Locking of the Domain Name Subject to UDRP Proceedings Drafting Team Meeting
TRANSCRIPTION
Thursday 31 May 2012 at 1400 UTC

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<u>Attendees:</u>
Laurie Anderson, RrSG
Randy Ferguson, IPC
Sheri Falco, RySG
Alan Greenberg, ALAC (Vice-Chair)
Gabriela Szlak, CBUC
Volker Greimann, RrSG
David Maher, RySG
Juan Manuel Rojas - At-Large
David Roache-Turner, WIPO
Michele Neylon, RrSG (Chair)
Matt Schneller - IPC
Luc Seufer, RrSG

<u>Apologies:</u>
Victoria McEvedy, NCSG
Brian Beckham, WIPO
Andrii Paziuk, NCSG
Faisal Shah, individual
Ken Stubbs, RySG
Celia Lerman Friedman, CBUC (standing apology until July 2012)

<u>Staff Support:</u>
Marika Konings
Gisella Gruber

Coordinator: This is now being recorded. Please go ahead.

Gisella Gruber: Thank you. Good morning, good afternoon, good evening to everyone. Welcome to the UDRP Domain Name Lock Working Group meeting on Thursday the 31st of May. On today's call we have Juan Manuel Rojas, Michele Neylon, Randy Ferguson, Matt Schneller, Luc Seufer, Alan Greenberg, David Roache-Turner, Volker Greimann, Laurie Anderson, David Maher, Gabriella Szlak.

From staff we have Marika Konings and myself, Gisella Gruber. We have apologies noted today from Faisal Shah, Ken Stubbs, Brian Beckham and Victoria McEvedy.

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 list. And over to you, Michele. Thank you.

Michele Neylon: Thanks. Well good afternoon, good morning, good evening, good - have I forgotten anything? Welcome to the UDRP Lock Working Group which is being co-chaired by myself and Alan Greenberg. Woo-hoo.

Sorry I've obviously had far too much coffee so far today.

Alan Greenberg: I'm only a lowly vice chair. Alan speaking.

Michele Neylon: There's nothing lowly about you, Alan, unless I'm standing right beside you.

Alan Greenberg: Touché.

Michele Neylon: You're welcome. Right then statements of interest and all those lovely charming things. Has anybody got a change to theirs or anything to declare that would be pertinent? No? Going once, going twice, okay fine, perfect.

Now on our agenda for today we're looking at reviewing and finalizing the survey...

((Crosstalk))

Michele Neylon: ...for both registrars and UDRP providers. The most recent version is on the wiki. And there's a couple other items there on the agenda and also Marika has put up a couple of the comments that we received via email up into the notes on the right hand side on Adobe Connect.

For those of you who are not logged into Adobe Connect that are dialed in via phone you will have received these via email already as well because they went to the mailing list.

Okay right - so, ah - my screen just did weird things. Marika, does this mean I now have super powers? Oh they've taken them away from me again.

Marika Konings: Not anymore. I don't think that's a safe thing so.

Michele Neylon: You don't want - okay that's actually - you're actually probably right. Giving me the power to run this I'd probably end up turning it into a marketing session on why you should all register your domain names through me or something like that which would be totally inappropriate but would be great fun until Laurie murdered me.

Okay then now looking at the edits and comments we've received so far the gentlemen from WIPO sent through a redline. And Marika has her hand up. Go ahead, Marika.

Marika Konings: Yeah, this is Marika. So the survey that's actually on the screen is the version that was sent around by Brian just before the call. This is the registrar survey. And maybe before looking into the changes suggested by WIPO I just want to, you know, reiterate what was changed from the survey based on our previous call.

And I don't know if everyone had a chance to look at the survey in detail but in the previous version we had several questions on there asking a registrar whether they, you know, first of all do you lock a domain name when it's subject to UDRP proceedings and then several questions on do you lock it when you receive a notice or do you lock it when your receive a request for verification.

And when I was doing the edits based on our previous discussion, you know, I had the thought that maybe it would make more sense to actually bring all those questions together and start off with asking when do you typically lock a domain name pursuant to UDRP proceedings and then go into the details of, you know, how such a lock looks and what kind of changes are prevented by such a lock.

The question I did have and also posted on the list is this - this of course would presume that registrars apply one kind of lock for the duration of a UDRP proceeding or, you know, exceptionally make changes to such a lock for which the question is also provided.

If this is not the case that are, you know, if a registrar typically applies different kinds of locks at different stages of a UDRP proceeding we might need to reconsider how the questions are phrased and maybe go for the suggestion I think what Sheri suggested is actually make a more open ended question and basically ask, you know, what kinds of locks do you apply and at what stages of the process do you apply those?

So I think that would be, you know, first question based on the current structure of the survey, you know, what approach should we take with regards to, you know, registrar locks that are applied during a UDRP proceeding.

