

**Locking of the Domain Name Subject to UDRP Proceedings Drafting Team
Meeting
TRANSCRIPTION
Tuesday 24 January 2012 at 1930 UTC**

Note: The following is the output of transcribing from an audio recording of Locking of the Domain Name Subject to UDRP Proceedings Drafting Team Meeting on Tuesday 24 January 2012 at 1930 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-locking-domain-name-20120124-en.mp3>
On page: <http://gnso.icann.org/calendar/#jan>

Attendees on the call:

Wilson Abigaba NCSG
Laurie Anderson, RrSG
Jessica Hanyen, RrSG
Elisa Cooper, IPC
Randy Ferguson, IPC
Lisa Garono, IPC
Konstantinos Komaitis, NCUC
Michele Neylon, RrSG
Matt Schneller, IPC
Ken Stubbs, RySG
Jonathan D. Tenenbaum, RrSG

Apologies:

Victoria McEvedy, NCSG
Barbara Knight, RySG
Fred Felman, IPC
Joy Liddicoat, NCSG
Paul Diaz, RySG

Staff:

Marika Konings
Gisella Gruber
Glen de Saint Gery

Gisella Gruber-White: Thank you very much. Good morning, good afternoon, good evening to everyone. On today's Locking of the Domain Name Subject to UDRP Proceedings Drafting Team meeting on Tuesday the 24th of January we have Matt Schneller, Michele Neylon, Randy Ferguson, Konstantinos Komaitis, Laurie Anderson, Elisa Cooper, Lisa Garono, Jessica Hanyen. From staff we have Marika Konings, Glen de Saint Géry and myself, Gisella Gruber.

Apologies noted this evening from Victoria McEvedy and Barbara Knight. If I could also please remind everyone to state their names when speaking for transcript purposes. I hope I haven't left anyone off the roll call. Over to you, Marika, thank you.

Marika Konings: Thank you very much, Gisella. Just to note that on Adobe Connect we also have Wilson Abigaba and Jonathan Tennenbaum so hopefully they'll be joining the call shortly. Actually Jonathan has joined in the meantime.

So thank you very much for joining this drafting team. And I actually forgot to put on the agenda maybe one item that we need to look at is finding an appropriate acronym for this group because if we have say every time the locking of a domain name subject to UDRP proceedings drafting team that already takes up half of the call. But that's something maybe people can ponder about in the chat or on the email list.

So first off we just did the roll call, the first item on the agenda. And on the statement of interest I just want to note that I'm quite pleased to see that everyone actually has already completed their statement of interest and it is available online. I think it's the first at least as far as I remember where at the first meeting we had all the statements of interest ready. So I want to thank everyone for making the effort and completing that form.

So then the second item of the agenda is introductions. The idea is that just everyone maybe says a couple of words about themselves and then maybe why they are interested in working on this drafting team so we have a chance

to get to know each other before we actually dive into the substance of the work.

So maybe I can just propose that we - I'm just going through the meeting view list that's probably the easiest so to make sure that we call on people that are actually on the call. So the first one I have on the list is Matt - Matt Schneller.

Matt Schneller: Okay. So I am an attorney with Bracewell and Giuliani, a law firm in Seattle - or I'm in the Seattle office. Done trademark and domain name related work for about eight years. And have ended up running into the domain name locking question a few times so I thought this was an interesting group to join up with.

The situation that I've sort of run into is because the UDRP rules require simultaneous service so certainly have instances where the domain name owner and/or registry - sorry, registrar - sorry, trying to take of the baby at the same time.

The registrar had been changed multiple times before the UDRP service provider has actually even gotten a chance to take a look at the compliant for verification and basic details. So it seemed like an interesting task and it's very concrete compared to some of the projects that ICANN takes on so looking forward to it.

Marika Konings: Thank you very much. Michele, you're next.

Michele Neylon: You great big bully, Marika, making me go next. What can I say? Oh dear. Michele from Blacknights. We're the only ICANN-accredited registrar in Ireland. We don't have a staff of millions so any and all legal issues and policy issues tend to land on my desk.

My interest in this is as far as I'm concerned there's far too much ambiguity surrounding the exact moment when certain things should happen. It's not at all clear and I have no interest in opening either myself or my company open to - opening it to liability or anything else simply because we're misunderstanding. Thanks.

Marika Konings: Thanks, Michele. I'll try to be less of a bully. Randy, you're next.

Randy Ferguson: Hello. I'm a paralegal at Time Warner, Inc. in New York. And I support our legal team in the domain name enforcement areas and trademark portfolios areas. And my interest in the group is to help support you guys and any background research you need.

We file UDRPs on occasion. And there - like has been formerly said there's still some ambiguities and problems with the system and I think the domain locking system is one area. But we're definitely involved in the UDRP especially with the upcoming new release of the gTLDs. So any way I can help you guys out and just let me know.

Marika Konings: Thanks, Randy. Next I have Konstantinos.

Konstantinos Komaitis: Thanks, Marika. Hello all. I am Konstantinos Komaitis. I am currently the Chair of the Non Commercial Users Constituency but my main job and my paying job is being an academic professor of law in Scotland.

The interest in this group is because I think that everywhere I hear or see UDRP automatically some things makes me want to join simply because my doctoral thesis and my research is focusing a lot on domain names and my PhD thesis was based on the UDRP.

And as the previous people said I think that there is a lot of ambiguity concerning the locking of domain names. And we need to get this right so I'm here to help in any way I can. Thanks.

Marika Konings: Thank you, Konstantinos. Next I have Laurie. I don't know if she's really on the call or Jessica?

