

**Locking of the Domain Name Subject to UDRP Proceedings Drafting Team  
Meeting  
TRANSCRIPTION  
Thursday 12 July 2012 at 1400 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 Thursday 12 July 2012 at 1400 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <http://audio.icann.org/gnso/gnso-locking-domain-name-20120712->

**Attendees:**

Randy Ferguson, IPC  
Sheri Falco, RySG  
Alan Greenberg, ALAC (Vice-Chair)  
David Roache-Turner, WIPO  
Luc Seufer, RrSG  
Faisal Shah, individual  
Jonathan D. Tenenbaum, RrSG  
David Maher, RySG  
Laurie Anderson, RrSG  
Matt Schneller - IPC  
Juan Manuel Rojas, At-Large  
Celia Lerman Friedman, CBUC  
Hago Dafalla, NCUC  
Brian Beckham, WIPO  
Kristine Dorrain, NAF  
Volker Greimann, RrSG

**Apologies:**

Michele Neylon, RrSG (Chair)  
Gabriela Szlak, CBUC

**Staff Support:**

Marika Konings  
Margie Milam  
Glen de Saint Gery  
Berry Cobb  
Nathalie Peregrine

Coordinator: Go ahead, we're now recording.

Nathalie Peregrine: Thank you, (Ricardo). Good morning, good afternoon, good evening. This is the UDRP Domain Name Locks call on the 12th of July, 2012. On the call today we have Alan Greenberg, Hago Dafalla, Sheri Falco, Juan Manuel Rojas, Randy Ferguson, Matt Schneller, Volker Greimann, Luc Seufer, Kristine Dorrain, Celia Lerman and Laurie Anderson.

From staff we have Marika Konings, Margie Milam, Berry Cobb and myself, Nathalie Peregrine. And we have apologies from Gabriella Szlak and Michele Neylon.

I would like to remind you all to please state your names before speaking for transcription purposes. Thank you very much and over to you, Alan.

Alan Greenberg: Thank you very much. Michele is absent again. And I am glad to take over. And I'm glad to turn the first item of the review of the Prague meeting over to Marika since I only found out I'm taking over about five minutes ago.

Marika Konings: Yes, so this is Marika. Just a very brief recap. I think I've sent everyone, as well, an email. We had a very good session I think in Prague where David Roache-Turner presented the case study from the perspective of UDRP providers. And I think that maybe resulted in a lot of interesting questions and discussions.

So I would strongly recommend anyone that wasn't able to participate in that session to review the transcript and a look at the slides or look at the reporting. I think you see the link here, as well, in the agenda where you can find all the information and I also sent it earlier in an email.

I'm not really sure if there's anything more. I think one thing to mention there as well for those that weren't at the face to face meeting we also had an

update to the GNSO Council in the weekend session where we provided an overview of the activities of the working group to date.

And as you may recall there was a question from the working group with regards to clarifying its charter to determine whether indeed the charter - discussing locking but it also means whether the group can address recommendations in relation to unlocking of domain names once a UDRP dispute has been completed.

And the Council confirmed in that meeting that, you know, it's their assumption that those recommendations will also address unlocking. So I think, you know, that's a point where the working group can now move forward on and has been clarified by the Council.

I don't think there's anything else to add specifically on the meeting in Prague. One of the agenda items - the next item on the agenda was something that we actually had on the agenda for Prague but as we spent quite a lot of time discussing the UDRP provider case study we didn't actually have any time left to go into the registrar case study which, you know, we hope to cover on today's call.

And I don't know if anyone else wants to contribute anything or raise anything with regard to what was discussed in Prague or anything else they want to highlight from that perspective?

Alan Greenberg: I don't think I have much other than to point out I had all sorts of great arguments ready why we should be allowed to consider unlocking as well as locking and Council basically said it makes sense to them and didn't have any opportunity to use any of my arguments so it was disappointing but it didn't take much time so that was good.

If nothing else - I don't see any hands up - then we can go onto the next item. And I'll pass the baton over to Luc to review his presentation.

Marika Konings: And, Luc, this is Marika. And you can move the slide - if you see in the Adobe Connect I've made you a presenter. So if you click the arrows at the bottom of the presentation part, you move the slides backwards or forwards so you have control.

Luc Seufer: Okay, got it. Thanks. Okay so, Luc from EuroDNS. However I'm doing a presentation of just one specific case and (punting) on the flow of just (unintelligible) law firm.

I attempted to do a presentation of all the flows of the lock process in the UDRP but it's more a view stance from the registrar (unintelligible) view rather than a case study.

So in theory normally we regard registrars to be informed of the complaint by the UDRP provider. When the case has been reviewed for administrative non-compliance. And then the registrar should maintain the status quo. And after that the (unintelligible) party then the (unintelligible) and finally implements the decision. But that's only theory.

So as the Greek philosopher Morpheus said welcome to the real world. The registrar may be informed at of the times of the proceeding. The first one I've called it the early notification which is basically the complainant copying the registrar to his email to the UDRP provider.

