

**Registrar Accreditation Agreement (RAA) DT
Sub Team B
TRANSCRIPTION
Monday 08 February 2010 at 18:00 UTC**

Note: The following is the output of transcribing from an audio recording of Registrar Accreditation Agreement (RAA) drafting team Sub Team B meeting on Wednesday Monday 08 February 2010 at 18:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-raa-20100208.mp3>

On page:

<http://gnso.icann.org/calendar/#feb>

Present for the teleconference:

Steve Metalitz - IPC – Chair
Tatyana Khramtsova – Registrar Stakeholder Group
Michele Neylon – Registrar Stakeholder Group
Cheryl Langdon-Orr - ALAC chair
Holly Raiche – At-Large
Shiva Muthusamy – At-Large
Paul Diaz – Registrar Stakeholder Group
Kristina Rosette – IPC
Marc Trachtenberg – IPC
Elisa Cooper

ICANN Staff

Margie Milam
David Giza
Liz Gasster
Heidi Ullrich
Marika Konings
Dave Piscitello
Glen de Saint Gery

Absent apologies:

Paul Diaz
Statton Hammock
David Giza

Glen de Saint G ry: Good morning, good afternoon, good evening everyone. This is the RAA Sub Team B call. And on the line we have Tatiana Khramtsova, Cheryl Langdon-Orr, Michele Neylon, Holly Raiche, Steve Metalitz, Elisa Cooper,

Marc Trachtenberg, Kristina Rosette. And from staff we have Heidi Ullrich, Liz Gasster, Marika Konings, Margie Milam, and Glen de Saint G ery; myself.

Shiva Muthusamy we have tried to call out to him, but we get no response from his line. So over to you Steve. Thank you. And I'll put myself on mute.

Steve Metalitz: Thank you very much Glen. Thanks again Glen. So everybody still with us here? I think we...

Woman: Yes.

Steve Metalitz: ...we - we have lost our echo, thanks to Glen's self sacrifice. So why don't we get started. I think, our job here is to plunge back in to the - to our document starting at Item 11. I noticed that Margie has circulated a new - an updated version that reflects what we discussed last time. I've not even had a chance to look at that yet.

And I guess what I would suggest is that people take a look at that and if you see any discrepancies or problems, please note those on the list and we'll get those squared away. But I - I - I think that's probably the best way to proceed on that.

On Number 11, I think the first one up here, 11.1 is simply to - for the RAA to reflect that the way that the GNSO council recommends consensus policy has changed with the GNSO restructuring. And I think it's pretty much of a technical change.

Unless anybody has any other comments on that, why don't we move ahead to 11.2. Holly has identified for us a number of reports or papers from the security and stability advisory committee that might be relevant here. And I think it boiled down to just a couple of them -- 28 and 40, if I'm not mistaken -- that would be primed for discussion now. And I know we have Dave Piscitello on the line as well.

Let me just say before we start the discussion on our topic 11.2, just to recall that all we're doing here is trying to set priorities and see if there's anything that we need to flag as far as impact on consensus policy. Not necessarily whether we'd agree with putting all of these topics into the - or you know, all these provisions into the RAA, that's a later stage in the process.

So let me open the floor for discussion on 11.2. In particular on those two - what is in those two SSAC Advisories, 28 and 40. So please just let me know if you want to be recognized on this. I know some of you are on Adobe Connect, but not everybody. So the floor's open on 11.2.

Okay, Holly wants to be heard. Anybody else? Let's start with Holly. Go ahead. Holly, go ahead. I wonder if you're muted? Holly are you with us?

Coordinator: Her line is now open Sir.

Steve Metalitz: Thank you.

Holly Raiche: I've been muted. I was - I must be the source of echo. Okay...

Man: Not...

((Crosstalk))

Holly Raiche: ...the reason I put these up was - and all of them really, was because SAC, they - a lot of the advisories make sense. I was looking at the conversation between Michele and Dave online and I do take Dave's point that these advisories are not only for about registrants, they're also about the safety and security of the registrar and the registrant as well.

And that taking on board some of these recommendations will in fact increase the safety and security of rent as well. And we should be thinking about the

interests of all the parties. (Unintelligible) just the registrars here. These are some of the things that will actually help. So I'd be interested to hear both Dave and Michele on these.

Steve Metalitz: Okay. Thank you very much Holly. Dave or Michele, did either of you want to contribute anything at this point.

Dave Piscitello: You know, I think I've made most of my comments online...

Steve Metalitz: This is Dave speaking, right?

Dave Piscitello: ...through email. Yeah.

Steve Metalitz: You need to identify yourself for the transcript.

Dave Piscitello: Yeah, apologies. Yeah, I think that there are, you know, several different dynamics here. You know, certainly there's a long laundry list of measures that the SSAC documents have, you know, have enumerated. And trying to sort out which of those is, you know, is appropriate for a consensus policy, and which of those actually creates a - the ability for the market to differentiate is I think a subject for, you know, for considerable discussion. And that's one of the points I wanted to make during the email exchange.