Jessica Hanyen: Laurie is not on the call yet so my name is Jessica and I am working at the Dispute Department within godaddy.com. As such we have daily interaction, we have arbitrations in UDRP proceedings so we definitely have a lot of interest as far as the locking issue goes.

Marika Konings: Thanks, Jessica. Elisa.

Elisa Cooper: Hi this is...

((Crosstalk))

Elisa Cooper: ...I'm with Mark Monitor. And many of our clients file UDRPs and as a result we also want to help them get more clarity and get a better understanding of exactly, you know, when things are supposed to be happening. So we just want to kind of understand what - or how things should work.

Marika Konings: Thanks. If I can remind everyone maybe when you're not speaking if you can mute your lines because we have some background noises going on; it would be much appreciated. Lisa.

Lisa Garono: This is Lisa Garono. I'm a Counsel at Haynes and Boone. And I've been practicing IP law since the Internet was just an idea in Al Gore's brain. And I think like everybody else, you know, I've had clients on both sides of the issue. And, you know, it is very frustrating when you sort of have to guess how things are going to work or how things are going to come out. You know, and if - hey, if you're not part of the solution you're part of the problem.

Marika Konings: Thanks Lisa. Next up I have Jonathan.

Jonathan Tennenbaum: Yeah, hi, this is Jonathan Tennenbaum. I'm a Corporate Counsel with web.com and we own Network Solutions and register.com. So as a registrar we're very, very much involved. We have a lot of UDRP action and there are plenty of instances where there are questions and concerns and we have issues with the current process or rules related to how domain - how and when domain names need to be locked.

So having an interest in all this I thought this would be a good group to jump on. Plus once I heard Michele was on board I was in so - but, yeah, no it's, you know, it's an opportunity to dig into something that we definitely see on a pretty regular basis so that what why I joined.

Marika Konings: Thanks Jonathan. Next up is Ken.

Ken Stubbs: Hi. My name is Ken Stubbs. I'm one of the founders of Afiliis and a Director. I was also involved in the original committee that developed the UDRP. I'm still trying to remember whether Al Gore was at the table or not; I can't honestly remember.

I'm basically a part of a group of the registry constituency that's taking a close look at this process to make sure that we can get things done more efficiently and effectively in the future. Thank you.

Marika Konings: Thanks, Ken. And last but not least on this call we have Wilson.

Wilson Abigaba: Yeah, this is Wilson. (Unintelligible) the registers of (unintelligible). I am (unintelligible) about seven years and also do register - domain name, ccTLDs and (unintelligible) so I'm part of the Whois survey working group.

Marika Konings: Thank you very much, Wilson. And as you can actually see on Adobe Connect screen there are a number of members that actually couldn't make this call but I'll definitely send out an invite following this call on the mailing list

that those that want to can also introduce themselves on the mailing list and share some information about themselves.

Moving on then in the agenda Item 3, principles of transparency and openness, this is basically just a reminder that as per the GNSO working group guidelines all working groups - working group meetings are recorded and transcribed. The mailing lists are publicly archived. So just making sure that people are aware of that and also that, you know, people are required to provide their statements of interest when they participate in working groups.

So if there are no questions at this stage. I hope everyone is aware how Adobe Connect works. I think many of you have already worked with it in the past but there's an option at the top to raise your hand so if you want to speak up feel free to use Adobe Connect or speak up if you want to intervene.

And if I can remind people again to mute their lines please when not speaking. We have some background noise going on.

So the next item on the agenda is the election of drafting team leaders. I've, you know, taken the opportunity at this moment to, you know, take the drafting team until here but it's the normal practice that a volunteer from the drafting team or working group steps up and chairs the meeting, you know, with the support of ICANN policy staff of course to help in organizing the meetings and providing support as needed.

The drafting team can decide itself how it would like to organize itself whether it would like to have one chair, co chairs, vice chairs. In practice we've seen that it's often quite helpful to have co chairs or a chair and a vice chair in cases where, you know, one person is not available the other one can step in. And it also helps in planning activities.

So I don't now if people already had a chance to think about this and, you know, are willing to step forward and put themselves forward as a candidate for this role. So I'd like to invite anyone interested to speak up or to share their ideas or how they think we should - could manage this process.

Konstantinos, go ahead.

Konstantinos Komaitis: Thanks, Marika. I was wondering can we recommend people or do you want only (unintelligible)?

Marika Konings: That's up to the drafting team. I think the GNSO working group guidelines don't prescribe how that process is done. It's basically up to the drafting team or the working group to decide how to elect or select their chair.

((Crosstalk))

Konstantinos Komaitis: Well if accept nominations I would like to put forward for chair Michele. So I don't know what the rest of the group thinks but I would like to just put that forward. Thanks.

Marika Konings: Thanks. I'll admit that's very convenient because indeed Michele is next in line so, Michele.

Michele Neylon: Thank you, Konstantinos. And, I mean, I was going to say if nobody is going to throw their hat into the ring that I'd be happy to do so. But also as well as Marika said having a co chair or co chairs is always a good idea because by its very nature most of us tend to have other pressures on ourselves and can't always make meetings.

So if somebody would care to volunteer to be a co chair with me that would be fantastic. Or of course if everybody thinks that having me as chair or co chair or whatever is a terribly bad idea please do say so.

Marika Konings: Anyone else that would like to speak up or volunteer?

Ken Stubbs: I'll - oh wait a minute. I'll put my hand up.

Marika Konings: Okay so have again Michele, Konstantinos and then Ken. Michele.

Michele Neylon: I was going to suggest to reciprocate Konstantinos I was going to suggest Konstantinos as co chair.