Michele Neylon: Okay. Does anybody have any comments, thoughts, input?

Marika Konings: And this is Marika. Just one thing to add if the typical thing is that, you know, only one kind of lock is applied and that combined together with I think a desire from the working group to make the survey as easy as possible then of course as is currently is written it's the easiest because people just need to click the boxes. With an open ended question it does ask people, you know, to write down details.

And, you know, we might not get the details or the answers that we're looking for. So, you know, if there - I think if from - it would be helpful to get an insight from the registrars on this call whether indeed typically, you know, once a lock is applied that's the same lock that stays in place for the duration of the whole process and no further changes are made to that.

Michele Neylon: Okay. Thank you. Alan and then Laurie.

Alan Greenberg: Yeah Marika just basically just said what I was going to suggest. If we can get some input from the registrars on this call about what they normally do let's keep the questions as simple as possible to address the typical case and then put a, you know, an other type thing in to address edge cases if there are some people who do things quite differently. Thank you.

Michele Neylon: All right thanks, Alan. Laurie.

Laurie Anderson: I was just going to say that I think that most registrars, including us, probably aren't going to be bothered going back and changing locks and making them into different locks. Once it's locked they're going to just leave it locked and not - I mean, that's what we do; we have one type of lock and that's all that's necessary unless we receive, you know, a court order that tells us to do something different.

Michele Neylon: Okay. Any other registrar types would want to make any comments on this or shall I start picking on you? Happy to do either.

Alan Greenberg: Michele, it's Alan. You can put on your registrar hat and answer these kind of questions also. I don't think it violates...

((Crosstalk))

Michele Neylon: Oh don't worry...

Alan Greenberg: I don't think it violates the sanctity of the chair.

Michele Neylon: No don't worry, I will quite happily but I will also - I'm also a strong believer in encouraging as many members of these working groups and to give some input so I'm going to start picking on people. Luc.

Luc Seufer: (Unintelligible).

Michele Neylon: Yes and I'd like you to answer the question.

Luc Seufer: Which was, sorry?

Michele Neylon: Luc, we love you to death but oh dear. The what kind of lock do you - what kind of lock do you apply to a domain in UDRP and do you change it during the UDRP? Laurie is suggesting that most registrars wouldn't change it; they'd apply one lock and just move on.

Luc Seufer: Yes, I agree with Laurie.

Michele Neylon: Okay.

Luc Seufer: We do the same.

Michele Neylon: Volker, do you change your - the lock you apply at any - during a UDRP at any time?

Volker Greimann: No we just apply all four locks and be done with it.

Michele Neylon: Okay. And since Alan did remind me that I can put on my hat as a registrar for the record we take the shortest, simplest route possible so I think all we're doing is just applying all the locks and then moving on to stuff which actually earns us revenue. We just get it out of the way. Marika, go ahead.

Marika Konings: Yeah, so this is Marika. So in that case I would suggest that we indeed leave the questions as it currently stands as, you know, Question 7 does provide for that that, you know, do not apply the same lock to provide further details there and indicate in which case, you know, they might make changes. So I think, you know, that might work the best then in that case.

So I don't know if you want me then to just run through the survey or, you know, look at the changes or maybe have David talk around the changes that were made to this one. I had a quick look over them and I think most of them were, you know, minor changes just to the wording. I didn't see any major issues that were changed or added here.

I think there is the one question that was part of the email that WIPO sent on whether there should be a question in there asking registrars, you know, the number of UDRP proceedings they are basing their responses on. So, you know, that would be another question that would need to be added if, you know, the working group agrees that that would be, you know, information that's needed or, you know, good to have as part of the responses.

Michele Neylon: Anybody? No? David.

David Roache-Turner: Thanks, Michele. David. You know, I haven't got very much to add to that other than to say that if there's any of the particular text or suggestions that people want us to comment on further we're very happy to do that. Most of them are intended simply as clarifications, you know, of a textual nature. And I think that pretty much speaks for themselves.

The main reason we've made the suggestion that we did with respect to the number of UDRP disputes is particularly if we're taking the approach in which the registrars that would be responding would not be identifying themselves. We think it would be useful to get some sense of the volume of the UDRP disputes that sit behind each individual registrar's response so we have some sense of the proportionate value of the feedback.

You know, obviously if you're looking at a response that's coming in from a registrar that's processed hundreds or thousands of disputes you're going to weigh that in a certain way as opposed to a registrar who's coming in with a comment on a handful, 5 or 10 or something of that nature. So that was the reason for that suggestion.

Michele Neylon: I'm going to put myself - I've put myself in the queue, David, and just to actually reply to you on this. There's two sides to that. As a registrar who would be in the category of the very low volume of disputes I think we've probably had to date - I'd say less than 10. I think that's a fairly safe number to use whereas obviously larger registrars would have had much higher volumes.

