it would probably be helpful - this is Barbara. I think it probably would be helpful, because we may want to know different things depending on whether or not it was a - you know, one in which a decision was made versus one which there was no decision made.

So I think that you know when you're thinking of questions that you may want to have information on, you may want to think in terms of the - there will be you know one - which one - you know, was there decision made and these are the pieces of information you want to know about (unintelligible). Like you know, what it was going to do versus a transfer.

And then on the ones that there was no decision made, maybe you want to know things like you know, was there a response from the registrar that was in fact filing the dispute and things like that. And then, you may also want to know in both cases whether or not the decision that was made at the first level registry operator was actually appealed to the second.

So I think that there may very well be two different types of questions depending on whether or not there was a decision made on the case. So (unintelligible) on that.

James Bladel: Right. Thank you Barbara. Yes, I think it starts to look like a tree or a flow chart, or where a certain amount are you know input to the process and then they have a variety of outcomes, including escalation to second level.

Kevin, you're up next.

Kevin Erdman: Yes. My last question - you know, I think with what Barbara's proposing to do would be a great way to get you know more information out of what the statistics mean. My last you know sort of follow on question is are all registries dealing with the dispute resolution process in a similar manner?

Because as I read it, you know, the registries have a lot of discretion as to how they resolve their TDRP? And in fact, you know what Barbara is suggesting is, well, the complaining registrar has to make - has to have a sufficient burden of production to reverse a transfer. And if they don't do that, and the other registrar doesn't respond, then nothing happens and it goes away.

You know, so I - you know, that would be sort of a - you know, part of the threshold - the question may be, you know, how much do you need to put in to actually get the case going? Because it seems like there's some standard out there. I don't know if it - you know, exactly how a registry deals with it internally.

But if you don't put enough into your complaint about why the policy was violated and what sort of proofs are necessary, you know the other registrar doesn't even have to do anything.

So that's my thoughts on this going forward. Whether we have other registries that might also be able to either validate that they go through a similar procedure or tell us that you know they're evaluation - their responsibilities under the TDRP are somewhat different.

James Bladel: Thanks, Kevin.

Well just to take an initial swing, I think that what we were hearing from the other registries was not that they do something dissimilar; it's just that they

really haven't even encountered the TDRP on the scale that we're seeing in .com and .net.

So while it feels like we're picking on Barbara, it's primarily because her team has real world experience with the policy that we're looking for.

But I could encourage you to take Mikey up on his offer to articulate that question into the chat box so that we - he can kind of collect those and put them together in his fact finding, I think that would be something that we should include in there as well, especially the latter bit about the threshold that needs to be achieved.

Okay. Looks like we have 16 minutes remaining for today's call, and I wanted to see if we could pivot to Item Number 3 on our agenda. The request for community input has recently closed. If you recall, we tried to get this going so that we closed right around the time of Beijing, and clearly we're about a - you know, plus or minus a week to ten days out of that. And we do now have from staff a synopsis of the feedback that was received on our charter questions on our constituency input document.

So with that, I'm wondering if Lars can put the summary document, which I have as a Word document, the Input Review Tool I think is what it's formally called - if that's possible to load into the chat room and we can take a look at that as a group and walk through that.

Is that possible, Lars, or...

Lars Hoffman: James, this is Lars. Yes. Hi James. This is Lars.

I thought I'd uploaded and I apparently have not, so I'm doing it right now.

James Bladel: Okay. I see...

Lars Hoffman: (Unintelligible) - oh, there's obviously an error. Give me one second.

James Bladel: No problem. No problem.

I should say that we received - looks like from the business constituency and from the registries - I don't know if any other constituencies or stakeholder groups responded, and I don't know if we've received any individual responses. I think that - you know, I made a request from registrars, but I think that those who feel very passionately are participating in a working group, and those who don't aren't.

So we'll just wait a little bit here to see if we can get this up. I think this was also circulated to the list perhaps, but it might be better if we could get it into the window.