Marika Konings: So, Konstantinos, you're next in line please...

((Crosstalk))

Konstantinos Komaitis: Thanks, Marika. Thanks, Michele. I would be more than happy to help Michele if need be. Thanks.

Marika Konings: Ken?

Ken Stubbs: Well Konstantinos solved the dilemma because I was going to recommend that the co chair be from a non contracted party so that works out just great. Thank you.

Marika Konings: Okay that sounds good. I mean, just to know that of course there's some members missing from the group so I think the appropriate thing probably would be to, you know, share this conversation and the nominations that have been made with the mailing list and then hopefully confirm the appointment or see if there are other candidates that step forward at the next meeting.

So but in the meantime I would like to ask, you know, Michele and Konstantinos have volunteered whether at this stage you would like to take over chairing of the meeting or whether you prefer me to continue running through the agenda. And, you know, I'm happy either way. Michele.

Michele Neylon: Well I was just going to say what you just said, Marika, which makes it sound like there's some terrible conspiracy going on between the two of us. I think in order to follow my understanding of the way these processes are meant to work according to the new GNSO guidelines in order for a chair or co chairs to be formally elected or whatever the term is, appointed, I don't know, it should go out to the rest of the members of the group so that we could make a formal decision on that at the next meeting.

So with that in mind I think it might be best that you lead the discussion at this meeting until such time as other members of the group are able to have their input into the co chairs, chair - co chair, thing.

Marika Konings: Okay that's fine for me. And does anyone else have any comments or suggestions or objections to that?

Ken Stubbs: No just a matter of process it might be a good idea first of all those who are on the meeting room up at the top bar there next to where you raise your hand you can also - we could also vote using the agree or disagree. And it might not be a bad idea to be in a position to say that we had nominated people at this meeting and if we have a majority here then we can put that out on that basis.

And then I guess we could just indicate - I don't know whether we need a formal vote in this process or not. You know, just food for thought.

Marika Konings: Yeah, thanks, Ken. I think that's a very good suggestion. You know, per the rules there's no formal vote required. Again that's really up to the drafting team if, you know, they would like to take a formal vote. But I think a showing of hands indeed will give a good indication and something to share as well when we send out a note.

So for those who are new to Adobe Connect if you see at the top you can basically set your status, you can raise your hand there and you can also

agree. So if you agree with the nomination of Michele and Konstantinos as co chair you can just put the green tick box. If you disagree or would like to speak up, you know, you could either disagree, fine, or raise your hand and we'll come to you. And if you're not able to do so feel free as well to speak up.

I'm seeing largely green ticks so I think we have a overwhelming majority here so...

Ken Stubbs: Do you have a unanimous...

Marika Konings: ...unanimous...

Ken Stubbs: ...participants.

Marika Konings: Yes. So I'll definitely report that in the email so people can comment on that. So thank you all very much and you can clear your status again by going to the same window and then just, you know, clicking that same box and clear status.

Okay so if we then move onto items for review. I hope people already had an opportunity to look at the different materials I circulated but probably for good measure it's probably good to go through the different items.

Starting off with the task of the drafting team because just to be clear this is, you know, really the starting point of a policy development process. This is the first hurdle as such that needs to be conquered which is the development of a charter.

So basically the charter lays out the work of a working group which is, you know, the next phase in this process. Of course I'm hoping that many of you being involved in this process will continue on and also be involved in the working group but that's really a separate process that we'll start once the GNSO Council has adopted the charter.

Michele, I already see you have your hand up. Go ahead.

Michele Neylon: Sorry, Marika, you know what I'm like. Just with respect to timelines and everything else what kind of timelines are we looking at for this? I mean, are we looking at getting this done in time for Costa Rica which I probably kind of doubt being realistic. Or are we looking at having this done in time for Prague?

Marika Konings: Well to be honest we're just talking about a charter. This is not the actual work. So, you know, what this task is really just defining or the scope of what the working group is going to look at.

So hopefully that shouldn't take too much time because a lot of pre work is already being done in the form of a template which identifies some of the basic things of a working group like, you know, what is the decision making methodology, what are the different roles that need to be defined, you know, what kind of reporting needs to be taken care of.

I think there's some charters we can look at of recent working - you know, we can maybe base some of those elements on. But probably what, you know, the major task for this drafting team is really to define what the scope of the issue is that the working group is going to look at.

Because now it's very broadly framed as, you know, looking at the requirements to lock a domain name subject to UDRP proceedings. In the charter you might want to define, you know, what that means or which elements need to be considered as part of looking at that issue.

So as for a timeline basically the GNSO Council can consider this at, you know, one of their upcoming meetings but it means that the proposed charter would need to come in at the, you know, the deadline they have for - documents that need to be received which is one week prior to the meeting.

So for the next meetings that's basically 8th of February, 6th of March, 4th of April. Those are for the next three meetings that are up and coming.

I think probably now at this stage it might be difficult to assess indeed how much work, you know, will go into this but hopefully by the next meeting when people had a chance to, you know, digest the items we've gone through now, have had a chance to look at the charter template, have had a chance to look at the guidelines that are in the working group guidelines with regards to developing a charter hopefully it will be come clearer in people's minds what is required and, you know, where the bulk of the work may lie.

But with that in mind I'm hoping that the drafting team would be able to put something in front of the council by Costa Rica as there's still some time until we get there. But again it depends on how often the group can meet and how much time people can spend on putting the charter together.

So basically as well the language that is on here comes from the call for volunteers because what we basically did is list the language of the resolution that the council adopted forming or initiating a policy development process on this topic with the required next step being the formation of this drafting team.