The problem from our side is that while we may not have as much experience as registrars doing larger volumes, A, we are still contractually obliged to deal with them. Both yourselves and the complainants and the respondents still need to be treated seriously and professionally and all that kind of thing.

From my own personal perspective it costs me more to deal with the low volume if you understand where I'm coming from. Which is why greater clarity around some of these things would be helpful for me personally as a registrar.

So whereas somebody who might be dealing with large volumes kind of takes it as a given that X, Y and Zed are the things to do somebody who only deals

with a smaller number might see issues that those who have been dealing with it for years wouldn't see.

Luc, you've been typing away madly. I'm going to put you in the queue. I'm sure you have an opinion on this. Okay Luc has put in the chat, asking for statistics or research not sure many registrars will take the time to do this research. That's a fair point. And I'm going to put Luc on the spot again. Luc, roughly how many disputes have you guys dealt with roughly over the last 12 months?

Luc Seufer: Last 12 months a dozen, maybe more - less than (50).

Michele Neylon: Okay. Oh could you speak up a little bit; you seem to be miles away from the microphone or else I'm going deaf; I'm not too sure which it is.

Luc Seufer: Is that better?

Michele Neylon: Yes it is, thank you. Marika.

Marika Konings: Yeah this is Marika. You know, one alternative option might be is just, you know, add maybe an optional question just saying, you know, how many domain disputes have you had over the last year and then, you know, have something, you know, less than 10, between 10-50, more - just to have an idea. And, you know, the working group can then still decide once responses are received whether that has any kind of impact on how responses are weighed.

But it might give a kind of indication that for example, you know, all registrars that have very little domains they tend to, you know, lock the domain name immediately upon notification while those that have up, you know, more than 500 per year they do it at a certain, you know, you might be able to make some kind of correlation as to what practices are depending on the number of disputes.

I mean, it doesn't necessarily I think need to mean that, you know, we're going to weigh that because they have little, you know, less domain disputes; their responses are less valuable or should be less taken into account but it might be possible to make some kind of correlation. So maybe that might be a way to give a kind of, you know, those are not exact numbers but just a kind of range between which, you know, registrars might fall. That might be a, you know, compromise.

Michele Neylon: Okay thanks, Marika. Alan.

Alan Greenberg: Yeah, Marika is channeling for me again. I think we want to ask the question in such a way that we're not asking people to go do research. You know, so if we used like about or approximately or something, how many do you do. That will give the ability, in addition to what Marika says, of if the rest of the responses really seems to be an edge case the quantity will tell us whether it is an edge case or a common occurrence.

So I think there's merit in getting an order of magnitude of the volume that goes along with the answers. I don't think we want to do - word it in such a way that we're encouraging people to go do research. Thank you.

Michele Neylon: All right thanks, Alan. David, go ahead.

David Roache-Turner: Thanks. David. Yes, I agree with Alan on this one. I think there is in any event still utility I think in asking the question in a sufficiently general way so I think we can get an idea. I think also it's important that when the data comes back in and we're going through the process of weighing it we obviously want to be working towards a solution that works well for everybody regardless of the volume that they're having to deal with.

But I do think that it's useful in considering the responses that we do have some sense of the number of cases that these sorts of experiences are reflecting. I think we need be a bit utilitarian about it in some respects.

Michele Neylon: Okay. Just a couple of comments from the chat which I think are just worth reading into the record. From Laurie, "Some registrars may not track the numbers if it's not a significant part of their workflow." And from Gabriella, "It's too bad these statistics are not mandatory..." - oh I'm sorry - mandatory - sorry I honestly I swear to God, English is my first language - "...for registrars is it mandatory for UDRP providers to keep statistics?"

And that's an interesting question. Is it mandatory for UDRP providers to keep statistics? Does anybody know? David, is it mandatory.

David Roache-Turner: The short answer is it's not mandatory. There is a mandatory requirement for UDRP providers to post decisions that are rendered by panels but there's not a mandatory requirement so far as I'm aware to post or to keep consolidated statistics on the numbers of UDRP disputes that are received.

However most of the UDRP providers do that. Certainly at WIPO we keep real time statistics up on our Website of the number of UDRP complaints that we receive. I believe NAF, the National Arbitration Forum, in the United States does the same or at least in similar fashion.

The Czech Arbitration Court out of Prague I believe posts the information about UDRP complaints that are decided. I don't think they post information about UDRP complaints that are filed. And I believe the ANDRC out of Hong Kong does post information about complaints that are filed. And I think they also post numbers of decided cases although they certainly post their decisions themselves. I hope that's a useful distillation.

Michele Neylon: All right thanks for that. I'll come to you just in one second, Marika. I have
                    seen you; I haven't forgotten you. And, no, Luc, I won't. Matt is saying, "We
                    can ask the question to ask approximately how many UDRPs the registrar
                    handles. Exact numbers aren't really important for our purposes. Just a
                    general idea of whether the registrar has to handle locking for a bunch of
                    UDRPs or just a few."