And at that point the actions we are taking is we notify the registrant that a complaint has been lodged. We will remind them of our terms and condition especially the right of third parties - (unintelligible) provider third parties. And they are sentenced to submit to UDRP. Where applicable we notify the (unintelligible) seller.

But at that point we do not take any lock measure on the domain name for (unintelligible) reasons. No administrative review has been operated at that

stage. The registrants may still lift the privacy service that may be actuated on the domain.

And also there is a high percentage of (unintelligible) happen at that stage because registrants usually don't respond to complaints or issues via their Whois details but we are more prone to respond to their registrar (unintelligible).

And we may also be informed of the complaint by the UDRP provider. Via (Unintelligible) for registrar verification which constitutes us confirming whether the domain is the registrar (unintelligible), but the Whois details are the same as well as our database, but UDRP applied to the domain name (unintelligible) also the date of registration and operation of the domain name.

And for some UDRP provider we - give us time to lift the Whois privacy service. Obviously to confirm that (unintelligible) measure will be advised. So I've just copy paste the request for verification that we received. From that (unintelligible) to list any privacy services since July 1 of 2010.

WIPO does the same (unintelligible) is used regarding Whois privacy service. Then we forward this (unintelligible) two cases where the Whois privacy service provider was routed into the UDRP and made correspondence to the decision.

The thing for the registrar lock it's taken from the registrar verification request. So WIPO is making a reference to the policy (unintelligible) putting lock in upper case. We really believe it's more meaningful (unintelligible) action we are supposed to take. And again that is the less (unintelligible) lock.

As to maintaining the status quo. What we are doing upon the receipt of the request for verification is that we notify the registrant but the domain will be locked (unintelligible) subject to a UDRP proceeding.

We reply to the UDRP provider request. And we apply our lock measure. So the lock measure we applied (unintelligible) I think most of registrar are applying the same (reserve) - more or less (system reserve). But what we apply we transfer the domain name and the designated account where only my department has access to.

We apply the registrar transfer of the lock at the registry or the registry lock. And we also place the domain name in the (unintelligible). (Unintelligible) we do not offer any privacy service that third party - the third party (unintelligible) wants to lift their - or suspend their service (unintelligible) complaint.

(Unintelligible). So maintaining the status quo or the registrar lock if I'm referring to Paragraph A and B of the UDRP rules it allows the registrants to modify its Whois details during the arbitration proceedings.

If the new registrant is providing proof of acceptance to be bound by the arbitration (unintelligible) decision. That's regarding Paragraph 8b. This we never faced but I'm not sure how we would handle it because it states that the domain name may be transferred to another registrar during the arbitration proceedings. And I'm not sure how to maintain the status quo or the registrar lock while allowing the transfer to another registrar.

And also our approach to the registrar lock is to never change the DNS. We've received several requests (unintelligible) UDRP proceeding to change the DNS. But we do not - we never do that - or do that but only in cases where there is a blatant infringement of (unintelligible) domain names is (unintelligible) Website or phishing Website or any problem (unintelligible) then we will suspend. But our policy is not to change the DNS.

So (unintelligible) reviews made up the domain name. And also if the decision is in favor of the respondents we would have suspended the domain name for three months. I don't know exactly the (unintelligible). How much do you charge for the UDRP? (Unintelligible) provider.

Anyway so I believe it's something like \$2,000 US so - okay thanks, Volker. So \$1500 for one panelist. And this means that for that amount you could suspend your competitor for - and just basically stop his business for three months. You would just need to lodge a UDRP - a complaint and start the (unintelligible) UDRP proceeding and basically kill your competitor business. And then the registrar has (unintelligible) domain name would - we would render ourselves liable.

So another (unintelligible) is the - when we have (unintelligible) the decision. When the complaint is denied, it's quite easy; you notify the registrants when we receive the decision and also the (unintelligible) and after ten business days we just put the domain name back in the registrant account.

But when the decision is in favor of the complainant this is where we are facing the most problem because we have, most of the time, we have to (chase) the complainant to implement the decision because for them or for their representative their job is limited to the UDRP. And once they have the decision they honestly it's like they don't care about the transfer of the domain name.

Then what we do is we often we ask the complainants or it's representative to (unintelligible) transfer the domain name. But we do not do that ourselves because (unintelligible) terms and conditions (unintelligible) the domain name.

And if for now the trade operation or the change of ownership of domain name is free (unintelligible) new gTLD so it's quite (unintelligible) adopt a domain name - the registry for the domain name would charge €200 for change of ownership which would be held to (unintelligible) this cost if we wouldn't have the acceptance of the complaint to our terms and conditions.

And also the (unintelligible) that I see in the current rules is the fact that (unintelligible) the UDRP provider is receiving the details - the full details of the complainant. As a registrar we only receive the details of the representatives and they are not always complete and they do not (unintelligible) to reach the complainants to transfer the domain name under their control.

And even when we have the details of the complainant but (unintelligible) that in the Whois. We don't know if (unintelligible) the details of the complainant. Sometimes the details of the complainant are not the same as those of the one that shall be registered in the - for example, sometimes the complainant is the trademark holder which was the base for the UDRP.