And we highlighted there already that in the development of a charter there are a number of elements that are required which are at a minimum the working group identification, so the name, what is its mission, the purpose and what are the deliverables expected, information relating to the formation, the staffing and organization of the working group and its rules of engagement.

And I'll show you in a minute with the template, you know, how that all fits together and as that's for some of these fields there's already information available and is not something that, you know, the drafting team has to come up with by itself.

So if we then move onto the next item which is basically the charter guidelines. If you give me one second. So basically some time ago as part of the GNSO improvement it was decided that there should be some kind of process under which GNSO working groups work so some guidelines which basically define how a working group should be run, define the different roles that you can find in the working, also define how they can - should make decisions, identify the different levels of consensus.

So - and as part of those GNSO working group guidelines there's also a section that specifically deals with the development of working group charters. And that's actually in Section 6 of this document which starts on Page 14.

So the first part, 6.1 actually talks more about once a working group is formed how that should be implemented which doesn't really fit into the charter but it might be something where, you know, the drafting team wants to give specific guidance to the council once they adopt the charter and move forward with the creation of a working group.

There might be specific groups that you think should be approached when the call for volunteers goes out or a certain forum where this might be communicated. So the guidance in that respect could be given in relation to this specific item.

But the real bulk of this relates to what the drafting team is tasked to do is basically in 6.2 that be it basically outlines - gives the different templates for a charter. Things important to know that not all of these sections are required; it's up to the drafting team to decide which they think need to be included as part of this working group apart from those that I mentioned before that are required elements.

And for each of these sections it basically describes what is expected or what kind of information should be included in those relevant sections. If you look

at the first one, for example, 6.2.1 the working group identification so that basically you should give the name there, link to the motion that actually created that working group.

Also, you know, making sure to reference, you know, is there already an appointed liaison, are there any advisors to the working group that should be included. Certain information might only be available later, for example, the name of the working group chair because often that's at a later date and, you know, provide relevant things.

So then there are additional sections. I think - again I think it's important that everyone reviews this document. But I think for our discussion it's probably more helpful to go straight into the template which has been specifically developed to, you know, model what is in there to help drafting teams developing charters. So I'll fold that up now.

So here we go so I'm just going to take you through that. So as I said before this is really to assist a working group - the development of working group charters. Of course, you know, drafting teams might decide to ignore this and start from scratch.

But I think some previous efforts has shown that this is a very helpful tool and makes it a lot easier to get development information into one document and provide some guidance and linking back and forth to the GNSO working group guidelines.

It says here as well like the Sections 1, 2 and 3 those are the minimally required; other sections are optional so it's important for the drafting team to review which of those other sections should be included and whether there are any other elements that you feel are important to have included here.

So again and then the first few pages it just goes into more detail of what each of those sections entails. And then the actual template starts on Page 4.

So in principle the task of this drafting team is really to complete this document which is then submitted to the GNSO Council for its consideration and hopefully adoption.

So from my personal perspective probably the key - the key element there is really Section 2 where it's the mission, the purpose and the deliverables that need to be completed.

As this is kind of a unique PDP that has come out of, you know, two different processes as such and hasn't really been preceded by an issue report that has really already scoped the issue in great detail which in most cases forms the basis for the development of the charter it's more of a challenge probably for this drafting team to really make sure that, you know, everyone agrees on what the mission and scope is of the working group that will follow.

With regard to deliverables and timeframes I will provide you with some information there because the GNSO Council recently developed a new - or adopted a new policy development process which sets certain timelines and already indicates certain deliverables that need to be accomplished by a working group. So of course the, you know, draft team is free to add onto those but those are set currently in the policy development process.

So in the Section 3 it talks more about formation, staffing and organizations so there the draft team can decide what kind of roles you think are appropriate, making sure as well that people are aware that statements of interest are required.

Section 4 talks about the rules of engagement. Basically this is also a list that's from the working group guidelines. And this is the way in which decisions are being made. And again this is something that is in principle the standard unless the working group - or the drafting team has any strong reasons why they think that there should be a deviation from this process.

And that would be something that would need to be considered then by the GNSO Council.

Michele.

Michele Neylon: Sorry, Marika. Just to kind of get - break this down into something really simple for my poor little brain in essence what we need to do is to be able to complete this template - fill out the details in this template?

Marika Konings: Correct. And...

Michele Neylon: Okay so...

Marika Konings: ...you would need to identify whether there are any elements missing from the template if there's anything that you think that isn't provided for.

Michele Neylon: Okay. So what I would suggest possibly as an action item for the next meeting would be that we actually have one that we can, you know, as in a blank one that we can actually start filling out the bits that we don't have any disagreement on and then it's just a matter of, in simple terms because obviously this is ICANN so nothing is ever simple, thrashing out the details for the more contentious parts. Or am I missing something?

Marika Konings: No this is Marika. That's right. This is already - this template is already available blank. What is filled in is basically pre-filled in from what is in the working group guidelines which is in principle what is required under the GNSO working group guidelines.

As that - I think the council can deviate from those but it would be probably in, you know, it had to be very unique circumstances why they wouldn't follow the GNSO working group guidelines. So what has been prefilled in here is basically standard language that comes from the GNSO working group

guidelines so all the rest is blank and indeed for the drafting team to complete.

Michele Neylon: So basically set out before them.

Marika Konings: Yes exactly.

Michele Neylon: Okay.

Marika Konings: And I said just if there are any elements that you think should be added, you know, based on discussions. But as I said I think it probably is helpful if I share as well with you some of the charters that have been recently - have been recently developed using this template.