Steve Metalitz: Okay. Any other comments on this? Well, what I take away from the email exchange and from the comments on this call is that these are important issues. At least, you know, the ones that Holly has identified in her - as far as Advisory 40, Advisory 28.

They're - obviously we're not deciding here whether these all ought to go into the RAA, but it seems as though there are a lot of strong registrant interests here. And so I guess I would recommend that we identify this as a high priority item without prejudging whether particular ones ought to be in the RAA.

I see Michele has his hand up. Holly, I don't know if you wanted to be heard again. But let's start with Michele.

Michele Neylon: Well I mean, okay there's been a bit of toing and froing between Dave and myself about this. And I think we probably actually agree, though it may not be 100% apparent from our toing and froing.

I mean, the thing - I suppose the key thing is, as Dave has pointed out, I mean that, you know, there are different business models and some of these - some of the things that the SSAC are talking about would be suitable for certain types of registrant and certain types of registrar.

But it's just - the problem I have, I suppose, is that some people will pick up an SSAC document and kind of assume that every single recommendation should be binding to all registrars and in all situations. And that's something that would scare the living hell out of me, because I mean, as things stand even implementing anti-fraud measures in terms of orders that we receive so that we don't get inundated with charge factors.

I mean least week we were - I was told by one charming gentlemen that he was going to sue us and report us to just about every single agency on the face of the planet, simply because we wanted to make sure that the order was a valid order.

So you know, the problem - the thing is that, you know, trying to balance security with practical ability for people, both from the registrar's side and the registrant's side for everybody to actually be able to do business is something that shouldn't be forgotten.

Steve Metalitz: Right. Thank you. Anybody else have comments on this point? Holly, go ahead.

Holly Raiche: Yes this is just a final one; later on in the metrics there is a discussion about a code of practice. Now if the code of practice is voluntary but it's seen as a best practice, at some point some of the recommendations that are made may be more appropriately in something that's a best practice, as Dave was saying, a way - a market differentiator.

So maybe in the back of everybody's mind, there is room for saying some things may be appropriate for something that looks like a registrar's best code of practice, and maybe some of that would fit here.

Steve Metalitz: Okay, thank you Holly. Any other comments on this? Well, this is Steve. You know my - I hear what Michele is saying, "that not all the recommendations should be binding on all the registrars." The question, I guess, is whether there are any recommendations here that potentially should be binding on all registrars, because that's really what we're about in this discussion.

So, Michele, I guess you have your hand up. So maybe you could answer whether you think there are any recommendations here that should be binding on all registrars. Go ahead please.

Michele Neylon: Well I mean the - I think this - I mean this is something that has come up in previous public meetings. And I mean, it's in everybody's interest that registrars operate secure systems and that they comply with best security practices.

The problem to-date, I think has been identifying which security practices are appropriate to apply. And I think - I don't know, Dave might want to jump in here because he's probably in a better position to comment, but I think Dave would agree that the PCI compliance was something that wasn't apparent.
Dave?

Steve Metalitz: Dave go ahead.

Dave Piscitello: Sure. I agree that that's, you know - I mean certainly it would be, I think, well received across almost every community if, you know, if every one of the registrars, you know, were PCI compliant. And that would go a long way to, you know, to dealing, you know, with - with - with some of the mitigation of malicious domains that, you know, that we see today.

I think that there are - in SAC 40 there are sort of categories of measures that could be implemented. And then within the categories there are certain examples of specific measures that are taken by the e-financials or the e-merchants to create a higher assurance that the party that they're doing business with is actually a legitimate party, is actually a - you know, occupies the address that he provides and the contacts, is - can be contacted through the telephone number and electronic mail address.

And you know, one of the things I imagine, speaking, you know, speaking as a member of SSAC and also as a member of the anti-phishing working group, one of the things that I think would be very high on the list of, you know, of recommended RAA amendments would be increased registrar - registration verification processes so that we could dramatically mitigate, you know, malicious registration by simply raising the bar, you know, for, you know, for a registrar to demonstrate that he is who he claims to be.

And so you know, there are measures like phone callbacks and electronic email confirmation, click-backs and the like, that have been used by, successfully by eBay and Amazon and others. And they've also been used by, you know, many banks in the United States. And those are the kinds of things that I think would be extremely important from the perspective of some of the communities that fed SSAC with some of the comments.

Steve Metalitz: Okay, thank you. Are there other comments on this point? I think Holly has her hand up. Anybody else? Holly, go ahead.

Holly Raiche: Just a comment; I would hate to have the SSAC recommendations lost just because we can't agree which ones should be mandatory or not. I think it is worthy of a discussion, a further discussion -- perhaps not here but perhaps in other forum -- to say these things - some of these things should be mandatory because they will increase the safety and security of the system.