So while we're doing that, just wanted to point out that the feedback is broken down by charter questions, so we can take a quick look. And today, I think we should be able to get through the feedback received for Charter Question A, but we'll probably have to spend a little bit more time on our next call going through the Charter Questions B through F and the feedback that was received on those.

So let's see - we see that the screen is changing. It looks like...

Lars Hoffman: Yes, this is Lars again. We had this before. I'm having trouble with Adobe Connect to actually upload the file. I've got the file and I'm trying to put it up there, but the - I tried a PDF now and the Word document; neither of which is working.

Let me give it one more shot.

James Bladel: Okay.

While you're doing that, why don't I just tee it up by reading the business constituency response to Charter Question A.

And again, the Charter Questions are over on the right hand side of the Adobe Connect. So if you look at Charter Question A, it's asking about reporting requirements.

The business constituency considers that reporting requirements for registries and dispute providers should, and that's in bold, be developed in order to make precedent and trend information available to community and allow reference to past cases, disputes, missions.

So they're just essentially restating the charter question in the affirmative as a recommendation. I don't think there's really anything else to glean from that. The business constituency believes that there should be these reporting requirements.

Then moving to the registry's response, which is a little more I believe lengthy and nuanced, so I may see if we can get the document. But of course, the burden of this reporting requirements would fall on the registries, so I think that their perspective is valuable. It carries a lot of weight in this regard.

But it says essentially the registry stakeholder group is supportive of standardized reporting requirements for completed TDRP cases and allowing reference to past cases and dispute submissions, as this would be consistent with the UDRP panel decision.

So in general, an affirmative statement.

Any disclosure of non-public information regarding transfers between registrars should be approved in writing by all registrars involved in the transfer dispute case prior to disclosure.

It's going back to what Barbara was saying about sanitizing the case data so that not to provide any personally identifiable or registrar identifiable information.

The registry statement continues. Further, all dispute resolution providers should have input into and approval of the reporting requirements prior to implementation. So I think that's a good point to consider as well.

The next line is that the TDRP - oh, okay. Thank you Lars.

And for those playing the home version, we are on Line Number 2, second paragraph.

The TDRP encourages registrars to resolve disputes amongst themselves prior to initiating a dispute case at either the first or second level.

I think the data that we'll gather from registrars next week will demonstrate that that is indeed happening.

Lars, you have your hand up. Go ahead.

Lars Hoffman: Yes, this is Lars.

Just very quickly to let you know that the BC explicitly replied to the (unintelligible) and then the registry stakeholder group supplied responses to the (unintelligible) question actually during the (preliminary released) report. It's noted in this - in the document too. And so - and they allowed us to use it for this purpose as well.

James Bladel: Okay, thank you Lars for that clarification. I appreciate that distinction.

So going on to the next page, and continuing with the registry requirement, which was actually a comment - a recycled comment for the initial report, is

that given the low number of transfer dispute cases filed at the registry level -- there's our statistics -- it seems that the majority of disputes are being resolved prior to going to the first or second level dispute resolution providers.

And, I think that this is something that we're seeing as well.

Even with the very small number of disputes as compared with the number of transfers that are processed each day, all registry operators must maintain a process and experienced personnel to handle transfer dispute cases should any be received.

With the introduction of new gTLD's, the number of registry operators will increase dramatically. Each of the registry operators may interpret and apply the TDRP's differently. It may be time to eliminate the first level dispute resolution options managed at the registry level and have all disputes that are unable to be resolved at the registrar level be submitted to a second level dispute resolution provider.

Currently, there are two approved TDRP second level dispute resolution providers. The Asian Domain Name Dispute Resolution Center, and The National Arbitration Forum, both of which are also approved dispute resolution providers for the UDRP.

Consistent handling of cases by subject matter experts has the potential to improve the overall dispute resolution process.