Where the registrants to the domain name registrant or the details for (unintelligible) registrant are not the same as the trademark holder there is normally a (unintelligible) and may have an entity that hold the trademark and another one which is managing the domain name for its entity.

And once the details in the Whois are applied and (unintelligible) implemented we still need to transfer the domain name under the control of the complainant. And we had several places where we were able to implement the decisions in the sense that the Whois details were those of the complainant - beginning party.

But we couldn't communicate with the complainant to have them - to have them manage their domain names so that the domain be transferred under their control.

That would be all for me, Alan. (Unintelligible) to speak and have no reply but (unintelligible) if you have any questions please speak.

Alan Greenberg: Well thank you. I've got a whole bunch of questions but let's open it up to anyone else who has any comments, questions or whatever before I chime

in. One thing that would be interesting for many other registrars is - are your experiences similar to what Luc has described or do you see any real differences?

Anybody? No? Volker.

Volker Greimann: Okay our procedure is pretty much the same. There is small differences. For example we do not push out the domain from the account of the registrant or the reseller when we receive the complaint we just lock the domain name and nothing can happen to it at that stage so there is no need to push it to a different account.

We only push it to a different account when the complainant has won and the domain has to be pushed to the new account of the complainant. There was one other thing - yes, regarding the deletion lock we place a deletion lock on the domain name but we will allow the respondents to request manual deletion at which point we will offer the domain name to the compliant at the same terms. That's about the only differences I could make out, yeah.

Alan Greenberg: Thank you, Volker. Anyone else? All right I'll start on my list. A couple - some of them are comments, some of them are questions. Luc, you mentioned that you don't change DNS so that the Website is preserved. That of course presumes that you have control. If the...

Luc Seufer: Yeah...

((Crosstalk))

Alan Greenberg: ...if the registrant had pointed to another DNS server then obviously they can take whatever action they want and it's out of your control.

Luc Seufer: Yes indeed. We could change a DNS for ours but, yeah, it's done in cases of there are blatant infringement.

Alan Greenberg: Okay. You commented that you don't know if you could really change the registrar because that would require unlocking at that point. Have you - is that something that's really come up? I mean, I understand the UDRP allows for it but is that something which you've seen in real life or you're just identifying an anomaly of a policy which may not be implementable?

Luc Seufer: Yeah, the latter, yeah. Hopefully - we never faced that situation but we - according to the UDRP policy we'd be (unintelligible) to do that.

Alan Greenberg: Okay thank you. And my last comment is you made a comment that it's conceivable that someone could put a competitor out of business for a period of time for \$1500. It strikes me that you can also - \$1500 will also pay to reveal the - to have a privacy service reveal who the owner is which is a pretty small price to do.

So that in theory would work as well essentially a frivolous but sounding-good request could essentially reveal privacy if the privacy supplier follows that pattern. Is that correct?

Luc Seufer: I believe so. We do not offer this service. But from our experience with Whois privacy service provider (unintelligible) usually how they are acting.

Alan Greenberg: Interesting. So privacy is okay - privacy is okay unless you're the person who wants to know who you are has \$1500.

Luc Seufer: Basically yes.

Alan Greenberg: Any other comments, questions? Yes, David.

David Roache-Turner: Thanks very much, Alan and thanks very much, Luc, as well for that very informative presentation. Just to comment to note with respect to Paragraph 8 of the UDRP our understanding at least of that provision is that it

precludes any registrant transfer during a pending UDRP proceeding or for 15 days thereafter.

But transfer to a different registrant or registrar is permitted on certain terms only during a pending court action or arbitration but not during a UDRP as such.

Alan Greenberg: Ah, okay.

Luc Seufer: And you may be right (unintelligible) it's just my understanding of this paragraph.

David Roache-Turner: Yeah, I'm just looking at the language now in front of me and it - at least it seems to us to be fairly clear on that point. But anyway just to point a note perhaps.

Alan Greenberg: Okay thank you. Other comments, questions? Is your hand still up or is that again?

David Roache-Turner: It's no longer up; I'll take it down.

Alan Greenberg: Okay. All right if there are no other questions and no comments we'll go onto the next item which is the review of the first survey responses which Marika sent out with the agenda. And again because I haven't prepared to actually present I'm going to ask Marika to be the speaker on this one.

Marika Konings: This is Marika. Where would you like to start with the UDRP provider response or the registrars? Just to note because what I did (unintelligible) the preliminary results of the survey were still open yesterday as well and I actually did see that there has been one further response from a registrar made in the meantime so I'll need to update that one.

Alan Greenberg: Well...

((Crosstalk))

Alan Greenberg: No that's fine, do what we have at this point though.

((Crosstalk))

Alan Greenberg: ...with the registrar one first.

Marika Konings: So no but in that case it might make sense to start with the UDRP providers as all of them have responded...

Alan Greenberg: Fine...

((Crosstalk))

Alan Greenberg: You're the boss.

Marika Konings: But I have to admit as well I didn't have a very detailed look at this either; I just, you know, put the report together and (unintelligible).