And while I appreciate what Michele's saying, which is probably not all or appropriate and maybe some (unintelligible) go elsewhere. I'd hate to lose the whole box of dice because we can't sort this thing out.

Steve Metalitz: Yeah, I think that point is well taken. I guess, my suggestion again, would be to say that while not all recommendations in SAC 40 are appropriate for the RAA, it would be a priority to determine which ones are. PCI has been mentioned. I think the registrant verification we've dealt with elsewhere in this document. But you know, that could come, you know, that could be a separate discussion.

But do - would people be comfortable with saying that it is a high priority to determine which of these are appropriate for inclusion in RAA?

Holly Raiche: I would think.

Steve Metalitz: Okay, without objection. Then we'll ask the staff to note that. And we'll move on to 11.3. This is one of Danny Younger's proposals. "No registrar may take any action by way of electronic or paper registration agreements with registered name holders that serves to thwart the intent of ICANN's consensus policies."

Are there any comments on whether this would be a high priority item or high priority topic from our perspective? No comments on this? Holly and then Michele.

Holly Raiche: I'm not sure - do you know what he actually means by this? I'm sorry. I was a little bit puzzled.

Steve Metalitz: No. I'm not entirely sure. Michele?

Holly Raiche: Tried to make...

Steve Metalitz: Go ahead Holly, I'm sorry.

Holly Raiche: No, it's hard to make any kind of call on this at all. I'm not sure at all what he means. Maybe Michele knows.

((Crosstalk))

Steve Metalitz: Okay, why don't we ask Michele, and then I think we have Shiva also in the queue. So Michele, go ahead.

Michele Neylon: I kind of echo Holly to a certain point in that it's not very clear what he's aiming at. I don't really - I don't understand what he's aiming at.

I mean the only thing that I can possible think of is that - well, the only thing I could see as being at the center of the problem would be let's say, if a consensus policy was in shear breach of a national law or something that was binding to me, but might not have been binding to some other registrar.

But I - honestly, without further insight into it, it's very hard to make a call on it.

Steve Metalitz: Okay. Thank you. Shiva and then Cheryl and Margie. Shiva go ahead. Are you with us?

Shiva Muthusamy: Hello?

Steve Metalitz: Hello.

Shiva Muthusamy: I think that 11.3 should be high priority item. Because registrant security is important. So just - in particular in the (unintelligible) the comments we (unintelligible). So (unintelligible) vital (unintelligible) of the registrar has to be secure.

Steve Metalitz: Okay. So Shiva, was that a comment on 11.3 or 11.2?

Shiva Muthusamy: This is for 11.3.

Steve Metalitz: Eleven-point-three. Okay, thank you. Cheryl and then Margie.

Cheryl Langdon Or: Shiva, I think if what you said is applied to 11.2, I understand and I agree. I don't actually see, and I think building on the questions that Holly and that Michele raised in their need to try and even understand what it is that Danny is - is - is proposing in 11.3, which certainly in my reading of it, and I was going to try and propose at least my limited understanding of what it may be that Danny was asking for here, has no particular security implication.

So you may wish to review your statement in view of it being applicable to 11.3 or 11.2. But that said, again, I had assumed, and I guess I'm building on extensive interaction with Danny over the years, which I know many of us have had.

But what Danny was trying to ask for here was a - a - a section in an RAA that was an overarching, high level piece of contracted agreement that says, "A deliberate intent to go through, around, under, or avoid an outcome or part of a contracted arrangement or ICANN consensus policy, is a bad thing." So that's my take on what he was intending.

That said, what level of priority we give it is another matter all together.

Steve Metalitz: Okay, thank you. Margie, go ahead.

Margie Milam: Yeah, I think I'm saying the same thing Cheryl was saying. I - I - I think when I read his comment, it's (unintelligible) that we know, obviously we have consensus policies out there that have specific requirements -- transfers and WHOIS and UDRP -- and that the agreement with the registrant and the registrars shouldn't in any way circumvent that or, you know, or say that those provisions don't apply, that there was some sort of waiver of it. I think that's (unintelligible) think that is, from my standpoint what that would address.

Steve Metalitz: Okay. Thank you Margie. I guess one question from that; doesn't the RAA already provide that? Since it does provide that the registrars have to abide by consensus policies.

Holly, I think you had your hand up.

Holly Raiche: I did, just a comment. Isn't this really about compliance, and haven't we already discussed this? And can we please move on?

Steve Metalitz: Yep. Okay. Well, to summarize I think there is some uncertainty about this, and also about whether it's already covered. So I would suggest we mark that as a low priority -- at least until we have some more information on it. Is there objection to that?