I think one of the recent one is the consumer metrics group. I think they've used this as well so that might serve as a model of how to, you know, fill in some of those other fields. So, yeah...

Michele Neylon: That would be...

Marika Konings: ...so the - okay I'll add those links. So basically, yeah, I said the decision making methodology is already standard and enshrined in the working group guidelines. There's a section as well on status reporting. That's more talking about, you know, when is a working group expected to report on a regular basis. Is there special mechanisms that needs to be used. Michele.

Michele Neylon: Sorry, sorry, Marika.

Marika Konings: No.

Michele Neylon: I - just looking at the list of people who are participating I know some people have been involved, Konstantinos and Ken are old hands, no offense, Ken and a couple of others I recognize. I mean, just as a matter of curiosity - and

I'm going to lower my hand now - for how many of you is this your first ICANN working group? Don't be scared. There's one. Anybody else?

Matt Schneller: This is Matt. This is my first as well.

Michele Neylon: Okay. I mean, the - I think just one thing - I'm sorry, Marika, kind of stealing this away from you but you know what I'm like.

Marika Konings: Go ahead.

Michele Neylon: No the - okay basically there is all this kind of terribly tedious and boring stuff that has to be followed in terms of these guidelines and for how these things are done and everything else. But okay I'm not a lawyer so I tend to look at things in much simpler kind of okay this is a document with a number of boxes entitled; we need to be able to fill it out.

Now unfortunately as well for those of you who haven't been involved in a lot of the working groups you might find at times that those of us who have are making certain assumptions. You'll find at times as well that it's, you know, acronym-soup. There's lots of acronyms being thrown around. There's references to GNSO, to ALAC, to NCUC, to contracted parties, non contracted parties and a whole range of other terms that you might not be familiar with.

Now what I would suggest maybe is that for those people who - if there is something that you don't understand that isn't clear to you please, you know, raise your hand on the chat room, ask, interrupt Marika or whoever is speaking and ask them to clarify it in simpler terms.

A lot of the time it's just - it's a bit of jargon, there's quite a few lawyers on this call. You all deal with terminology that I can't understand. You know, the ICANN-speak it's - a lot of the time we're talking about very simple things we just have a different way of talking about it. But just please if there's

something that isn't clear please, you know, ask or if you don't want to ask there just ping one of the others who you're not afraid to ask off list or whatever. Ken, go ahead.

Ken Stubbs: Yeah the easiest way of putting it is I've been doing this for 14 years and the acronyms drive me absolutely insane. So I would hope that we just try to keep it to a minimum so that people aren't intimidated and, you know, it just makes it a lot easier to stay away from acronyms unless you absolutely feel like you have to use them. I'm sorry, I'm not the only one who feels that way.

Marika Konings: Thanks, Ken and Michele. And I was just going to extend as well the offer of anyone, you know, wants to talk after the call or wants to have some information as well of where, for example, this specific effort fits into the overall policy development process, I mean, I'm happy to expand or answer any questions.

And I think just to emphasize as well that indeed this is about, you know, filling out this template. This is not really yet the bulk of the work which, you know, falls in the next step. So I want to make sure as well that, you know, there's no need to over think certain issues.

I mean, the mission might be as simple as say, you know, the working group is tasked to explore the issue of locking off a domain name subject to UDRP proceedings and make any recommendations it deems appropriate on, you know, addressing any issues that it has encountered. It might be something as straightforward as that.

If you look at some of the other charters for example for some of the inter-registrar transfer policy working groups that are currently ongoing they just ask very basic questions. It's not, you know, five pages of explanations.

So, you know, I don't think there's a need to over think and, you know, be too worried about, you know, the complexities of what is - needs to go in here.

And as Michele says it's a template that we need to fill in and hopefully, you know, many of fields it will be very straightforward and an easy task to do. Michele.

Michele Neylon: Yeah, I mean, I was going to add as well is, you know, Gisella and Marika work full time for ICANN. They eat, sleep and drink all these wonderful things like PDP and GNSO and ccNSO and all these things. And it all comes as second nature to them.

But, you know, those of us who have been doing this for a little while we started out not having a clue. And, you know, Marika and Gisella and the other people they're fantastic resources as well, you know. If you want to - if there's something that isn't clear and, you know, you might not want to ask somebody else on the group or whatever they're always incredibly helpful. And, you know, they make the rest of us look good. Thanks.

Marika Konings: Thanks, Michele. And as I said before and, you know, I'm sure for many new (unintelligible) it's very difficult or it's not easy to digest indeed how the whole process works.

But I'm happy as well to have, you know, a side conversation or with those that are interested, you know, how the whole PDP process works and where this specifically fits in because this is just, you know, one step of that whole policy development process that, you know, at which at the end of the road hopefully there are policy recommendations that, you know, then become or are adopted by the board and, you know, hopefully address the issue that was initially set out to be addressed.

So maybe we just leave the template there for now. I think, you know, for the next call it's probably important that everyone just has a look through the template and looks at the working group guidelines, that Section 6, to, you know, further understand what is required for each of those different elements of a charter.

And as I said at the same time I'll share some examples from recent working groups that have also used this template that will give you hopefully a better idea of, you know, how to approach, you know, completing this charter for this specific issue.

So then the other thing I've done - and let me just pull this down now - or, Michele, go ahead in the meantime I'll pull up my other document.

Michele Neylon: Yeah, sorry Marika. The other thing as well is I think things like the GNSO liaisons and all that that doesn't get decided until it's actually moving forward to - beyond this; it's at the next stage when it goes to council for a PDP motion is that right, Marika?