So I think if we can begin to unpack some of the comments here in the registry statement, that this is the TDRP, and the fact that it is little used is not just words on paper. It is driving operational training and support for teams and you know, individuals with all the registries which will proliferate as the number of registries proliferates.

And I think that we're fortunate to have some of that expertise on this working group, and Barbara.

That's - you know, the registry position is that considering how infrequently the process is used and I might add how frequently those uses result in a no decision at the first level, the registry thought is to eliminate the first level dispute and have two processes.

One will be the registrar-mediated dispute and then the second being the immediate escalation to the second level provider, which I guess would be - just be dispute provider at that point, or the neutral provider.

So that's an interesting idea, and something that perhaps we can include in our deliberations, particularly if we feel like the TDRP registry level has become a - sort of an unnecessary or an obsolete step. I'm not saying that is indeed the case. I'm saying that's consistent with what we're seeing from this registry position.

Okay, so let's stop there. That's Charter Question A, and let's take a queue on these two statements. I don't think there's a whole lot to say about the BC statement. It seems like it's just fairly (unintelligible) comment, but there's a lot going on in the registry comment. So any thoughts on that from our friends from the registries or anyone else?

Anyone think that this is a terrible idea and we should reject it out of hand immediately, or - I assume that an empty queue means it's at least worth discussing.

Mikey?

Mikey O'Connor: I can't - this is Mikey. I can't resist an empty queue.

I think the note I make here is that this comment probably is a little bit misplaced in terms of the charter question. You know, the charter question is really all about reporting requirements, and this comment is bringing up I think a really important idea, which when I was writing my notes just now, the way I wrote the note was this is a really important idea that we need to capture and address perhaps in one of the other charter questions. Maybe C? Maybe somewhere else.

I think the problem that the registries may have run into is that they wanted to bring this topic forward, but they couldn't find an appropriate charter question to do it. And I just wanted to see if my interpretation was right on that.

James Bladel: I see a green checkmark from Barbara agreeing with you, Mikey, and I tend to agree with you as well.

In fact, I'll put my neck out again and say that this is kind of along the lines of just an overarching, existential question that I was trying to get at a little bit last week and fumbling about, which was that before we discuss all of the things that you know need to be fixed about TDRP, we need to understand better if we want to continue it in its current shape.

But I think what the registries are saying is here's something that - you know, it's difficult to tack it onto Charter Question A. Probably fits better a little bit in E or it's more of an overarching assessment of the effectiveness of TDRP that is under - than under current for all of these charter questions. And I think that's kind of where I took this to be going is, you know, it's looking to how effective this is.

But Mikey, go ahead.

Mikey O'Connor: Well you know what? What this starts to say to me is maybe what we do is we do an analysis before we tackle the specific charter questions. That it's an analysis that's - that overarching one where we say - we kind of go back and

say, "Okay. What was this designed to do? Who's it for? What's the problem that TDRP was trying to solve? What's the current process look like?" Maybe we could dive into more of Barbara's good will to help us sort of diagram the thing.

And then, what's a series of changes to that that would make the process better for everybody? I would hate to miss an opportunity to make it better for everybody just because our charter questions aren't framed very well. And, these charter questions are so old that some of us probably had grandchildren since those were framed.

So you know to sort of restate, I think what you were trying to say last time, James, you know let's not get lost in the trees on this. Let's frame an analysis that describes - the whole thing describes why it was there, what the idea would be looking like, and then retrofit that to the charter questions after its done.

James Bladel: Well, thanks Mikey. And, I especially thank you for in, you know, 20 seconds sum up what I was fumbling around with for an hour last week and just not able to articulate, which is that - yes, exactly right. You know, clearly there is a need for this mechanism, for a mechanism for something. You know, registrants I think by the numbers are, and their contacts to ICANN and their contacts to registrars are saying help us. Help - you know, help us resolves disputes in a predictable and effective way.