Okay, let's move on to Item 12. This is - there are actually three or four things here that have to do with the arbitration process for de-accreditation, or termination by ICANN of a, excuse me, of a registrar's ability to take registrations. And the appeals process there. Several of these come from staff. And then Holly has raised a point of the length of the appeal process.

So, you know, if there is - I know Dave Giza is not on the line today. But if Margie or others, if staff have any comments on this that would - that you'd

like to make, that would be great. Or anybody else. So the floor is open on any of these. I think all of these are kind of related so the floor is open on any of these topics in Item 12.

Margie. Anybody else? Margie, go ahead.

Margie Milan: Sure. I just wanted to comment that on these, I think these would be a high priority for us. We've had a bit of input from the legal department and they've asked us to look - to include these in the amendment proposal.

Steve Metalitz: Okay, thank you. Now, do you think that would extend to this issue of the length of the appeal process -- that Holly raised? Obviously it's not as part of the - exactly as part of the staff recommendations, but I do think it's pretty closely linked to that.

So unless there's objection, why don't we mark this section as high priority -- all of these items -- and move on to Number 13 about the trademark appendix. This really deals with - as I understand it, with the situation - the circumstances in which a registrar is accredited to take registrations in additional top level domains.

They may start with some number and then over time add more TLDs. And obviously, when we get the new TLDs, that's going to happen more and more often. And I think the staff's proposal here is to look at streamlining this process. But why don't we open Item 13 to any comments either from the staff or from - or from the - from anybody else.

I have Michele's hand. And Margie, I don't know if you still were seeking recognition. But Michele, why don't you go ahead?

Michele Neylon: Sorry, I should take myself off mute.

Steve Metalitz: Okay.

Michele Neylon: This is something that I think really does need to be dealt with, especially if we're going to see an explosion in terms of new TLDs. It would make a lot more sense -- and I'm not a lawyer obviously -- just to have something in saying, you know, "Registrar is accredited for all existing and future TLDs," instead of forcing people to do lots of paper shuffling and killing lots of trees every time there's a new TLD added.

The amount of paperwork and everything else that's involved in going live with a new TLD, when you're dealing with multiple backend providers and everything else. I mean, there's just contracts flying left, right and center. Adding to that is probably not desirable. So anything that streamlines it would be good in my mind.

The only thing I don't understand is what's the thing about the trademark? I don't fully understand the trademark comment here. If there's somebody who could clarify what they mean by that, it would be helpful.

Margie Milan: Sure, I can comment on that and...

Steve Metalitz: Go ahead Margie. And this is Steve talking.

Margie Milan: Yeah, this is Margie. The way it works right now, you sign an appendix for every TLD, and you also sign an appendix if you want to have a license for the ICANN logo -- you know, a little picture and the ICANN name. And a lot of that's, obviously, pretty standard stuff. And so we decided it would be easier to incorporate it in the body of the agreement as opposed to going to the extra work of requiring, you know, an additional signed document.

On the point with respect to the new gTLDs appendixes, the one thing I wanted to highlight is that we don't want to have written appendixes (sic) for every new gTLD but we do want to have the ability to not pre-authorize them. Because if there's a registrar that's not in good standing or is subject to a

breach notice or something like that, we would you know, we would think it's probably best not to authorize them for - to carry a new extension.

But we're envisioning an electronic method of doing that, as opposed to a written one, the way it's set up right now. And David Giza would have more details on that, but that's kind of my understanding of where they want to go with this process.

Steve Metalitz: Right. Okay, I have Kristina and then Michele.

Kristina Rosette: I - I'm losing my voice, so I'm just going to make this quick. I had posted a question on the chat, namely - I'd be interested in hearing from staff.

And I guess also from, Michele, from the registrar perspective of how that recommendation 13.2 would work where there are - and I think we should assume that there will be in new gTLDs, that there will be some fairly significant registrant eligibility and verification requirements that the registry operator is going to want to make darn sure that participating registrars have agreed to essentially accommodate and abide by.

So I'm just trying to figure out how you mesh those two. And there - it may be that I'm - there's something I'm missing, but it would be helpful to have the explanation.

Margie Milan: Steve can I comment? This is Margie?

Steve Metalitz: Yeah, I think we had Michele in line next and then - then - then you Margie.

Margie Milan: Okay.

Steve Metalitz: Michele go ahead.

Michele Neylon: Well just coming back on what Margie was saying, I mean if, you know, the idea of, you know, registrar and good standing, I mean, I don't know if that's in the current RAA anywhere -- I don't think it is. So I mean, adding something in to say that, you know, that - the - adding additional TLD thing added to the accreditation would be based on the registrar being in good standing and not having, you know, various breach notices.

To deal with Kristina's query; that's already kind of dealt with at the moment because there's - for every TLD that a registrar is accredited for, your accredited with ICANN on one side and then you're accredited/in - contracted with the registry on the other side.