                    Over to you, Marika. Go ahead.

Marika Konings: Yeah, this is Marika. So I think I'm hearing indeed that, you know, the working
                    group is happy to have a question in there and, you know, which registrars
                    can give an indication of how many UDRPs they handle.

                    I think, you know, like with the other question it's probably easiest if we make
                    that a multiple choice once. So I'd just like to have some input from the
                    working group what will be, you know, appropriate ranges to give, you know,
                    what covers small registrars, medium and large size, what are the - what do
                    people think would be the numbers we should include in that question.

Michele Neylon: Okay thank you. Anybody else have any thoughts on this or should we just
                    continue looking at the actual questions? The more of these - there are more
                    significant edits there, Marika, think we should look at in the questionnaire?

Marika Konings: This is Marika. I think in the registrar questionnaire I think apart from, you
                    know, the question we just discussed adding I think it's - that one seems
                    basically done so it's just a question for me putting that back into Zoomerang
                    and, you know, the working group then would need to discuss, you know,
                    what kind of timeframe we're looking at, how we're going to push this out, you
                    know, I'm guessing we're going to push it through to the registrar stakeholder
                    group but there might be other ways of reaching registrars.

                    So, you know, those are some other items the working group - I don't know if
                    you want to discuss it now or first move onto the other survey for the UDRP

providers. But I think there there were some more comments - or more substantial comments made by WIPO so that might take some more time to get through that.

Michele Neylon: So where are these more substantial ones, Marika?

Marika Konings: In the UDRP survey because I think...

((Crosstalk))

Michele Neylon: ...which number - question number is what I'm...

((Crosstalk))

Marika Konings: That's a separate survey so I can pull it up now. The one on the screen is the one...

Michele Neylon: Okay.

Marika Konings: ...addressed to registrars the UDRP one is in a separate document so if we're don with this one I can go to the next one if people are happy.

Michele Neylon: Okay. Does anybody have anything further to add for the registrar survey? Sorry, Marika, I'm being thick. Does anybody have anything further to add to the registrar survey at this juncture? Going once, going twice. Okay go with the UDRP provider one please, Marika.

Marika Konings: Give me a second while - I'll pull that up and I think in here it might be helpful for probably David to talk through the changes because I think, David, if I understand correctly what you did is accept all the changes I had made and everything you see on the screen are basically the changes you made, is that correct?

David Roache-Turner: Yes that's correct, Marika.

Michele Neylon: Okay so, David, would you like to talk us through this?

David Roache-Turner: Sure. So for the first substantive question, which I think is Question 4 of the survey. You can see that we've included a reference to approximately in that first line there to indicate that it's probably not going to be possible to give an absolutely precise answer.

And we've also suggested inclusion of a phrase - a representative sample here to reflect the fact that the responses to this are, at least not from our perspective, going to reflect our assessment of what has happened in each of the I think 22,000-odd cases we've administered. We're going to need to look at a defined representative sample group of those cases and provide responses on the basis of that. So that's why we've suggested the use of those words in that first question - sorry the fourth question.

We've replicated a similar suggestion in Question 5 below that and suggested the inclusion of the words representative sample there as well to capture that idea.

We've suggested an inversion of the question such that the response will provide information on cases in which the registrar has failed to confirm the lock of the domain name rather than inviting the providers to comment on situations in which the lock of the domain name has resulted in the domain name not being transferred because that's a very difficult question to answer and one that would be very speculative from a provider perspective.

What we can analyze...

Michele Neylon: Hold on just - slow down one second please. One second. Sorry. Which question are you referring to here?

David Roache-Turner: I'm on Question 5.

Michele Neylon: You're still on Question 5?

David Roache-Turner: I am now on Question 5, yes. I was previously on Question 4.

Michele Neylon: Okay, sorry, I don't see the thing about lock in Question 5 or am I - or was something taken away?

David Roache-Turner: So the question in Question 5 now reads, "In approximately what percentage of UDRP proceedings that you handled do registrars fail to confirm lock of the domain names at issue for the purposes of the UDRP dispute within five days of your sending a provider verification request to the concerned registrar?" That's the way that the question is redrafted by us now reads.

Michele Neylon: Yes. And what was the original wording?

David Roache-Turner: I haven't actually got the original wording in front of me.

Michele Neylon: No it's the - it's what you're saying about transfers, David, which was what threw me completely, sorry.

David Roache-Turner: Right, I'm sorry about the confusion there. But the previous wording of that question - and I'm going from memory here, I apologies that I don't have a copy of the previous wording...

Michele Neylon: Oh that's okay.