Alan Greenberg: Someone is vacuuming.

Marika Konings: Okay.

Alan Greenberg: All right.

Marika Konings: So basically what I did I just put the results of the survey together in this report. I haven't done any kind of, you know, correlation of data or if you see as well any open responses there. I think there are some similar responses. This is just, you know, the raw data in a document overview. So I'm happy to try to run through it or - I don't know if other people already have a chance - had a chance to look at it in greater detail or how would you like to...

Alan Greenberg: I know I haven't looked at it at all. I'm in the process of upgrading a computer and that's what I've been doing the last couple of days.

Marika Konings: Okay.

Alan Greenberg: And right now my email is on a different computer than I can look at the PDFs on. So, yes, I'd like you to run through to the extent you have because I certainly can't right now.

Marika Konings: Okay so it's on the screen. You'll see the survey results from the UDRP providers. As you can see from, you know, Question 1 and 2 we got feedback from the four UDRP providers at the moment. I'm not really sure if we need to cover Question 3 which talks about the number of UDRP disputes that they have experience with. You can review that by yourself.

Looking at Question 4, "And approximately what percentage of UDRP proceedings that you handle do registrars lock the domain names? That issue is taking on a representative sample of UDRP disputes that you have experience with."

And you can see that the responses - all of them have responded. It's more than 75% of cases that the domain name is locked by registrars.

Alan Greenberg: Yeah. Marika, it strikes me that perhaps we should have had an option for virtually all. I'm not sure when I look at that does that mean only 75% or, you know, it's effectively 100%. It's too late to change that now but it strikes me once I see the answers that there is a significant difference between the two. Thank you, let's go on though.

Marika Konings: Right - well this is Marika. As we both have David, Brian as well as Kristine...

Alan Greenberg: Yeah.

Marika Konings: ...on the call I see some of them already typing. I'm sure they can, you know, shed some more light on that if they want to.

Alan Greenberg: Okay. Good point.

Marika Konings: For Question 5, "In approximately what percentage of UDRP proceedings that you handle do registrars fail to confirm lock of the domain names that issue for purposes of the UDRP dispute within five days of your sending a provider verification request to the concerned registrar? Taken on a representative sample of UDRP disputes that you have had experience with."

Three respond here that it's in less than 25% of cases and one response that it's between 25% and 50%.

Alan Greenberg: That's scary. Go ahead, thank you.

Marika Konings: Question 6, "Are you aware of registrars which log domain names upon receipt of a UDRP complaint from the complainant?" Here the response are split, two say yes, two say no.

Question 7...

Alan Greenberg: Marika, one second. If anyone has any questions please put your hand up or call out. There's no point in waiting until the end of there's anything that you want to raise. Thank you. Go ahead.

Marika Konings: So Question 7, "If you answered yes to the previous question in what approximate percentage of UDRP proceedings administered by you are you aware of this having occurred?" And here the two that responded yes say in less than 25% of cases.

Question 8, "In approximately what percentage of UDRP proceedings that you have administered are you aware of the registrar having confirmed a lock of a domain name in reply to a request for registrar verification from you but in which there was nevertheless subsequent material changes to the registrant data which impacted administration of the UDRP dispute?"

Here three responded that it's less than 25% of cases and one responded actually even further narrowed that number in saying that it's less than 5% of cases.

So Question 9, "Are you aware of registrars which log domain names only upon receipt of a notice of commencement, i.e. location of complaint on the UDRP rules Paragraph 4 from you?" And here four - all four responded no.

Question 10, "If you answered yes to the previous question..." which is moot because everyone I think responded no. So no need to cover that one further.

Question 11, "How long does it typically take you to issue a request for a registrar verification from the time of receipt of a UDRP complaint from a complainant where the complainant has followed all UDRP rules and your supplemental rules?"

Two responded that it's less than 12 hours. One responded that between 12-24 hours. And one other response which specified that in the majority 55% of cases in less than 12 hours with overall average accounting for weekends, etcetera, rounded up approximately 15 hours.

Question 12, "In approximately what percentage of UDRP proceedings that you have administered are you aware of a Registrar's confirmed domain name lock failing to prevent an apparently prohibited, e.g. under UDRP Paragraph 8(b), a transfer to another Registrar during pendency of a UDRP proceeding?"

Two respond here less than 25% and two provided other information, one says less than 5% and the second response is, "This is only happened in cases where the Registrar provided verification but did not expressly confirm locking."

Question 13. In what percentage of UDRP proceedings that you have administered are you aware of a Registrar's confirmed domain name lock having failed to prevent an apparently prohibited, e.g. under UDRP Paragraph 8(b), transfer of a domain name registration to another Registrant?

Two respond here in less than 25% of cases and there are two other responses provided, one saying less than 5% and a second one again, "This only happened in cases where the Registrar provided verification but did not expressly confirm locking."

Question 14. In what percentage of UDRP proceedings that you have administered are you aware of a Registrar's confirmed domain name lock having failed to prevent modification of any materially relevant Whois data - example, giving Registrant contact information?