So for example, if you were to look at the ICANN accredited registrar list at the moment, you'd see beside our registrar that we're accredited for every single gTLD that currently exists. The reality is though, that we're not actually accredited with the registries for all of them because we haven't actually gone through that entire process with each one.

And depending on the various rules, policies and procedures, and everything else that the registry operators have themselves, that would be why we aren't. So it's actually kind of dealt with already. That kind of answers your question.

Steve Metalitz: Thank you Michele. Margie?

Margie Milan: Yeah, basically the same thing that Michele's saying. In the registry agreement with the registrars, that's where all those obligations fall into place. So it's - if you have to, you know, if it's .biz for example, and it has to be a business, then there's some representation or some appendix that deals with that. So I...

Kristina Rosette: Okay, so...

((Crosstalk))

Margie Milan: ...really get involved in that.

Kristina Rosette: Okay, so just so that I'm clear then, the 13.2 really goes to the registrar registry relationship from ICANN's perspective. I'm just kind of trying to kind of square the circle.

((Crosstalk))

Michele Neylon: I'm sorry.

Margie Milan: Oh, go ahead Michele.

Steve Metalitz: Go ahead Michele.

Michele Neylon: It just - it basically removes loads of dead wood. I mean being blunt about it. I mean, If you'd - if somebody had signed an RAA with ICANN, say in 2004 for example, for them to be able to offer .tel or any of the other TLDs that were launched since they signed their contract with ICANN, they'd have had to have signed an appendix document for each TLD with ICANN and submit that in multiple copies. And then they'd have to get in contact with each registry operator and go through the entire process with them.

So I think what ICANN staff were trying to do here is to bring somehow a level of sanity to us. So that, if for example, I don't know what (Vicker)'s people are throwing around at the moment in terms of new TLDs. Let's say hypothetically there were 50 new TLDs launched over a three month period then you can imagine there'd be an absolute mountain of paper being sent to Marina Del Ray. Which realistically, while it's important that ICANN get that, if they pass something here, it does away with lots of extra paper.

Margie Milan: Got it. Okay. I mean I'm - I now that I - I get it. And I think maybe the recommendation should be a little clearer that it's not intended to supplant whatever additional criteria might be contained in the registrar/registry agreement.

Steve Metalitz: As I understand it, in essence we're - this is the step by which a registrar becomes eligible to...

Michele Neylon: Yeah.

Steve Metalitz: ...to - to enter into an agreement with the registry; it doesn't take out that second step. It just...

Margie Milan: Right. No, no, no - and I completely understand...

Steve Metalitz: ...it makes the first step more efficient.

Margie Milan: No, no, no. I understand and I think frankly, making it efficient is great. I just think that for a lot of folks who may not be as familiar with the process as many of the folks on this call, not having that additional clarifier I think is going to get a lot of people really confused.

Steve Metalitz: Okay.

((Crosstalk))

Margie Milan: So maybe it doesn't matter (unintelligible) amending the staff recommendations.

Steve Metalitz: I think that's a good point.

Michele Neylon: I would agree with her. I agree.

Steve Metalitz: Any other comments on this? If not then I think we could - can we say that these topics 13 are high priorities but 13.2 needs to be clarified that it doesn't supplant the registrar and registry reaching an agreement?

Kristina Rosette: That works for me.

Steve Metalitz: Okay.

Kristina Rosette: Thank you.

Steve Metalitz: All right, then without objection we'll wrap up 13 and move on to 14. Fourteen is - deals with the - it's label group liability and it really - it's to state that if you have Registrar A & B under common control, if A is directing or assisting B and B is committing serious violations that would cause it to be suspended or have some other discipline against it, then Registrar A should also be subject to those sanctions.

That isn't a part of the RAA now as I understand it. So we'll open the floor to any comments on this Item 14. Cheryl has her hand up. So why don't you go ahead.

Cheryl Langdon Or: Thank you. Thank you Steve. And there's sufficient delay that I don't even see I have my hand up at the moment. So, I know Holly and I -- oh there I am, I'm official -- are a long way away, the other side of the pond but boy these bits and bytes are taking some time to get back to me this morning.

The priority for this, I think, which is what we're discussing, should be very high because it is a matter that certainly from the community and the at large perspective is very, very important to have teased out and discussed. And if need be, clarified as part of the RAA. It's a huge bone of contention from the community's point of view, where you can do this sort of chess board risk thing, or at least that's how the end user tends to see it.

That said, I should also note that there are some problems and risks that would need to be looked at if you do these blanket things. And I'm not saying whether that's good or bad, but for example where Australia recently deregistered and has taken through the courts one particular part of a group because it failed its security and its agreements quite highly; no other part of the group was, nor should it have been, affected.

But that was based on cold hard fact. And indeed was tested in law, not just because all the parts of the group were under one macro label. Would it have been appropriate or good for the end users for a blanket rule to apply. So I'm a little - I want it to be a high priority, but I'm a little nervous about outcome unless it's very, very detailed discussion and analysis going on.