David Roache-Turner: ...in front of me. But in fact I do have it now. Sorry, I pulled it up. So the previous wording was, "In what percentage of UDRP proceedings that you have administered are you aware of the registrar having locked a domain name upon receipt of a UDRP complaint from the complainant where the

complainant would have copied the registrar on a communication serving the complaint on the registrant and UDRP service provider?"

And what I was identifying there was a difficulty from the provider perspective in answering that question because the provider is not in a position to know, A, whether a registrar has locked a domain name as a consequence of the receipt of a UDRP complaint from the complainant.

Michele Neylon: Okay, okay.

David Roache-Turner: And so what we're doing is we're suggesting a rephrasing of that question so that we are instead asking the providers of the cases that they have handled in what percentage of those cases do registrars fail to confirm lock of the domain name for purposes of the UDRP dispute within five days of your sending a provider verification request to the concerned registrar.

And that's information that we can and do track because of course we receive or we don't receive a confirmation from the registrar in reply to that request that we send. And where there is a failure to confirm the lock that's something that we know because the registrar does not tell us.

The reference to five days in that question captures the period of time that typically the provider would be required to proceed to a notification of the UDRP proceeding assuming that the complainant had filed consistent with the UDRP rules and with the provider supplemental rules and that there would be no need to correct a deficiency. That's why we're using that - or suggesting using that timeframe here because...

Michele Neylon: Okay perfect. Sorry, can I just interrupt you one second as Matt has his hand up and he's been waiting patiently for a few minutes. Matt, go ahead.

Matt Schneller: I was just going to ask - all I was going to ask was where the five days came from? And he just addressed that.

Michele Neylon: Okay perfect, thank you, Matt. Sorry, please continue, David.

David Roache-Turner: That's it for Question 5 at least for me unless anybody has any questions or would like me to address any other aspect of that change I'll move onto Question 6.

Michele Neylon: Go on; go ahead.

David Roache-Turner: So - well in Question 6 the question is modified in our comments now reads - for those who can't see the Adobe - "Are you aware of registrars which lock domain names upon receipt of a UDRP complaint from the complainant? And if so in what approximate percentage of UDRP proceedings administered by you are you aware of this having occurred?"

And the reason we suggested phrasing it in this way is because we believe that we can give an approximate answer based on percentage ranges here as suggested.

But it would be very difficult for us to provide information on the amount of time that it would take a registrar to lock a domain name in response to the receipt of a complaint from a complainant for the same reasons that it would be problematic for us to do that in respect of the preceding question which is that we don't ask the registrars to confirm lock of a domain name in response to the receipt of a complaint from a complainant though of course they may very well do that.

We ask them to confirm the lock in response to a registrar verification request and that's data that we track so that's information that we can provide. But here we would be very uncomfortable about providing information based on how long a registrar would take to lock the domain name in response to the receipt of a complaint from the complainant.

We would suggest that if that's a question we're going to ask it would probably be better directed to the registrars or perhaps to complainants if they would be tracking the Whois data in response to the copying of the registrar on their filed complaint.

Michele Neylon: Okay thank you. Marika had her hand up. Go ahead, Marika.

Marika Konings: Yeah, this is Marika. I'm just wondering as the currently phrased if there should then be another answer added. Because if you're saying are you aware I guess the answer could be as well, no we're not aware and then, you know, the percentages don't apply either. Is that a correct assumption?

David Roache-Turner: That's a good suggestion I think.

Michele Neylon: So in other words it becomes two questions instead of one.

David Roache-Turner: Yeah, and you'd have like a yes/no for the first half and then you're return the percentage (bands) for the second bit.

Michele Neylon: Okay. Anybody else have any thoughts on this? No? Okay. Now, I mean, you've - rather than go through each and every single one of these here I'm just looking at the other ones there. I think you've basically done the same kind of thing with the other questions where you've just kind of twisted - well I won't say twisted because that sounds negative - where you've kind of re-jigged the order of the wording slightly and then broken up the percentages if I'm correct in what I'm seeing here. Would that be right?

David Roache-Turner: I think very generally yes. I mean, it means slightly different things with different questions and there's a slightly different emphasis on some of them. But generally speaking I think that's accurate.

And maybe if there's anybody that has any particular concerns or would like me to clarify any aspect of the subsequent changes I'm very happy to do that. Maybe that's a more efficient way to do it.

Michele Neylon: Okay. Then one thing I would suggest is, again, in Question 8 you've got, "Are you aware of registrars which lock domain names only upon receipt of a notice of commencement. And if so approximately..." which is very similar to the one we were just looking at - Number 6.

((Crosstalk))

David Roache-Turner: If the suggestion there is to split it I think it's a good decision to split it in a similar way with the yes/no on the first part and the ranges on the second.

There is one point just to flag for the consideration of the group maybe at this point. With respect to the use of the term notice of commencement it wasn't absolutely clear to us whether the suggestion of this term in connection with this question was intended to capture the notice of commencement in the sense of the formal commencement of the UDRP proceedings by the provider or some other time in the proceeding.