Marika Konings: Yeah that's correct. Normally, as I said, some of the elements also like the chair, those things are filled in at a later date once that is known. So it's usually when indeed the council approves the charter, it will ask at the same time the council members, you know, who is willing to serve as a liaison to that group.

For example if there are already council members that would be participating here they, you know, could - I mean, Joy for example she's a member of the GNSO Council, you know, she might already be, you know, willing to put herself forward. And in that case it could already be part of the charter. But, you know, that's not a required field at this stage. Does that answer your question - okay great.

So what I've done - because as I said this, you know, where we are at this stage now has followed a little bit of a different process compared to the usual PDP because normally a policy development process kicks off with an issue report which is a paper that is prepared by staff that basically outlines the issue and defines, you know, what are different concerns and what elements need to be considered as part of a policy development process.

However in this case this specific issue was actually raised as part of the Inter-Registrar Transfer Policy Part B working group. They received comments from WIPO related to this issue as they were looking at locking up domain names as well but not specifically in relation to UDRP proceedings.

So one of their recommendations at that stage was well we don't think we should be looking at that issue from a inter-registrar transfer policy; we think this is a better suited topic at the point a UDRP gets reviewed.

And I think as many of you know at some point there was also a request - there was an issue report on a possible review of the UDRP in which again this issue was also touched upon but not the main focus of that paper.

And as a result of those two parallel tracks or subsequent tracks as such the council in end decided that they didn't want to go ahead with a full blown UDRP review or at least they set a timeline for when that should happen. But they did agree that this specific issue as it was highlighted as part of the IRTP discussion and also flagged again as part of the issue report on the UDRP that that specific element should be taken forward and addressed at this stage.

So as such there is not a specific issue report available that just talks about this issue. But what I've tried to do in the documents up on the screen and I also circulated is I've tried to draw from the different documents that have discussed this issue and the different relevant policies that currently exist which hopefully will serve as a basis to, you know, help inform our discussions.

Michele.

Michele Neylon: Just as you mentioned IRTP which is basically the policy governing transfers of domains between registrars which I think a couple of other people

mentioned in their introduction. This is where they were having problems and seeing issues.

A couple of the people who are down for this working group have a lot of experience in IRTP. I think - Jonathan you're - are you in IRTP-C? Jonathan?

Jonathan Tennenbaum: Yeah, I am.

Michele Neylon: Yeah so Jonathan is in IRTP, so am I. I think Paul Diaz is. He was in IRTP-B and IRTP-A.

((Crosstalk))

Jonathan Tennenbaum: Yeah, yeah, Paul's on the - yeah, he should be part of the C as well.

Michele Neylon: Yeah so like there's several of us who've lived through that entire transfer thing. So we - if anybody has any - wants to know anything about what the hell went on there or didn't go on there you can always ask us.

And I know Konstantinos has a lot to say about UDRP reform. And I'm sure there are other people who have completely opposite things to say about it. But let's, you know, use people's experiences and knowledge rather than trying to be too polemic I suppose. Konstantinos.

Konstantinos Komaitis: Thank you, Michele. Yes basically what I suggested because I think that, I mean, things are getting a little bit complicated and complex is that we need to stick - I mean, the problem that we're facing is is that there is not really a document that provides background information on the locking of a domain name subject to the UDRP proceedings.

So, you know, we need to - and I would like to ask whether the staff has the time to extract that information and create a separate document on why this

group was formed and proceed onwards. I don't think that there is any value in us having discussion about the UDRP review or reform; that is a decision that the GNSO has already decided on and it's not the mandate of this group.

I think that we need to start - kick start the process. And I would ideally and I know that, you know, this is - this might sound a little bit unseasonable for us but ideally it would be very good if we would have the charter by Costa Rica.

Marika Konings: Thanks Konstantinos. And actually, you know, part of that information is hopefully in the document that you see on the screen which I'll go through if Michele lets me at some point.

But again I think on, you know, gathering further information there is for example some specific guidance that could be included in the charter that, you know, the first task of a working group is to, you know, for example open a public comment forum to invite people to share their experiences with, you know, this specific process and the challenges they have encountered.

So as an exercise of maybe, you know, the information that is lacking to try to get that at the start of the working group process because I think it's obvious that there are issues but, you know, further information or data might be helpful on, you know, what those specific issues are as that will help hopefully the working group define what potential solutions could be. Michele.

Michele Neylon: Yeah, I mean, just backing up what Konstantinos said, I mean, you know, just let's try and keep this as simple as possible. I mean, ideally if we could sum up what is the problem without getting into lengthy commentary on life, the universe and everything; what is the problem.

I mean, there's people on the call who have all said that they have issues, that they've experienced issue. So maybe if we can just work on identifying in, you know, simple terms what the hell those are, you know, what is the issue.

Like somebody mentioned - and I'm sorry I didn't - I don't remember who it was - something about how, you know, domains being transferred from one registrar to another when even after a UDRP process has begun. So, I mean, that's an obvious issue. So if people are, you know, registrars aren't locking domains quickly enough; that's how I would simply view that. Maybe there's other things like that.

Marika Konings: Yeah and this is Marika. I think if you look at Page 2 and 3 of the document I think there we'll already find some specific comments that have been made on what the problems are.

If you look, for example, at - there's this little table there that, you know, no requirement to lock names in the period between filing complaint and commencement of proceedings, need for clarification of domain locking, a comment that it's unclear what is meant by status quo, no explanation of legal lock mechanisms and when they go into effect or when they should be removed.

And I think (unintelligible) partly back then as well and I think the comment from WIPO so what, you know, started the whole discussion. They provide as well some further information on that. But if you actually look at the UDRP itself and I'm definitely no expert so further to the experts there.