Steve Metalitz: Okay, thank you Cheryl. Shiva, I think you had your hand up. If you could speak slowly because you don't have a great connection here. But please speak.

Shiva Muthusamy: Yeah, I agree with the proposal in that registrar really should be subject to (unintelligible) any variations on the part of the (unintelligible). And my sense of the clock still don't apply to back (unintelligible). So I'm not sure if (unintelligible) can place that on (unintelligible) point of correction (unintelligible). And knowingly or unknowingly (unintelligible) that maybe needs to be offered authentication that indicates that Registrar A does not know about the actions of Registrar B (unintelligible) is not responsible.

So I don't agree with that. You know, but at this time (unintelligible) acknowledge or not or - because (unintelligible) for (unintelligible) Plan B on the grounds that he is not supposed to be negligent...

Steve Metalitz: Right.

Shiva Muthusamy: ...of that (unintelligible).

Steve Metalitz: Okay, so if - Shiva, if I understood you correctly, you were supporting this as a high priority item, but you thought it should be broader and apply even when Registrar A is simply negligent in how it deals with its fellow Registrar B?

Shiva Muthusamy: (Unintelligible).

Steve Metalitz: That a fair summary?

Shiva Muthusamy: Yes, exactly. Yes. Thank you.

Steve Metalitz: Okay, thank you. I think Michele had his hand up, and Holly also. So we'll continue with those two. Michele?

Michele Neylon: Yeah. The main thing - I'm going to be following a bit of what Cheryl's been saying as well. I mean one thing I would be very wary of, is to have a blanket introduction of anything. I think a key word to throw in there would be, "Knowingly." I mean if - it's one thing that one registrar may do something to assist another; but it's a very different thing if they do it knowingly or not.

That's something I just think should be put on the record.

Steve Metalitz: Okay. Thank you. Holly, I think you were next.

Holly Raiche: I think I'd support that. And Cheryl, I think it's a really dangerous thing to have something blanket that automatically apportions blame when it may not be appropriate at all. And if you - you would need to write in some phrases of natural justice here before you start to say one is automatically guilty for the actions of another.

But I do take the point that Registrar A should not be able to hide just by saying, "Somebody else did it," when in fact there would be a direct correlation between the two actions. And it would be of a nature that you can

use that knowingly, or there's a - you know, there's plenty of legal phrases there where responsibility should be teed at home. And there are plenty of instances where responsibility should not be.

That's - It's a bit dangerous. Let's put it that way.

Steve Metalitz: Okay, any other comments on this? If not, I think I - there was a lot of sentiment to making this a high priority, also a lot of concern that any provision here be carefully drawn to make sure it isn't too broad, so I think that is - probably sums it up on Item 14.

Let's move on to Item 15. We're making great progress here. I just wasn't to tell everybody, we're making up for lost time. Item 15 deals with UDRP issues, its 15.1 is regarding WHOIS data. That when the WHOIS data is inaccurate to the extent that the UDRP petition has to be amended. In other words, the real owner of the domain name is not who's listed in the WHOIS. The registrar has to explain why the published information was inaccurate or incomplete at the time the petitioner submits a UDRP petition.

That's 15.1, I think 15.2 and 15.3 are really dealing with - oh no, I - I'll - I take it back. They're not exactly the same thing. So let's start with 15.1, any comments on this? I see Michele has his hand up, anybody else. Go ahead Michele.

Michele Neylon: It's a bit scary about 15.1, just looking at it for - and, I mean just from own experience. We've had some very interesting experiences where registrants have decided to put our contact details into domain names that weren't even registered with us, which has lead to some interesting dead trees landing on desk. The problem here is determining what actually is accurate.

Now I understand why they're doing it, but I just - it's our just - it's just worth something very, very - it's a bit scary in some respects. Because the problem I suppose it that a registrant can submit completely bogus information or

information that is valid, but they don't have any right to it - to just submit it for WHOIS. Just kind of worrisome I suppose.

Steve Metalitz: Okay, thank you, any other comments on this? Holly, anybody else? Kristina? Holly, go ahead.

Holly Raiche: It's probably a question to Michele. If it is scary but it is desirable to have accurate WHOIS data, how would you rephrase this so that it would perhaps be less scary, but nevertheless wind up with more accurate WHOIS data?

Michele Neylon: I think the thing I suppose is the problem I've seen with the way they've worded this, is it's based on an assumption that the registrar is trying to conceal some information, or that the - okay, for example, let's say there could be a software glitch, which happens, where, you know, the fields get reversed around in the WHOIS (unintelligible).

Or that the - for whatever reason - between - when a domain is transferred between Registrar A and Registrar B, sometimes it's very hard for the gaining registrar to pull across accurate information from the losing registrar. And there have been issues in the past where people would within the IP community have chosen that time to lodge a complaint about WHOIS data. And, I mean, it's just - it's something I think is the (unintelligible). But the way the IPC are pushing us, I can - I see as a being a bit problematic.