So I guess I would just open that one up to discussion. But the reason we've suggested the clarification in the text in the way that we did here was on the assumption that what the question is directed at getting at is the notification of the complaint under UDRP rules Paragraph 4 and not some earlier point. Maybe that's a question that Matt could address if he wants to.

Matt Schneller: Hi, this is Matt. Yes...

Michele Neylon: Go on, sorry.

Matt Schneller: Certainly what I was going for initially - and if we just want to substitute notification of complaint across the board I think that's fine to do.

David Roache-Turner: I would probably suggest if it's okay just leaving it in this particular question because I had assumed that the purpose of the question a bit was to look - to inquire a bit as to what if any registrars make a practice of locking, you know, on that formal commencement of proceedings.

Certainly our observation generally has been that most registrars will lock considerably earlier than that typically in response to the receipt of the provider verification request or sometimes even on filing of the complaint. So I think it's useful to keep this one question here using the term notice of commencement. But I wouldn't use it subsequently.

I mean, in part the lock obligation I suppose in a sense derives from the prohibition on the registrant moving the domain name registration under or in prohibition of - with UDRP Paragraph 8a and that's a stipulation that applies as a dependency of the UDRP proceeding so just something to note. So I would not apply it beyond this particular question; that would be my suggestion.

Michele Neylon: Okay thanks. I had put myself in the queue because I - sorry, my throat is going now. The only comment I was going to make was I think the different type of notification is a key question so I think you do need to differentiate between them because I think that's part - that kind of goes to the core of one of the questions that this working group needs to address.

David Roache-Turner: The language that we've tried to use consistently in those modified comments is to use the term registrar verification to reflect the request from the provider that comes to the registrar to provide verification on the registrant data and which typically includes the lock request from the provider.

And to use the notice of commencement phrase only in connection with those questions where we have assumed that the purpose of the question is to deal specifically with the formal commencement of the UDRP proceeding. And the only question as we understand it where that question is being asked is in this Question 8.

Michele Neylon: Okay. Does anybody else have any thoughts? Any comments? Marika, go ahead.

Marika Konings: Yeah, this is Marika. If I can maybe make a suggestion what I can do next is, you know, put these two surveys as modified back into Zoomerang and send that out to the working group so everyone has a last opportunity to review.

And then maybe at the next call we can maybe, you know, sign off on these and release the surveys and maybe talk about as well how, you know, how we push this out, by which channels and which, you know, what timelines we're going to apply for people to provide responses. That might, you know, just a suggested way in getting closure on these two surveys.

Michele Neylon: Okay thanks, Marika. Okay I'm going to read out Luc's comment. Luc, I was thinking of something not quite related to the survey and maybe more to the unlocking part rather than the locking one. As for the UDRP policies there is nothing mentioned regarding the unlocking of the domain but only the implementation of the decision which we, registrars, can't always implement due to the lack of information from complainants. Full stop.

So maybe we could use this working group to create an obligation for complainants to provide a minimum set of details to obtain the unlocking of the domain. What do you think? For the record that is a comment from Luc, not from me. Any reactions to Luc's comment? Deathly silence. Okay.

Laurie, go ahead.

Laurie Anderson: Well I think that if the - when we implement a decision we always implement to the complainant and use the authorized rep at the contact. And then it's up to the authorized rep to get the control of the domain name to their client. So I'm not sure if that's helpful, you know, from a registrar-wide standpoint but that's the way that we've done it in the past.

Now when we deal with the CAC the contact information is not available in the complaint or in the decision. All we're told is that, you know, to transfer the domain name and then we have to contact the CAC to get that information.

Michele Neylon: Okay thanks, Laurie. Volker.

Volker Greimann: Yeah, I would second your request, Michele, because it quite often happens that we get a notification of decision. We contact the complainant or the complainant's representative by the email address we have and we get no answer whatsoever. So it would be helpful if the complainants would be including - or requested to include by the arbitration providers to their whole contact data for all the four contact fields so we could update the domain name right there.

So in some cases we haven't heard from the complainant in years and those domains just lie here.

Michele Neylon: Okay thank you. David.

David Roache-Turner: Just to note to the extent we would be looking at a lock obligation that would be said to derive from Paragraph 8a of the UDRP it's just worth noting that that provision provides obviously the domain name registrant shall not transfer its domain name during a pending administrative proceeding or for a period of 15 business days after such proceeding is concluded. So that may provide some guidance on the question of when the domain name can be unlocked after a proceeding.

With respect to the proposal about UDRP providers providing contact information for a complainant I can confirm that at WIPO we do include the name of the complainant and their authorized representative. And of course obviously it's very much in the interest of the complainant to timely get in touch with the registrar with respect to the implementation of their decision if it's effective.

