**ICANN
Transcription
IRTP Part D Working Group meeting
Monday 19 August 2013 at 15:00 UTC**

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 19 August 2013 at 15:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

http://audio.icann.org/gnso/gnso-irtp-d-20130819-en.mp3

On page: http://gnso.icann.org/calendar/#aug

Attendees:
James Bladel – RrSG
Chris Chaplow - CBUC
Paul Diaz – RySG
Avri Doria - NCSG
Kristine Dorrain - NAF
Rob Golding - RrSG
Angie Graves – CSG
Volker Greimann - RrSG
Barbara Knight – RySG
Bob Mountain – RySG
Bartlett Morgan - NCUC
Mikey O'Connor – ISPCP
Graeme Bunton - RrSG

Apologies:
Holly Raiche – ALAC

ICANN staff:
Lars Hoffman
Julia Charvolen

Coordinator: Excuse me. I'd like to remind all participants this conference is being

                 recorded. If you have any objections, you may disconnect at this time. You

                 may begin.

Woman: Thank you (Kelly). Good morning, good afternoon, good evening everyone. Welcome to the IRTPD Working Group call on Monday, 19th of August 2013.

On the call today we have James Bladel, Chris Chaplow, Paul Diaz, Avri Doria, Kristine Dorrain, Angie Graves, Volker Greimann, Barbara Knight, Bob Mountain, Mikey O'Connor, Bartlett Morgan and Graeme Bunton. We have no apologies so far. And from staff we have Lars Hoffman and myself Julia Charvolen.

May I please remind all participants to please state their names before speaking for transcript purposes? Thank you very much and over to you.

James Bladel: Okay. Thank you. And welcome everyone to the IRTPD Working Group call for Monday, August 19 as per our usual rules of operation. Could anyone please indicate by raising their hand or getting my attention on the phone if they have any updates to their statements of interest? Okay.

Seeing none, then I would please direct your attention to the proposed agenda that is posted in the right hand column of the Adobe room as well as circulated to the mailing list earlier. Anyone have any comments or suggestions relative to that? Okay. Thank you.

All right. Well welcome everybody and we are - when we last left our heroes we were just starting to do a deep dive into Charter Question B, which currently reads whether additional provisions could be included in the TDRP on how to handle disputes when multiple transfers have occurred.

And if memory serves we were kind of arriving at the place where we were essentially saying that the TDRP involvement would be limited to the first registrar and the last registrar in any kind of a chain register hopping. The registrars in the intermediary probably had a lesser role in any kind of a dispute process if any.

So, you know, I think that's where we kind of left off the conversation last week. Lars, can you perhaps - I don't mean to put you on the spot here but can you help us refresh where we were going with this and what remains for us to discuss on this particular issue?

Lars Hoffman: Hey James. This is Lars. I'm just going through the notes. I think you're right. The discussion was the key would be that the first registrar would have to be - would have to be - provide all the information that led to the first transfer. And I'm just scrolling up to the charter question.

And then the question still I think that remains open is how would - if the first - if the first jump was illegal and there were legal jumps in between, right, where would you - where would you go back to?

And with an argument begin made that, you know, about the different issues of - if, you know, if you buy a stolen car from somebody, it would go back to the - legitimately, if you want, it would still go back to the original. And so would that be the same principle that would apply in this case? I think that's one of the points that going to be - that needs to be clarified. Who would have the final ownership of the domain if legitimate changes would take place?

James Bladel: Right. And I think that's where we were kind of getting into a little bit of the stickiness surrounding this issue is that if - that some of the intermediary hops or intermediary registrars may have from their perspective conducted legitimate transfers, but if the initial transfer was not legitimate, it would - that was inherited throughout the whole chain of transfers.

And I guess the question then becomes - and per our charter question is does the current TDRP language provide sufficient mechanisms to undo when a chain of transfers is involved or does this practice - this register hopping, laundering, whatever we want to call it, does this practice actually thwart the TDRP and prevent it from being useful?

If the answer is that the TDRP kind of - well in current state is adequately dealing with this issue and ignores these other chains, then that may be the answer to the charter question be is no, we don't need additional provisions.