And then you know, we've got this other set of data which is saying, "So by the way, a TDRP ain't looking like it's getting the job done."

So what - you know, so how do - you know before we dive into - I think you're right. I think that the charter questions are at this point going on five years old. They're ready to start kindergarten here. Do we want to limit ourselves to what the - you know the text is, or do we want to maybe think outside of the -

read between the lines a little bit of our charter questions and say, "What can we do to improve the process to make things more effective?"

And then going back to the charter questions about you know who has access and what happens, and how it works, and what the reporting standards are and what the penalties for violations are, and et cetera. So I think that's kind of where - I think that's where we're going, Mikey.

And I see you got your hand back up. We have hit our time, so why I don't just let you close us out here, sir.

Mikey O'Connor: Thanks, James.

And I think - you know, the one thing we'll probably want to do is check with the powers that be and make sure that if we were to take that approach, that we're not violating the spirit of our charter. You know, this is - this could be viewed as a charter change or we could just call it an analysis that precedes answers to the charter questions.

But the trick there is that if we came up with something that eliminated a whole layer, sort of the way the registries are proposing, which is something I don't disagree with, it would be a shame to find out at the end of that road that you know we get caught on the technicality of, "Oh, by the way, you've stepped outside your charter. Buzzer. You can't do that."

So...

James Bladel: Yes.

Mikey O'Connor: ...Marika and Lars, if - well, I guess Marika's dropped off, but Lars could you take an action for Marika to just check the charter implications of such an approach and you know maybe we do a little - list stuff between the two co-Chairs and Lars and Marika and make sure that we've got that covered.

Markia Konings: This is Marika. I'm actually still on the call, just not in the Adobe Connect.

Mikey O'Connor: Oh.

Marika Konings: But yes, I agree. I think it's a good suggestion to actually try to reframe what is specifically that you would want to ask then work through the - probably the Council Liaison to (unintelligible) that with the GNSO Council if it's really outside of the current scope of the question.

But again, I think the way we're looking at it, or it leads (unintelligible) the discussion going, it's more a kind of regrouping of some of the questions that are there and saying let's have a holistic look at the TDRP.

But at the same time, we'll probably touch on all these elements and maybe a little bit more, but I guess that will only become clear possibly as well through the conversation.

So maybe it's just something to flag with the GNSO Council to at least give them up front the opportunity to say, "Wow. This is really going beyond what you have been assigned to," or whether they're saying, "Well, you know, we'll give you some leeway as long as also, you know, you take into account what your actual Charter questions are. And if you just keep us up-to-date through the process maybe that may be an acceptable approach."

But we could definitely discuss that further if you like.

Mikey O'Connor: This is Mikey. I'm going to retain control here and note that Avri's got a good point in the chat, which is that we should have the liaison included in that conversation. And I think that's Volker. I think we've drafted him for that.

The last thought that I have is maybe before we get all legalistic - I'm the one that started this, so I'm going to maybe draw it to a close as well. Why don't

we do that analysis first? Maybe spend a call or two to sort of paint the picture of what's this thing for? Who are its customers? What's the current process? What's an ideal look like? And then see what changes to the scope, if any, fall out of that before we get everybody all wrapped around the axle?

Avri was in the queue, or somebody was, and then dropped off.

So I think - yes. And Lars is saying its Volker.

So I'm going to take James at his word and unless there's anybody else in the queue, we'll go ahead and wrap the call up for today. And thanks all, and off we go.

And don't shut this room down real fast you folks who can do that, because I want to copy of the chat before we end it. So that's it for me and James, and we'll see you in a week.

Man: Thanks, Mikey.

Man: Thanks, Mikey.

James Bladel: Thanks, Mikey.

Man: Thank you.

Mikey O'Connor: This good. I get the - I get all the thank yous at the end, even though James did all the work.

Man: All right, thanks. Take care.

Coordinator: Thank you very much (unintelligible), and also the recordings.

END