But I just query what realistically can be done to facilitate that process if the complainant itself is not prepared to initiate that contact then and to make the process move forward.

Michele Neylon: Okay thanks. Matt.

Matt Schneller: This is Matt. One thing that I've seen some registrars do as well is after a - the 15-day period has elapsed they will simply move the domain name to a new account at the - sort of at their registrar and provide login details to the complainant and their authorized representative.

That sort of lets the registrar wash their hands of the matter a little bit because it's in an account and if the person wants to - complainant wants to renew the domain or transfer it or do whatever they want to do with it it's in their court to do it. I don't know, everyone doesn't do it but I've certainly seen that happen fairly frequently.

Michele Neylon: Okay thanks, everyone. Now to throw water on the entire thing. I hate to say this but I think that it might be outside the scope of this working group's charter to delve into that area. However - however - I will ask Marika what she thinks. Is that - I suspect that it is delving outside the area of our charter but Marika might be better qualified. Marika.

Marika Konings: Yeah, this is Marika. I'm not really sure if I'm the person qualified to rule on that but I think if you look at the charter questions if people feel that it, you

know, fits in with, you know, any of those questions where, you know, that issue could be addressed as well and there's, you know, consensus within the working group that that is an issue that falls within those charter questions, you know, I think there is scope or, you know, room for maneuver there.

But if people really feel that it is beyond the questions that are being asked in the charter then it's more challenging. However, still that doesn't, you know, preclude things because if the working group still strongly feels that that's an issue that that should be covered as part of these discussions you can always go back to the GNSO Council and ask for a modification of the charter to specifically allow addressing of that issue so, you know, there are different ways to look at it.

Michele Neylon: Okay thanks, Marika. Just for the record the reason why I'm quite cautious about this is because I'm very, very conscious of the fact that the GNSO has made a clear ruling on there being no PDP related to UDRP itself and that we - but whereas we do have a charter related to a specific primarily operational aspect of it.

So I'm just trying to make sure that we don't overstep the line. David, go ahead.

David Roache-Turner: Thanks. David here. I suppose just to note that in a sense if you would regard the lock obligation as related to the status of the domain name during the pendency of a UDRP proceeding from one perspective you could see this as an issue that relates more to the implementation of a UDRP decision after the conclusion of that UDRP proceeding after it has run its course.

So, you know, indeed I think there might be a legitimate question as to whether or not it's within the fairly limited scope of the charter as - at least as presently defined.

Michele Neylon: Okay. Now I will firmly remove my hat as chair to make one comment. Speaking as a registrar I would be fully supportive of what some of the other registrars have said about this entire thing because we - even though we haven't dealt with many UDRPs we have had an incredibly frustrating experience when dealing with the ones that we've had to deal with.

Including in one instance one charming law office who thought that we were somehow magically going to make the domain name magically move from our accreditation to another registrar's accreditation without knowing anything more; it was just going to happen magically.

Anyway I'll put my chair hat back on and go back to being objective. Moving on. Okay then we've gone through the questionnaire here. Luc suggesting - has made a couple of suggestions. I think it would be a good idea if Luc, could you follow up on the mailing list please? That's your little bit of homework for this week.

We also have a few comments that we received on the survey which are up in the chat there. From Sheri Falco - is Sheri on the call? Oh she is. Regarding the question of registrars (unintelligible) locks perhaps we can consolidate all those questions and ask a more freeform type question like please describe what kind of locks you use throughout the UDRP process. Oh, damn, we already did address that didn't we? Oh where did I miss that? Sorry, Marika.

Did we address Juan Manual Rojas's query as well?

Marika Konings: This is Marika. We didn't discuss it but I think you did ask the question on the mailing list to get some further clarification on that. We did cover the WIPO comment...

((Crosstalk))

Michele Neylon: Oh I'm sorry, I'm sorry. This is - look, I've only had six coffees so far today and I'm slowing down. Juan Manuel Rojas had a query which went - and I replied to him. Juan Manuel, do you wish to clarify that now or will you do it via the mailing list?

Juan Manuel Rojas: I don't think that we need to clarify that because it's just to - seen an issue - maybe we were talking about a statistic and we know that maybe the subject of the important issue of this group - working group is now (unintelligible) statistics. And maybe is not I think maybe is not important to (unintelligible). Just I was wondering about it. But I don't think that maybe is relevant at this point.

Michele Neylon: Okay. Okay so maybe you could have a look at - if you're interested for your own personal interest as was discussed earlier on this call several of the providers do publish relatively detailed statistics so you might find most information there.

Okay then moving on. Next item on the agenda was - and we're running out of time here so I'm going to have to kind of speak really, really quickly which isn't a challenge for me. I am Irish after all.

Okay request for input from other stakeholder groups, SOs and ACs. The simple question here is do we want to do this now or do we want to do this at the same time in parallel with a public comment forum? Does anybody have any feelings or thoughts on this subject apart from Marika.