But if we can see that there are shortcomings in the TDRP that this or some vulnerabilities that are exposed by this practice then I think the answer would be yes, we need to come up with some ideas to close these loopholes.

I guess that's the question on the table. I don't know if it helps to review some of the - some of the comments and feedback that we captured on the screen in the public review or the feedback review tool because I think that that - that's more of an acknowledgement that registrar hopping is a problem.

But I guess what we're trying to quantify is is it a fixable problem or is it not a fixable problem? And does the TDRP need to be modified for it? So Kristine, you're up.

Kristine Dorrain: Hi. Yeah. This is Kristine from NAF. I was just asking - maybe I missed because I missed a couple of meetings in there. I now you haven't actually talked necessarily about mending the TDRP yet. But if you did I noticed that the, you know, there's a six-month statute of limitations in the TDRP.

Would we be talking about like reducing that statute of limitations or would we be talking about some other fix to the TDRP or perhaps I'm just jumping the gun?

James Bladel: Thanks Kristine. I think all options are on the table. But before we kind of grab our toolkit and start working around under the hood, I think we first need to understand is this, you know, is the current iteration of the TDRP vulnerable or susceptible to this practice?

That's - I guess that's the question I'm putting out there first is do we have examples where someone would like to dispute a transfer and it would have

been successful. However, since it changed hands so many times, the TDRP is useless? Is that the case?

Kristine Dorrain: Then yeah, okay. So from the provider's perspective, I would say that we have not heard of anything like that. Now like, you know, as we know, we've had six cases ever. We have had a fair number of inquiries from individuals who wish to participate in the TDRP process.

Neither from individuals nor from registrars have we heard the complaint that gosh, I would have liked to participate in this process but it's already transferred away to a different registrar. I have never heard of that anecdotally. But we have no, you know, obviously there's no way to, you know, actually track that sort of inquiry or that sort of comment.

James Bladel: Okay. Maybe we can turn it around. Thank you Kristine. I think that was helpful. But maybe we can turn it around. Do we have an instance or, you know, anecdotally or otherwise where a TDRP was successfully concluded even though multiple transfers had occurred? Anybody aware of...

Kristine Dorrain: Not with me. Not with the National Arbitration Forum, no.

James Bladel: Okay. Oh, I see Barbara has her hand up to rescue me. Hi Barbara.

Barbara Knight: Hi James. Thank you. This is Barbara. Yeah, unfortunately I don't have a specific instance. I can go back through and look at the various cases that we've decided. I know that we've had some presented to us where a third registrar, if you will, was involved. So there dispute between the first and the second saying there's a violation of the policy and yet the name was actually currently managed by a third.

I can go in and see if I can pull cases relating to those. I don't know off the top of my head if we've actually made a decision for I guess requiring it to be unrolled and returned back to the first one.

James Bladel: Okay. Thanks Barbara. I think another question that might fact into this discussion is that the recent conclusion of a PDP on locking the UDRP where I think that we - I think as a community acknowledged that this was also a problem in terms of flight from a UDRP where someone would try to escape a UDRP by transferring multiple times and then therefore this idea of locking a domain (unintelligible) transfers occurred.

So that's one thing. I mean perhaps that would be a sufficient solution for TDRP if indeed we're able to identify that there is a problem. I think that - I think everyone involved would probably just look at this and acknowledge that it is a problem.

I mean, yeah, it's really terrible if you are involved in what you think is a legitimate transaction and then somebody points out that four months prior that something illegitimate happened and everybody in between is now, you know, lost domain name and possibly lost money as well.

And I think that that is, you know, we can't necessarily dismiss the harms associated with this. But I think that the charter question itself is very specific about what impact this has on the TDRP in its current form and whether it needs to be modified for that.

So I think maybe the charter question, you know, is too limiting. That's one possibility. But I guess - I don't - I'm starting to come down on the idea that we may perhaps need a little bit more data on this. Any thoughts from the group on this? Mikey.

Mikey O'Connor: Thanks James. It's Mikey. I think that another way to approach this is sort of - the problem with data in this is that our dataset is so small.

James Bladel: Right.