Three of the UDRP providers responded here that in less than 25% of cases, and one responded that the requested data is not available. Question 15. In approximately what percentage of UDRP proceedings that you have administered are you aware of a privacy or proxy registration service appearing in the Whois at the time of filing and being named as respondent in a filed complaint in which the Registrar discloses an underlying or actual Registrant and confirms lock on that basis in response to your Registrar verification request?

Two responded that it's in less than 25% of cases, and two responded that's between 25% and 50%. Question 16. In approximately what percentage of UDRP proceedings that you have administered are you aware of a Registrar's confirmed domain name lock pursuant to a UDRP proceeding

having apparently prevented expiration, e.g. the Registrar confirms no further steps necessary to keep the domain name active and subject to UDRP proceedings, of a domain name that passes its expiration date without renewal while a UDRP proceeding is pending or in the 10 to 15 day wait period thereafter, e.g. the Registrar does not appear to require payment by either UDRP party pursuant to the Expired Domain Name Deletion Policy to keep the disputed domain name active and subject to the UDRP proceeding?

Three responded here that it's in less than 25% of cases, and one responded that the requested data is not available. Question 17. If the UDRP proceeding is decided in favor of the complainant, in approximately what percentage of cases are you aware of the Registrar or the Registrar's lock having hindered transfer of the domain name to the complainant after the ten-day wait period expires?

One response here says less than 25%, and one says requested data not available. And there were two other responses provided and one saying, "The lock is never the issue.

Unlocking is part of the transfer process. Either a Registrar responds or doesn't." And a second response says, "It is very rare that the Registrars do not comply with the decisions at all, in less than 5% of cases, however there are many cases where they wait for much more than ten business days, an estimation of 25% to 50% of cases, to implement the decision.

Question 18. If the UDRP proceeding is decided in favor of the Registrant, in what percentage of cases are you aware of where the Registrar would not have unlocked the domain name once the 15 day wait period has expired?

Here three respond that it's less than 25% of cases, and one response indicates that the requested data is not available. And then we go into the more open ended questions, so the first question, Question 19, basically asks

are there any other issues or information the Working Group should take into account as part of its deliberations?

So there are - I think the first one provides some information on some of the other questions as well. And regarding Question 18, "The wait period is eight - ten calendar days, not 15 days.

And I'm not aware of a Registrar ever failing to unlock when a respondent has prevailed. Two, while the percentage of lock hassles might be relatively few, the time, hassle and cost for complainants and the provider in dealing with the issues far eclipses by order of magnitude the time, cost and effort required for a case that doesn't present a problem.

Three, the biggest problem is not the effectiveness of the lock once it's in place, or the fact that the domain name has to be unlocked to transfer. The biggest problem is Registrars taking many days to lock coupled with the fact that complainant has to serve respondent.

This is the deadly combination that breeds cyberflight and wastes everyone's time." Then the second comment that was made, "In addition to issues raised and information supplied during Working Group deliberations as a Working Group member and as a UDRP provider in response to this survey, WIPO stands ready to provide additional, including more statistically detailed provider data as also mentioned at the Prague meeting session if considered helpful by the Working Group to further assist its deliberations.

And the further questions go into the Working Group and charter questions and info provided there. And I don't know Alan, do you want to go into those now as well or do you first want to look at the Registrar feedback on the specific questions?

Alan Greenberg: Well since you're asking the question I'm presuming that from your original look at these, you don't think it's going to be really important to look at these right now. Is that correct?

Marika Konings: Yes. Well this is Marika. My assumption is that it would be more relevant to look specifically at these once the Working Group starts looking at the charter questions I guess.

Alan Greenberg: Okay.

Marika Konings: And it's really helpful to look at, you know, we can go through it now but I think we - it's something we need to come back to as well when we actually start diving into the charter questions.

Alan Greenberg: Well we only have 20 minutes left so why don't we do the Registrar survey quickly and then come back to this later if there's any time? But I suspect there won't be too much.

Marika Konings: Okay, let me pull up the other one. And again hoping by the next call people will have had a chance to, you know, look into this data in further detail and might have the in depth discussion of those.

And then hopefully some people might draw some - might even be able to draw some conclusions from those as well.

Alan Greenberg: Yes I...

Marika Konings: And so I'm looking...

Alan Greenberg: Before you go on, Kristine has put a note in the charter saying - in the chat saying, "It's not ten days but ten business days," as opposed to 15. I presume that's the comment we're talking about.

Kristine Dorrain: Yes, and I'm sorry. I mistyped when I made my response, so I just wanted to clarify that I do actually know the right answer.

Alan Greenberg: Okay thank you. (David)?

David Roache-Turner: Yes, it might just be worth noting that there are two relevant time periods here that might be worth considering. The first one is the obligation under Paragraph 4(k) who implements a decision that orders the transfer or the cancellation within which there's ten business days to implement the decision if there's no court challenge.

Then there's the prohibition under Paragraph 8 under Registrants transferring the domain name during a pending UDRP proceeding or for 15 business days thereafter.