Marika Konings: Yeah, this is Marika. Just to clarify as the working group decided that, you know, you don't want to start a public comment forum until you get the feedback on the survey, you know, to help inform questions you might want to ask as part of a public comment forum do you want to do the same thing with requesting input from stakeholder groups and constituencies and other

SOs/ACs? Or do you feel that, you know, there's already an opportunity now to reach out to those different parties for their input?

You know, as you might recall it is a requirement to ask stakeholder groups, GNSO stakeholder groups and constituencies for input and they need a minimum of 35 days to provide feedback or they have a minimum of 35 days to do so.

On the other supporting organizations and advisory committees it's strongly recommended that a working group reaches out at its initial stages to the different groups to, you know, get input to help inform the deliberations of the working group. So the question is there, you know, is that something you want to do now for example in parallel with releasing the survey? So responses and answers are coming in at the same time and can be reviewed together.

Or is that something you think will work better, you know, once you have the responses to this survey and you might want to do in parallel to a public comment forum.

Michele Neylon: Okay, thank you, Marika. Alan, you had your hand up.

Alan Greenberg: But I lowered it.

Michele Neylon: I saw you had it up.

Alan Greenberg: Yeah, I know. I don't have a comment at this point.

Michele Neylon: Okay. Never let it be said that I wasn't trying to get your input, Alan.

Alan Greenberg: Thank you very much.

Michele Neylon: Matt does definitely have his hand up.

Matt Schneller: I do. I think it may make sense to get our survey results back before we reach out either to other stakeholder groups or to the public in general just so we'll, if nothing else, be able to say this is what current practice appears to be or if there appears to be a division between current practice based on number of UDRPs registrars are handling or whatever data we get back I think will be useful to provide to every other group that we reach out to to essentially let them either bless or object to the current state of practice.

Michele Neylon: Okay. That's - that makes a lot of sense from my perspective personally. If anybody has any strong feelings about this could you please put this to the mailing list within the next couple of days so we can move forward on this? Though I personally think that what Matt is saying makes a lot of sense.

The other thing as well is - sorry, looking at the time here - oh David has also provided a link with a range of information and real time statistics about WIPO's role as UDRP and he's provided a link to that.

For the meeting in Prague what are people's thoughts? What would you like to do at a meeting in Prague? What would you like to see as its purpose? You know, what kind of thoughts do you have about such a meeting?

Again you don't need to answer this immediately this minute but if you can think about it, I mean, we've had meetings in the past where we've - at ICANN meetings where it's been a normal working group meeting for most of the meeting and then maybe we've kind of opened it up a little bit so people can, you know, share their experiences or, you know, we've done a number of different things. Marika, go ahead.

Marika Konings: Yeah, this is Marika. I actually wanted to comment on the preceding agenda point that I think we skipped over on the continue a development of work plan and approach. Just to, you know, put a stake in the ground that the, you

know, the working group is expected to develop a work plan basically outlining the main milestones.

I think basically on the discussion we already had now maybe on the stakeholder group and constituency statements and public forum, you know, we can probably fill in some of those milestones and then, you know, kind of a calendar.

But maybe people can start thinking a bit about what they would like to set themselves as a goal for, you know, delivering an initial report and going from there. And maybe that's something to discuss in further detail at the next meeting.

Michele Neylon: All right, thank you, Marika. With respect to the next meeting again I probably will not be able to make it. And I will have to ask Alan to step in and do that wonderful job but if Alan can't do it I'm sure somebody else can - fingers crossed. Because next week I will be melting in the desert I think. So what time of the day is it, Laurie, at the moment in Arizona?

Laurie Anderson: It's 7:00 am - or it's not 7:00 - it's 8:00 - it's 8:04 am.

Michele Neylon: Okay so maybe actually will be able to make the call next week. Okay sorry. I probably will be able to make the call next week assuming I can get out of bed. Okay, assuming I can get out of bed really early I can make the call next week.

Alan Greenberg: You can do it from bed, Michele.

Michele Neylon: Yeah, Alan, you really do not want...

Alan Greenberg: No video. No video phones.

Michele Neylon: Oh no it's not that, Alan, it's just I have an awful habit of taking phones into my bed and then losing them. I have been woken up more than once by a phone ringing and then - scaring the hell out of myself because it literally was, you know, halfway down the bed and I couldn't understand how it got there.

Alan Greenberg: All I was saying is we'll take you any way we can get you.

Michele Neylon: I better not respond to that because that would - this call is being recorded and that will cause all sorts of problems.

Okay then so look forward to speaking to you all next week. And if anybody has any issues or strong feelings about anything could they please raise them via the mailing list? Thank you.

Alan Greenberg: Thank you all.

Michele Neylon: The call is adjourned.

Laurie Anderson: Bye.

END