Mikey O'Connor: You know, I think that, you know, Kristine raises a really interesting point, which when you only have a dataset of six, it's pretty tough to draw much in terms of conclusions from that and that we might instead want to come at this from more of a theoretical standpoint and say, you know, look, this isn't invoked very often.

But when it's invoked, is it appropriate to have a six-month statute of limitation because it's pretty likely that this is sort of the last resort for, you know, either a registrant or a registrar to get this kind of problem fixed and could very likely be more than six months away.

And, you know, by having that clear demarcation out there, we sort of present the target for the actor to incubate the domain with - for six months and a day and then wake it up and move it away and that seems like a fairly easy problem to fix by just removing the statute of limitations.

I mean I understand how upsetting it would be if you find that you've purchased the (scull) and domain name but I think going anyway but the way normal civil law goes and essentially allowing people to erase an illegitimate transfer by making a couple of legitimate ones I think that's a bad idea. So those are my two thoughts anyway.

James Bladel: Thanks Mikey. I think there's some good points in there. I think the first one being that since we don't have much in the way of a sample size, we should probably maybe walk through a hypothetical on this one and see where the TDRP fails.

I think that's going to require us to be a little creative and do some game, you know, some tabletop simulation of what that might look like. To your other point, I think, you know, it is kind of an acknowledgement of another problem that exists.

I think we could consider the idea that we would just remove the six-month time period here. I think that some of the folks from the aftermarket community would then respond with well when will - when do I know that any domain name registration that's older than one of the new registrations, you know, is safe?

And I think that's probably kicks it back over to industry to come up with some sort of a title search service or something equivalent to that. But and then to your third point here I think that - I think that covered it. But maybe I forgot your third point. Kristine is now up. Kristine, go ahead.

Kristine Dorrain: Yeah. Thanks. I just - this is Kristine from NAF again. I just was - my thought really wasn't just removing the six-month statute of limitations but actually from the provider's standpoint I think my recommendation or at least throwing out there for group discussion would be to tighten that.

I think that, you know, as with most things, the faster you can get the TDRP filed, the less likely there is to have a multiple series of transfers in the middle. And then throwing this out there I guess to registrants or registrars how likely is it that someone would realize that their domain name was, you know, mis-transferred, you know, before six months?

I guess from my perspective it seems like that would be something that you would possibly notice pretty quickly. But maybe I'm wrong and, you know, any domain of value I would think you would notice.

But I just thought I would throw that out there. Like I'm almost (learning) if you would shorten the statute of limitations to 30 or 60 days, allow - open it up to parties, you know, registrants and then that way you open it up to more people who can file but then because a shorter period in which you can file.

And then you maybe, you know, preempt a lot of transfers. If, you know, isn't there a 60-day once you transfer a domain name you can't transfer it out

again for 60 days anyway? So perhaps there's something there. Again, I'm speaking out of my ignorance on that issue.

James Bladel: Okay. Thanks Kristine. I think that to Mikey's point there's always going to be that arbitrary cutoff whether it's 30 days or 60 days or five years. There's always going to be that boundary where someone will just age a stolen domain but well, maybe five years is a little bit much.

I think that part of what you're - if I'm understanding your proposal correctly, part of what you're putting on the table is the idea that the time period would be shortened but it would be predicated on the idea that registrants would be able to initiate this process directly and not necessarily have to go through a registrar that might speed things up. Mikey.

Kristine Dorrain: Yeah. That's what I was suggesting.

James Bladel: Okay. Thanks. Thanks for the clarification. I'm going to put myself in the back of the queue. Mikey, you're up.

Mikey O'Connor: Thanks James. It's Mikey. I think the problem here is that a clever thief can make it - can steal the domain in a way that many registrants wouldn't notice it until after any arbitrary amount of time. And, you know, this is a puzzler but it's relative easy for the bad guys to do that.

And so if we made it really short, I think that would put a giant fencepost up there for bad guys to shoot at and they'd just wait 30 days having already captured the name.

You know, they would leave all the information at the registrar the same. But they would have captured the credentials and move the domain in such a way that the registrant - unless - I mean a vigilant registrant would see it. But a typical registrant very often would not. That's the puzzler.