So because this question relates to a denial situation, i.e. where the Registrant is successful, I think that's what the reference is probably intended to capture.

Alan Greenberg: Thank you.

Kristine Dorrain: Okay this is Kristine. Good point (David). Thanks.

Alan Greenberg: All right, no more hands, no new hands so let's go ahead Marika.

Marika Konings: Yes, so this is Marika again. What we have now on the screen is - are the results from the survey that was sent to Registrars. As I noted before the survey on the screen covers I think 41 completed responses from Registrars, but I saw - I think someone else submitted a response yesterday so I'll need to update it.

So I guess the results might, you know, change slightly. But in any case looking at the first, you know, we didn't require people to provide their names

and affiliations but 39 did and 35 also provided their affiliation and provided as well an email address, which we could use to get in contact with them if we would have further questions.

And Question 4 basically talked a bit more about getting an insight as to, you know, the division between the Registrars that responded, asking them how many UDRP disputes were handled by them in the last year.

And you see there's a - the widespread although the - and the majority of respondents handled 0 to 10 cases a year. And so looking then at Question 5, when do you typically lock domain names pursuant to UDRP proceedings?

Forty-eight percent responded that this happened upon receipt of a UDRP complaint from the complainant, i.e. where the complainant copies the Registrar in an email serving the complaint on the Registrant and the UDRP dispute resolution service provider.

The other half, 48%, said that it's upon receipt of a provider's request for verification from the UDRP dispute resolution provider. And then 2% respond that they do not lock a domain name during UDRP proceedings, and there were - was one question, other, please specify and this is the person that actually never had a UDRP case.

Then looking at Question 6, please describe what kind of lock you use to restrict changes on a domain name subject to a UDRP proceeding. Seventy-one percent of respondents indicated that they apply an EPP lock, and 29% indicated that they provide - they're using other mechanisms.

And I think if you quickly look here through the list, most prevalent the locks in to be a specific Registrar lock or an EPP lock plus internal dispute lock. Then looking at the next question, Number 7, please describe what kind of changes are prevented by the lock or mechanisms you apply as described in the previous question, and noting that multiple answers may apply.

And just a note here that there was something in the settings at the beginning of the survey that some people weren't able to select all the options, so you'll see in the responses I think in this first four before this got fixed that indicated that there were some other options that apply, so we might need to recalculate the numbers here if needed to make sure that we have an accurate representation of what is prevented.

So 67% of respondents indicated that cancellation is prevented. Ninety-five percent prevents transfer to other Registrars. Seventy-two percent of respondents indicate that they prevent the transfer to another account at the same Registrar.

Eighty-seven percent indicate that they prevent a change of Registrants, and 33% prevent the expiration. Seventy-four percent prevents modification of any Whois data.

Fifty-one percent indicate that they prevent modification of any Whois data except for where a bona fide privacy or proxy service is listed - is the listed Registrant and that service substitutes the information that is already - that it already has on file for the actual Registrant.

And then there were a couple that provided other responses. I think as you see...

Alan Greenberg: Marika, so it - I have a question. If 74 say - percent say they don't allow any modification, but the previous survey implied that a fair number of domains that have a privacy service the information is revealed.

Or, I'm sorry, it may be in Luc's presentation but I'm trying to understand how those two can go together. Am I missing something? Anyone - if anyone can answer I'd appreciate it.

I mean, if the privacy service reveals who it is, that implies a change in Whois data doesn't it?

Kristine Dorrain: This is Kristine from NAF. I think that one of the problems is sort of a misunderstanding. I think some Registrars believe that releasing the privacy shield doesn't count as a change.

Alan Greenberg: But technically that is - that would be done by the privacy service that is the domain owner of record.

Kristine Dorrain: Correct. Or the - or some - I think sometimes yes by the Registrar which would be the same thing, right.

Alan Greenberg: If they're the privacy service yes, that's - then it's easy.

Kristine Dorrain: And from what - from my conversations with different privacy and proxy providers, you know, they say, "Our underlying Registrant can't do anything. They can't update anything.

They can't - but here, we're going to change the Whois information." So they don't believe that that counts and I'm not trying to say that with a positive or a negative spin.

I'm just trying to maybe clarify for you how people may answer. We allow nothing to change but we do update the privacy service.

Alan Greenberg: Okay. But certainly if they're not operating their own privacy service and - or it's at arm's length then the privacy service is the Registrant and that means the Registrant is allowed to change the data.

Kristine Dorrain: That - in my opinion yes you're correct that that is a change, yes.

Alan Greenberg: That's interesting situation. It's a lock except sometimes not.

Kristine Dorrain: Yes.

Alan Greenberg: Okay, let's go on Marika.

Marika Konings: Yes and this is Marika and I think Luc also responded I think in the chat if I'm not mistaken saying that indeed that was the interpretations. And that was Laurie actually who would prefer to change by the Registrant.

So then moving on - oh, just still looking at the responses here, there were some others. DNS - someone responded as well. WIPO - I'm not really sure what that - what is meant with that comment but - which change is prevented.