But the only thing I could find that actually related to this issue is this Number 7 which talks about maintaining the status quo. But it doesn't really define, you know, what a status quo or when a status quo come into effect. And there doesn't seem to be any further guidance on, you know, indeed the locking and when that should happen. So I think there's already some information in here that should hopefully help in the definition of the actual problem.

I saw that Matt hand his hand up but he dropped it again so I don't know if your point was already made or you changed your mind or still want to speak up?

Matt Schneller: I was just going to note that some of the problems are already noted in the document but you did too.

Marika Konings: Okay thanks. So - but again I think if, you know, people have other sources of information and that's hopefully, you know, as well one of the action items we can record from this session is that if there are any other item related documents or information that is relevant for, you know, defining the problem, you know, please feel free to suggest and, you know, we can build and add that information maybe to this document or as a separate document.

So just very briefly on this document that we have, you know, 10 minutes left in the call. What I did here like the first one there is basically the GNSO Council resolution that initiate the PDP and, you know, approves basically the initiation of the PDP on this specific element.

And, you know, from that followed the call for volunteers to develop a drafting team as the next step is a policy development process. Then I included the relevant parts that I could find back in the final issue report on the current state of the UDRP which I just quoted a few items from.

You also have the relevant section from the IRTP Part B final report, you know, basically noting that, you know, in response to the WIPO comments it probably should be taken as part of a review of the UDRP and not part of - a review of the IRTP.

And then the specific comment from WIPO that goes into a little bit more detail as well on the issues they've encountered with regards to the locking and unlocking of domain names.

And then two parts, one from the UDRP which I just mentioned on maintaining status quo. And I also found a certain section in the RAA that talks more about locking in relation to a deletion or expiration of domain names that are subject to UDRP.

I'm not exactly sure how relevant that is or how related that is but I just wanted to include it so those of you that are more familiar with that can indicate whether this is something as well that should be specifically looked at and considered as part of, you know, the next step in the working group.

So as I said this document is available. If you feel that other information needs to be added, you know, please let me know and I'm happy to add it and provide an updated version.

So I think that wraps up the items for review section. And I added the next part more - the next agenda item on the development of a work plan to develop the charter.

But, you know, we don't have much time left. I think the only point from my perspective would like to make as I said before in order for the GNSO Council to consider the adoption there are certain timelines by which the document would need to be submitted which is a week before their council meetings which - well the next one would be the 8th of February which is probably not feasible. But the Costa Rica meeting - the deadline for submitting documents there would be the 6th of March.

You know, so hopefully that, you know, might be something the drafting team will consider and develop their plan around one of those dates to make sure that it's submitted at an appropriate timeline.

Then confirmation of the next meeting. Are people happy in continuing at this same time next week and continue on a weekly schedule for now? Do people feel that's too much? Should we consider other times?

I know there are some people that couldn't make this call so we definitely should put out on the mailing list as well whether they just couldn't make today and it's not a problem for weeks to come or whether we should explore if there are other times that are more convenient for all. Ken. Ken do we - we can't hear you; maybe you're on mute?

Ken Stubbs: Okay, hear me now?

Marika Konings: Yes, yes, we can.

Ken Stubbs: First of all I am not certain how many people are on this call from Europe. I'm guessing that Konstantinos, I believe you're in Scotland, Michele, I know you're in Ireland. I'm not sure who else is in Europe. But this is rather late in the evening for Europe. I'm guessing we're going to end at least at 8 o'clock - I think Ireland is plus five as Scotland.

I would hope that we might consider the possibility of doing a little bit earlier in the day possibly middle to late morning Eastern time not from my standpoint but that also accounts for the West Coast. It's just food for thought but this time is, in my opinion, not necessarily optimal but that's just my own personal opinion. Thanks for hearing me out.

Marika Konings: Konstantinos?

Konstantinos Komaitis: Thanks, Marika. The time is not ideal but at the same time, you know, I've been with - in other working groups where people had to wake up at 12 o'clock at midnight or 1 o'clock in the morning so I should not be the complaining.

What I would like to say however is that I'm not sure whether in the beginning we need to have weekly calls. I think this is - it is over burdened. And I am not

- I think that much of the work especially drafting this charter can be done via email.

So may I suggest that we start in the beginning of having calls every fortnight and should need be and closer to Costa Rica or if we see that this group is not progressing through email communication or any other means then we can change to weekly calls. Because I know that a lot of people in this group have other also ICANN calls to attend in between their everyday jobs.

Thanks.

Marika Konings: Michele.

Michele Neylon: Thanks Marika. I mean, with respect to the time of the meeting it's fine by me. In many respects having a meeting outside office hours for me actually suits me fine. So I don't have an issue with having it at this time but thanks, Ken, for the consideration.

To be perfectly honest for me freeing up time for me during the middle of the day can tend - can be more problematic because as I mentioned previously I don't have staff of hundreds and as much as I like to refer to them as minions there aren't that many of them.

In terms of the frequency of the meetings I would tend to agree with Konstantinos but not - that having a weekly meeting it might be a little bit too much. And ultimately if people can communicate via email then let's do that; let's try to - let's try to actually have - to carry out discussions via email rather than forcing ourselves into this kind of environment constantly where we may not get as much done.

I mean, we might do but there's no reason why we can't do it via email because ultimately all we're really doing isn't discussing issues in depth, we're not looking at coming up with new policy or anything like that it's more along the lines of putting together something coherent to go back to the

GNSO Council and say right, guys, this is what this needs to be addressing, here are the points. Thanks.