James Bladel: Thanks Mikey. And in fact we have seen that kind of behavior as well where someone would hijack the name and then essentially, you know, I call it hijacking in place where there would be no transfers involved at all.

They would just, you know, compromise the account, sell the name and then, you know, the seller is wondering why this, you know, the transfer would never occur or, like you said, or the registrant wouldn't notice until it was too late. So I think that's another good point. Volker, you're up next.

Volker Greimann: Yeah. I kind of agree with Mikey here. This is somewhat of a puzzler. I mean for us as the registrar it's pretty much impossible to see if an actual owner change has taken place or if it's just the credentials being exchanged for another pair of credentials that belong to the same entity, the same - if it's a hijack, the hijacker or someone working in collusion with the hijacker.

Or if it's a legitimate third party who in good faith purchased the domain name from another third party who purchased the domain name but might have been hijacked somewhere down the road.

I'm not happy with any cutoff date. I'm not happy with having no cutoff date. I think this is something that should be handled by the courts actually and not by an arbitration panel.

When once multiple hops have taken place, handling this in arbitration just opens up all kinds of liabilities for all kinds of parties. And I'm not sure if that's the best way to go with this problem.

James Bladel: Okay. Thank you Volker. I think that's - I think you've added some excellent points here, which are that if we start to expand TDRP to anything beyond just a dispute of a particular transaction or transfer function, that it does start to look like we are designing a system to adjudicate commercial disputes. And then that creates some other risks and liabilities and things like that. Am I capturing that correct Volker?

Volker Greimann: Yeah, pretty much. Pretty much.

James Bladel: Okay. You can go ahead. I'll put myself behind you in the queue. Go ahead if you'd like to weigh in on something else or expand on that.

Volker Greimann: Yeah. Well just to raise another point just in support of what Kristine said. I mean we've seen a couple of cases where and of what might be said of course as well. We've seen a couple of cases where the hijacker is very slow in changing any data at all.

We've seen cases where the domain is pushed from one account to the other account, left there for half a year. Name service not changed. Ownership data not changed. And the email address is changed, which is taken care of by IRTPC now, as a problem I think.

Then the domain is transferred to another registrar and even then the ownership changed or the user for the domain name only changes after a long time. So it's very hard to - for the registrant to show that the domain name has not been transferred by him or with his acceptance because the data used the domain name remains the same so long after the registration data changed.

And it's really - I agree with Mikey. And I must - he put it very succinctly by calling it a puzzle. It is. It's very difficult for us as registrars to adjudicate and to find any solutions for that kind of changes even before this goes to a dispute resolution provider. And even then I don't think that these are very clear cut cases of what usually is adjudicated by registry providers.

James Bladel: Thank you Volker. Mikey, I saw your hand go up and then go down. Did you want to weight in on this as well or...

Mikey O'Connor: This is Mikey. I'm chewing on Volker's idea of getting rid of the TDRP. And I just wanted to acknowledge that that's probably something we ought to think about. I'm not sure I've got a reaction right away.

My sort of knee jerk reactions were that having an ICANN sponsored and managed process, you know, although it's complicated and hard, it might do a better job of adjudicating these very esoteric disputes than trying to take them to a general court of law where - I can imagine a court not really having the expertise or the understanding to be able to actually do a very good job of adjudicating.

And so it sort of falls into the no, it's not terribly satisfactory but it's better than any of the other alternatives column for me right now. But I just mostly threw my hand up because it did fire a whole lot of thinking. And I think it's a worthy - it's a worthy thing to think about some more.

James Bladel: Okay. Thanks Mikey. And I think to your point there, a lot of the same justifications for why ICANN has a UDRP could be applied here, which is we're attempting to develop a process as Kristine points out that neutralizes some of the jurisdictional issues and solves the majority of these problems before they go out into the court system.

So I think that, you know, that would be one possible response would be that if we look at the reasoning behind development of a UDRP, you know, then maybe some of that can be borrowed for the existence - to justify the existence of a TDRP.