But then some others said as well suspend UDRP, remove locks. Oh no sorry, Question 8. If you typically apply a different kind of lock at different stages of the UDRP proceeding prior to completion, please describe when these different locks are applied and what difference - what the difference is between them.

So basically the first respondent suspended UDRP then the locks are removed. Someone says basically we do not apply a different kind of lock - only one lock - not applicable.

When a complaint comes - domain name - complaint domain comes from WIPO and basically actually I think most of them actually say that they don't apply different locks but they still provided an answer.

So Question 9, what is the typical amount of time it takes for you to impose the domain name lock from receipt of notice from the complainant or receipt of a provider's request for verification from the UDRP dispute resolution service provider following your response to Question 3?

And 51% of respondents indicate that it's in less than 12 hours on a business day. Twenty-six percent indicate that it's between 12 and 24 hours on a business day.

Eighteen percent indicate that it's between 24 hours and two business days, and then the two other respondents, one of which is again the - never had a UDRP case, and the second one on the business days as soon as possible after we confirm the notice.

Question 10. If the UDRP proceeding is decided in favor of the complainant after expiration of the ten-day wait period after a decision, do you typically move the domain name into an account accessible only to the complainant?

Sixty-four percent of respondents say yes, 18% say no and 18% provided other responses. Basically some of the response say, "Complainant must create or specify an account first."

Again, "Never had a UDRP case." "Yes, unless the complaint specifies cancellation as the sought remedy." "Transfer out request from the complainant."

"We request the complainant to verify identity and to provide information for a new account. The domain is then moved into that account." "Most of the times the domain name is transferred out."

"Domain name is moved into an account accessible only to the complainant only after the complainant has created the account." And I think those were the other responses.

And so Question 11, if the UDRP proceeding is decided in the favor of the complainant after expiration of the ten-day wait period after a decision, when is the lock typically removed?

Forty-six percent of respondents say within one day after the expiration of the wait period. Twenty-three percent indicate between one and two days after the expiration of the wait period.

Five percent indicate between three and five days after the expiration of the wait period, and 5% indicates more than five days after the expiration of the wait period.

And then there were as well some other responses indicating between one and two business days after the expiration of the wait period. After wait period when complainant provides new account and never had a UDRP case.

Once the domain is in the new account. When the defendant who won the UDRP asks for a transfer. The lock is not removed until the domain name is moved into the account of the complainant.

We wait for the complainant to tell us where to transfer the domain, and on business days as soon as possible after the expiration of the wait period.  
Question 12.

If the UDRP proceeding is decided in the favor of the Registrant, when do you typically unlock the domain name after the 15-day wait period? Fifty-two percent of respondents indicate that it happens within one business day, and 35% of respondents indicate that this happens between one and two business days.

Two percent says that it is between three and five business days after the expiration of the wait period. Two percent says more than five business days, and then there were a couple of other responses.

Again never had a UDRP case. We've had - not had any case when the UDRP proceeding was decided in favor of the Registrant. And on business days as soon as possible after the 15-day wait period.

And Question 13, does your Web site conspicuously list an email address that UDRP complainants should use to send you a copy of UDRP complaint? Fifty percent of respondents indicates yes.

Forty-eight percent indicates no and there was one other response saying, "No we don't accept formal notifications of anything by email - registered post only."

And Question 14, are there any other issues or information the Working Group should take into account as part of its deliberations? First comment is there.

"While a lot of the above responses are based upon typical scenarios, there are significant numbers of cases where these times cannot be maintained as the required response from the complainant to proceed are not forthcoming."

Second comment says, "One, we need to clearly define what functions should be locked by the Registrars; and two, we need to clearly define roles of Registrar and complainant if successful to assume control of a domain name after decision."

And the third comment says, "The UDRP boards have a requirement of a two day turnaround time for their verification of users. This sometimes is sent on a Friday afternoon on - or Saturday and our Registrar is not able to respond until the following business day.

They need to set the expectation that a response is required within two business days and not just two days." Four, "During the lock period and before the final UDRP decision has been reached, the Registrant should be given the option to modify the domain name servers if needed."

Five, "The Registrar - Registry already locks the domain on a UDRP, so largely anything a Registrar does is moot." Six, "I would love to see statistics from the UDRP providers in how many cases the lack of locking is actually an issue.

I've seen more issues with the size of document attachments and thus emails that were not delivered to the Registrar." And then a couple of people, "I don't have any other comments."

Another comment, "More writing in clear English as to when action is required on the email recipient part." And the last comment in this question is, "a common implementation of Registry's lock for UDRP."

And again the remainder of the questions relate specifically to the charter questions, and I think as you can see there are quite a number of comments that have been submitted there so you might want to review those at your leisure.

Alan Greenberg: Thank you Marika. Time for you to take a drink of water I think. (David) is that a new hand or an old one?

David Roache-Turner: It's an old hand. I'll dispose of it.

Alan Greenberg: All right. I only have one comment and it dawned on me as I was looking at it in terms of this last question, the second response saying, "We need to clarify exactly what locked means."