Marika Konings: Ken.

Ken Stubbs: Yeah, I would propose that we might consider possibly putting out another Doodle poll and putting let's say an afternoon time the same time we have right now and then picking a morning time as well like, you know. And let's see whether or not we get more of a response for the morning time.

I can't remember because I can't find the original Doodle poll but I don't think morning was ever even offered as an option in the original Doodle poll so just food for thought. Thanks.

Marika Konings: This is Marika. Actually the Doodle poll did have a range of options as well morning times from East Coast US like early afternoon Europe time. But this came out as the most suitable time.

And just to point out that we do have I think Joy is based in I think Australia or New Zealand so we do have some people that are in different time zones which, you know, sometimes makes it challenging, you know, to find a suitable time. And, you know, another option could be at some point maybe alternating. Oh, Konstantinos is saying New Zealand so for her probably this time is already quite early in her day probably.

But in any case that came out as the most appropriate time but we can definitely do another poll. One point I did want to make that, you know, from experience often groups are very ambitious in doing a lot of work on email and, you know, I really would like to encourage that but in practice it doesn't always happen. I hope here is not the case.

But so for that reason it might be good indeed to set a call, you know, in two weeks time. And, you know, of course if the working group has already done

all its work by - or the draft team has done its work or it doesn't feel the need for a call it's always possible then to just cancel it. But at least in this way people, you know, have it in their diaries and, you know, might make it easier to, you know, go ahead if needed. Would that be acceptable to the group?

Konstantinos do you still have your hand up or is that an old hand?

Konstantinos agrees...

Konstantinos Komaitis: That's an old hand. I agree with your suggestion. And, I mean, I would just like to reiterate the fact that, yes, I would really hope that this, you know, much of this work happens through email. We are not talking substance in this working group; this is just drafting the charter and this is very important that we all bear in mind that.

And, yes, let's set a call for two weeks. Let's commit to that in this call. And let's do a Doodle poll also to see whether there would be availability in order to accommodate people like Ken. So let's, you know, get a notion of what other times. But let's commit to a call in two weeks. Thanks.

Marika Konings: Ken.

Ken Stubbs: Marika.

Marika Konings: Oh is that Ken?

Ken Stubbs: Yes, I'm just going to propose something. I found the Doodle poll. And the 2:30 time and the morning time at 10 o'clock both had the same number of positive votes so maybe you could just do a limited Doodle poll with those two hours. In other words instead of opening it up all over again see whether or not there is a significant change one way or the other.

And if you still come back with the afternoon then you - I think that would make it easier on everyone, you know, rather than putting in 10 different times and starting all over again, you know.

Marika Konings: That's a very helpful suggestion. So you're talking about 10 o'clock Eastern Time?

Ken Stubbs: Well let me look at it again. Here the times...

Marika Konings: Okay.

Ken Stubbs: ...that both received seven yes votes were at 10:00 am Eastern Time and 2:30 pm Eastern Time. The one advantage to the 10:00 am Eastern is that at least - it's in the evening in New Zealand but it's not at 3:30 in the morning in New Zealand.

So it may be easier for people like Joy to participate on that basis than, you know, it's just, you know, I don't know how many people you have on the Pacific Rim in this thing but, you know, if you stratify it we're just filtering it down.

We're now at the point where there was a clear majority at those two hours at 10:00 am and 2:30 pm. The rest of them were quite a few votes behind and a lot of no votes as a matter of fact at 3:30 and at 8:00 and 9 o'clock. So maybe look at it from that standpoint.

Marika Konings: Okay that sounds good. Just to note that the other time there, the early time, it's actually for the Monday because on the Tuesday it would compete or conflict with another working group we have. So...

Ken Stubbs: Oh yes.

Marika Konings: ...if people agree I'll just send out a Doodle poll then for a Monday at I think it's 3:00 UTC and 7:30 UTC on Tuesday and then we can just see which time works better for most people. Does that work?

Ken Stubbs: That's fine by me but I'm just one member of the group.

Marika Konings: Okay. Well we'll just see what comes back. And I said, you know, the working group has committed to, you know, trying to do - or the drafting team is trying - to commit to do as much as possible via email so hopefully that's as well an incentive that, you know, a lot of work gets done we don't even need any further calls. Michele, are you still in the queue?

Michele Neylon: But of course, Marika, but of course.

Marika Konings: Go ahead then.

Michele Neylon: Just, you know, I was just looking at the list of participants on this group. It seems that there's a very large number of lawyers. But maybe evening (unintelligible). I say that because (unintelligible). But, you know...

Marika Konings: Michele, you're breaking up.

((Crosstalk))

Michele Neylon: Sorry?

Marika Konings: Michele, you're breaking up. I couldn't hear. I don't know if others had the same but I couldn't hear what you were saying.

Michele Neylon: No I was just saying because there are so many lawyers maybe email might work better. And, you know, the two - every two weeks works fine for me. And, you know, offering a Doodle with the two options makes perfect sense so let's just do that.

Marika Konings: Okay great. So I think with that we've come to the end of this call. I'll send out some notes, you know, summarizing what we've discussed and putting forward the different suggestions that were made. And we'll get a Doodle poll going or a call in two weeks time which then will either be on the Monday or the Tuesday at the current time. And hopefully we'll hear a lot from each other on the mailing list.

And with that I would like to thank you all for your time and speak to you all soon.

Konstantinos Komaitis: Thanks, Marika. Have a nice night.

Marika Konings: Thank you, you too.

((Crosstalk))

Michele Neylon: Thank you, Marika.

Marika Konings: Thank you.

END