I wanted to throw one other thing out here and I'm going to put my registrar hat on for a couple minutes and just kind of weigh in on this issue. I'm not sure that registrar hopping works or undermines the TDRP. Maybe it does. But I know that we don't have any examples of that and I know that doesn't prove anything.

But maybe - I want to make sure that we're not chasing a ghost here. It definitely complicates registrar-to-registrar efforts to untangle a hijacking that has multiple hops. And it definitely complicates those issues where - those communication channels where two or more registrars are trying to figure out what happened and return a domain name to the rightful registrant. So no question that it messes up that process.

But does it mess up a TDRP particularly when a TDRP enforcement would just look at the first registrar or look at the last registrar and then doesn't have to reverse all of those transfers. It just essentially goes from the first registrar or the last registrar in the chain to the first registrar in a single transaction. I mean that's one thought.

And then the second though would be just winding back to our charter question here, which is I think in some ways is a little more narrow than what - than our discussion have been today, which is, you know, do we need additional provisions, which seems to imply that there are already - are provisions in the TDRP to address this or that it's already capable of handling this problem.

I don't know if that's the case. I just wanted to maybe put that out on the table as something that we should look at before we charge off and add additional provisions. Can we demonstrate that the existing policy would fail in a hypothetical hopping case? So I'll go to Mikey first and then Volker and Barbara. Mikey.

Mikey O'Connor: This is Mikey. Since I was on the drafting team that wrote that question long ago...

James Bladel: Oh yeah, definitely weigh in on that.

Mikey O'Connor: ...(unintelligible).

James Bladel: I didn't - I wasn't aware of that.

Mike O'Connor: I wouldn't pay a whole lot of attention to the additional. I sense that this charter question is really in the multiple transfers emphasis, not on additional choice. You know, what we were really working on was the registrar hopping problem. And if it turns out that subtracting provision would solve the problem, I don't think the drafters of this charter question would object to that. So that's the only thing. Pay little attention if any to addition.

James Bladel: Thanks. So we've got some leeway there. That's good. Volker.

Volker Greimann: Sorry, I...

((Crosstalk))

Volker Greimann: I'm not trying to say that we should get rid of the TDRP as I think my comments might been understood earlier. I'm just thinking trying to figure out what is the best way to - where the TDRP applies and what are the cases where might not apply or might be less suitable to handle the problem at hand.

I think for its conflicts between registrars where one registrar may have not operated quite under the requirements I think the TDFP or the transfer positive for the TDFP is very well suited for third-party to adjudicate if the proper procedures have been followed and then undoing a transfer if those procedures have not been followed.

However what we're now discussing is cases where the procedure between the registrars of initiating and executing a transfer have been followed to the letter and it's actually a problem on the registrant side of keeping his account details confidential or his account security in place or the registrar of not implement - of being insecure in allowing intrusions.

So these kinds of questions actually in my opinion require forensic investigation of the transfer in the customer account. And I'm not sure if a third-party provider can actually even handle that.

For us we only start IP addresses for as long as we need them to execute the transactions.

So when we have a transfer it's very hard for us to see after a while if the transfer request originated from the IP address where we usually would get the customer's request from which would be nice to have but we don't start IPs for that line or we cannot - so we cannot compare those.

And that stage it becomes very, very hard for a third-party even - one's very hard for us as a registrar for a third-party to adjudicate if the transfer was legitimate or not.

So I think the TDFP is very well-suited for addressing formalisms. Have the formal requirements of the transfer policy been followed not as much suitable for handling authorization issues.

James Bladel: Okay thank you Volker.

Barbara your thoughts?

Barbara Knight: Thank you James this is Barbara. So I just wanted to say that under the TDRP dispute resolution providers are able to also put in place supplemental rules.

And within those rules I suppose it could be addressed, you know, kind of what the process is for handling situations where you have a third registrar involved that may not have been, you know, party to the this deal between the registrars or the transfer between the registrars that are subject to the dispute case proceedings.

So I mean that may be a place to address it, you know, short of having to do a complete revision to the policy itself.

James Bladel: So Barbara can we put you on the spot here a little bit and perhaps Kristine as well to expand on that thought for just a moment?

So rather than adjusting the language of the TDRP we would essentially - or we would essentially shift some of the supplemental rules and to - and hardcode those into language of the policy.