Steve Metalitz: Okay, thank you Michele. Kristina, and then Cheryl.

Kristina Rosette: Sure, I mean, I understand your concern Michele, and I think maybe what we need to do is to come up with some language that may accommodate your concerns. I mean, the issue that's been driving this, and problem that I personally have experienced, is when you file a UDRP complaint and the provider comes back and says, "Your complaint is not in (administrative) compliance, because the registrar has informed us that the WHOIS data you provided is incorrect."

((Crosstalk))

Kristina Rosette: ...stop. But you don't have any - you - first off, you don't know what the correct WHOIS data is, because the WHOIS data that you've put in UDRP complaint is what's showing in the publicly acceptable WHOIS. And you also don't know how to correct it, so you're kind of in this kind of weird Catch-22. That all you know is your told it's incorrect, we're not going to tell you why or how, but you can't go forward until you correct it.

So, you know, given that that is in large part what's driving this, you know, I guess there's got to be a way that we can try and figure out what would work from our end. And so ensured, you know, to the extent that we can, your concerns are accommodated.

I mean unfortunately the fact of the matter is that people are always going, I mean, I've run across so many instances where I would get really frightened phone calls from people whose contact information had been falsely identified as the registrant. And I don't think, unless - until we do registrant verification, I don't know that we're going to change that.

But having said that, I acknowledge that there's - that there has got be a way to make sure that we're not getting Orwellian about this. So, you know, I'm open to any suggestions. And I think probably that, you know, the IPC would be welcome to any suggestions that we could come to in this language. But having said that, you know, I think this is a high priority from my perspective.

Steve Metalitz: Cheryl...

((Crosstalk))

Steve Metalitz: ...you're next. Okay?

Cheryl Langdon: Thank you Steve. I was really - me and Kristina are in to these as well and stuff, that because there's some unidentified issues here, and because we have real world experience that say that this is something that needs to be dealt with, this has to be a high priority.

That said, it is only requiring a response from the registrar, and I would think Michele, you could be a whole less scary if there was a standardized set of expectations of the beginning of the process. That if X, Y and Z it goes pear-shaped, you do at least - you are required to answer where that has gone wrong. So the software glitch answer goes into the system. I don't think it's quite - I don't see it as, as scary, as you're portraying it. But we have to disagree sometimes, Michele, it's just one of those times.

Michele Neylon: Oh Cheryl, I fully - I totally have no problem with that, it's just we have an interest in - of ours who a month ago, where a very large furniture company decided last - they're - this is was (unintelligible) to believe that although all of our details on our Web sites and everything else, they should know we were a domain registrar hosting company. They were at - they were convinced that we had something to do with furniture delivery.

I would not believe any of the answers our solicitors provided to them. So, you know, that's why I see...

Cheryl Langdon: I see it.

Michele Neylon: I see the extreme naughty kind of things and (unintelligible) that's the problem I have, but with reasonable people.

Steve Metalitz: Okay, (unintelligible)

Cheryl Langdon: And WHOIS that may I please just make a plea, whoever is managing to have this whole page in the Adobe Room reload content, so frequently, which

means I've now had to adjust it back to where I can read it. About five times during this call, could they exercise self-control please?

Steve Metalitz: Point well taken. I think Marc Trachtenberg had his hand up. And Kristina, I don't know if you wanted to be heard again too, but Marc please go ahead.

Marc Trachtenberg: For 15.1, I mean it seems like it's really would only be applicable for the most part when the registrar is providing some sort of proxy service or privacy service. I mean I can imagine some rare occasions when there's some technical glitch that, you know, such as the one that Michele talked about.

But, I mean, wasn't the intent of putting this in here just where, you know, from practical purposes that we all experience as trademark attorneys when you go after a domain name that uses a privacy service at the registrar, but the registrar changes the information and you're forced to amend.

I mean the registrar will only have to amend when they have some knowledge that the information is inaccurate. And it would seem to me that they would only have that knowledge when either; A, they're providing a private geo proxy service; Or B, if they see that, you know, one of their required fields is missing.

Steve Metalitz: Okay, thank you Marc. I think, Marc, of course you end up kind of summarized the Catch-22 situation that we're - that this is aimed at. And I think it probably needs to be expressed a little more clearly than it is in this chart. But I also think there seemed to be a general feeling this is a high priority item if we can clarify circumstances in which it applies.

Marc Trachtenberg: Right. And my - and for more point to more clear is, I just don't really see what the concern is from the registrar perspective. And, you know, A, most of time they're - it's only going to apply when they have some knowledge of who the registrant should be. And B, you know that we've been pre - using them to respond.