I wonder what are the implications on Registrars if we indeed do that? Is it, you know, I mean, if we pick one of the formal lock statuses then it's easy. If we pick something that is not one of the formal lock statuses, is it indeed reasonable to expect all Registrars to be able to lock exactly those things?

So I'm - I guess I'm asking to what extent do we have freedom of specifying this based on the - what we see as the needs as opposed to practical implementation issues for Registrars?

I don't know if anyone has an answer off the top, but it sounds to me as if we may be in a situation where we can't really do what our deliberations say we need to in a practical sense.

Am I just blathering on or does that make any sense to - especially to the Registrars involved? I guess it's blathering because no one has an answer. Marika go ahead.

Marika Konings: Yes this is Marika. I don't really have an answer either but of course an option to consider would be that, you know, any kind of recommendations could say as well like at a minimum this needs to be locked and, you know, further locks or further prevention of change is at the discretion of the Registrars.

So you might have a minimum set that is the same for everyone but it doesn't necessarily impede on what, you know, some of the Registrars might do in these cases or has proven to work for some or maybe not for others. That's, you know, just something to consider.

Alan Greenberg: Okay. We have five minutes left. Is there anything anyone else wants to raise? Do we think Michele's likely to be on the next meeting or not or don't we know? Marika?

Man: Well he's on a vacation right now. He's probably going to be back by next week, yes.

Alan Greenberg: I just don't know how long it is. That's what - that's - I guess that was the question I was asking. He has been responding to email though.

Marika Konings: Yes this is Marika. I don't know exactly and I believe he's back next week, but one question the Working Group might want to think about is now having the date or how do we move from this to asking for further community input, because I think one of the things we put on hold awaiting the results of - the results received here is how to, you know, obtain input from the broader community and also reach out to the other SOs/ACs and, you know, how to go about translating this data into something that we can use to start looking at the charter questions? So that's maybe some homework people can think about.

Alan Greenberg: Okay. And there's a comment from Kristine, which I haven't read. Laurie just agreed. Okay, the comment basically says that what we have from the Registrar - in the Registrars' responses are likely the "good Registrars" and the issues that UDRP providers see may in fact be not related to those Registrars but the ones who aren't responding.

And that's always the case now I guess. Marika you said you hadn't had any chance at this point to do any analysis - any real analysis of it. To - what level of analysis were you in fact planning to do at this point, other than to obviously incorporate the new responses, which weren't tallied here?

Marika Konings: Right. This is Marika. I mean, on some of the - what people provided - other responses I think they're impossible to group some of the answers. But I think what, you know, we might want to try to do is to translate this data in some kind of, you know, conclusions, more general kind of like in the majority of cases this is what happened, you know, small (Mary Georgie) this is what happens.

And maybe in that way something that can be included in the report as well, you know, linking as well to the survey but it, you know, doing in that way might give some more tangible information to the group of, you know, how to proceed and what to do with that information.

Alan Greenberg: Yes. It - go ahead.

Marika Konings: But if there were some real - if there's some real number crunchers out there, you know, I'm happy to provide as well the raw data because I know some people can do really cool tables and then linking different answers to each other.

So if anyone is volunteering for that I'm - or think there is value in that then we can definitely pursue that route as well. But at this stage I'm not sure whether we're - as well just some general conclusions on the base of what we've found is sufficient at this stage.

Alan Greenberg: We have a Staff person who's proof area adapted that in the past.

Marika Konings: I know who you're talking about.

Alan Greenberg: I know who I'm talking about too Berry. He's not volunteering at the moment. Go ahead. Sorry.

Marika Konings: No this is Marika. I think that, you know, I think we first need to have a look as well if that really makes sense, because it does take time to do that and put that together.

So in this case I'm not sure whether we need to or whether it's, you know, what we have here is sufficient to draw some conclusions from.

Alan Greenberg: Yes, but it dawns on me that if we're going to ask for community input and use the surveys as one of the things that we're asking for comments on or giving it to them as background, we're going to have to do a fair amount of summarization because not many people are going to wade through this in the way we have it presented right now so...

Marika Konings: And this is Marika. I agree and that's why I'm saying I think, you know, the way to deduct from that would be what the Working Group has found to date on the basis of the server results, that is in the majority of cases this is what happens.

You know, people have other experience or feel that it's not representative of the situation, you know, please feel free to share input or, I mean, we can frame it in those kind of more general ways because I agree.

The data itself I don't think we'll get a lot of input by just putting the survey out itself.

Alan Greenberg: Yes. If - Marika if you or anyone else, either Staff or other participants have any ideas on how we can approach the summarization, it seems like a massive job but if we don't approach it with some sort of methodology, I think we're just going to do a lot of talking and not necessarily come up with anything.

So any thoughts on the mailing list on how we approach that would be useful before the next meeting. In any case we are - our hour is up and I think you. I thank Marika for jumping in to the extent I've asked her to.

And if there's no other thoughts we'll adjourn and we're back next week I presume. Yes. Thank you all.

Man: Thank you.

Marika Konings: Thanks Alan.

Man: Thank you.

Coordinator: Thanks very much from Calgary. You may now stop the recording.

END