If you have to take some action anyway, it took it to confirm the identity in the first place. Doesn't seem like more effort to have to, you know, explain you know, why they changed something if they did.

Steve Metalitz: Okay, thank you Marc. Michele has his hand up, and then let's try to wrap up on 15.1.

Michele Neylon: I was just going to say that you see, the difference is, you see, Marc is a sane attorney. He's a - whereas I always look at it from the point of view of the crazy ones (we to). He seems to have fun with us for some reason. No but I understand because I understand exactly where he - where they're coming from. I think just maybe some kind of clarification as to which areas this is supposed to address, will probably make this easier to understand.

Steve Metalitz: Okay, great. I think everyone agrees with that. Let's move on to 15.2. This is dealing with the other end of the first - what we just talked about is at the beginning of a UDRP process, this is at the end when the UDRP provider has ordered a transfer. And Danny Younger's proposal is that there be a sliding scale of penalties for failure to properly implement a UDRP transfer decision leading up to termination.

I'm not sure if anyone on this staff can enlighten us as to this - I'm wondering if this is already provided for in the RA. And my recollection is that there was one registrar who was de-accredited in part for repeated failure to implement UDRP transfer decisions. But I may be wrong about that. Is there - can the staff or anyone else help us on this? Or are there any other comments on 15.2?

Michele Neylon: Well I've got my hand up, so I'll throw my answer...

Steve Metalitz: Okay, go ahead. Go ahead Michele.

Michele Neylon: I follow the de-accreditations very closely. And yeah, you're right. There was at least one case in last 12 months where failure to implement using our (pager) stations, clearly transfers was one of the reasons cited for the de-accreditation. So I think this is already dealt with. It's a compliance matter, surely.

Woman: (Jim).

Steve Metalitz: Okay Margie, I think you had a comment.

Margie Milam: Yeah, I believe in that last round of amendments, we have graduated sanctions. They're not specific to UDRP, but they're just general. And so I think the difference between Danny's comments and what's in there now, is that it's specifically related to a UDRP. But I'll - I need to confirm that. I have to take a look at (Big Grand), but that's my recollections.

Steve Metalitz: Okay, thank you. Okay, so unless there's objection, I think we can consider this a low priority item, because it may already handled under the existing agreement. But obviously if the Compliance staff has a view on it, that would - we would love to hear that too.

Fifteen point three, this actually goes to the both the beginning and the end of the process, a UDRP process. And it really - I think the key is establishment of firm and enforceable deadlines for registrars to do two things. One is to respond to the resolution provider's request for information, in connection with the registrar verification processes at the inception of a UDRP proceeding.

And then secondly, to provide for transfer of the domain name to the practitioner pursuant to standard and preferably simplified processes at the end of the UDRP case, but if the main thing here is to have deadlines in the RAA which don't exist now. So let's open the floor to discussion on this issue.

Margie, did you want to be heard on this, or am I - no you don't, okay, any comments on 15.3? Kristina, go ahead.

Kristina Rosette: Just that I think that this should be a high priority, and frankly I would think it's not only creates certainty from the trademark owner, of course I did, but also from the registrar in terms of them setting up very specifically, you know, at least with regards to the initiation and the verification and what the time expectations are.

You know, obviously on the back end, the transfer, that's already set out in the UDRP. But I think if the Compliance staff does in fact have kind of a window within which, you know, as long as you're within 15 (unintelligible), they're not going to take any action work, or whatever it is. I think of it - having that kind of certainty is frankly going to make things easier and allow for greater implementation of just uniformed systems across the board.

Steve Metalitz: Okay, thank you Kristina, any other comments on this? If not, we'll just mark that as a high priority item. And we now have completed through Number 15. And we've also completed the time set aside for this meeting. I did - we did get off to a bit of a late start, but I'm a little hesitant to start in on 16, because it has quite a few sub items in it.

And I wonder if we can just wrap it up here. Our next meeting is scheduled to be in two weeks, hopefully early in the week of February 22. And we can get the doodle launched on that right away, and get that squared away.

And I think we're in sight for being able to finish up this document at the next meeting. I will mention that we have several items on which we launched some discussion on the list. And there hasn't been very much discussion - there hasn't been any discussion at all in the last several weeks. So I will work with the staff and make sure that people are aware of, and engaged on those items, I think its Numbers 5 through 8.

And let's see if we can advance that on the list over the next two weeks. And if we can't, or if there are areas that we need to discuss next week, maybe after we get through Item 19, we can then turn directly to those. So I will encourage everybody to do that. Maybe we'll get something around two people on that in the next couple of days.

Do people have any other comments or questions that they wish to raise before we adjourn? If not, then thanks to everyone for your participation today. And we'll talk again in two weeks time.

Woman: Thank you.

Man: Thanks.

Man: Thank you.

Man: All right.

Coordinator: At this time that will conclude today's conference. You may disconnect. Thank you for your attendance.

END