And I guess I'm curious as to whether that would be something of a standardization effort where we would figure out which of the providers whether it's a registry or whether it's a second-level provider figure out which particular rules or procedures we would want to adopt and then we would write up those? Is that - am I understanding that correctly?

Kristine Dorrain: I suppose that you could. I mean that wasn't what I was intending. I mean in our supplemental rules we do have a section that's in the miscellaneous area of our supplemental rules which speaks to invalid transfers disregarded is the topic.

And it basically just says the transfers from a gaining registrar party to a third-party registrar and all other subsequent transfers are null and void if the gaining registrar required sponsorship from the registrar of record through an invalid transfer as determined through the dispute resolution process set forth in the dispute policy.

In such a case VeriSign will implement a decision in accordance with the dispute policy as if the subsequent transfers had not occurred. So that's how we dealt with it at VeriSign.

James Bladel: Okay. And so just clarifying on that VeriSign bit it doesn't matter how many subsequent transfers occurred. You're only reviewing it and making a decision on that first claims, invalid transfer?

Kristine Dorrain: That's correct.

James Bladel: And then if you're - if - and just following through on that a little bit if VeriSign determines that the transfer was in fact invalid and wants to reverse it it then issues a decision to the current registrar of record?

Kristine Dorrain: We would notify them yes. In fact, you know, if a case is filed or a request for enforcement is filed with that we will give the current registrar of record a heads up that we've received it and that we are currently, you know, reviewing it, you know, on its merit.

And then to the extent that I've actually asked one of the folks on my team to see if, you know, we've actually had any cases where we have done a reversal in that particular case where we had to take it from a registrar that wasn't party to the dispute and put it back to the original registrar.

But I don't have that data as yet. It maybe - it may take us a little bit of time because we've got to ask her for some information from our DBA in order to be able to - to look at that further.

But yes we would basically take it from the third (unintelligible) back to the person that we would provide the registrar of record that's currently managing the domain name with an advice that we would be taking that action.

James Bladel: Okay. And then in that particular case -- and I'm sorry that- I know I've got a queue here, but in that particular case you wouldn't require any documentation or evidence from that third registrar on their transfer?

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This is really just a courtesy notification to them that the previous transfer's under review and then notifying them...

Kristine Dorrain: That's how...

James Bladel: ...notifying them that you implement that?

Kristine Dorrain: Sorry yes, that is how we've implemented it.

James Bladel: Okay.

Kristine Dorrain: Because I mean it could very well be and more than likely the transfer from whichever registrar depending on, you know, the registrar immediately prior to them whether it would be the second or the fifth it doesn't matter really. I can't imagine it would be the fifth given the, you know, the restriction and transfers after a transfer has occurred and the statute of limitations for filing.

But regardless of the number I mean it could very well be that the transfer to whoever is managing the name at the time that the transfer dispute was filed. It may very well have been a legitimate transfer in accordance with the policy.

((Crosstalk))

But, you know, that kind of goes back to the whole - I really like the I guess the analogy would be stolen car.

You know, unfortunately it does happen occasionally but that doesn't mean that the person who the car was originally stolen from doesn't have rights to that car. I mean they still technically own the car.

James Bladel: Right. Okay that's interesting because it's good information and then I - we would certainly appreciate anything that you find and when you follow-up on that internally.

But I think it also starts to kind of shed a little bit of light that the current process at least when you combine the policy and the supplemental rules that the provider is able to deal with this at least to some extent maybe not in all cases.

I'll go with Mikey and then Kristine. Mikey?

Mikey O'Connor: Thanks James. This is Mikey, just another question for Barbara.

When you rummage through the data which sounds like a great place to start one of the interesting questions to ask of that would be the impact of the six month statute of living - statute a living God, statute of limitations, sorry.

In other words how many times, you know, I'm contradicting myself of course but foolish consistency is the hobgoblin of small minds.

But it seems to me it would be useful to know many times these things have gone off the rails because they were outside that six month window.

So that was my thought. It seems to me that we do have - you mentioned it but I want to highlight that point Barbara, that with the new IRTPC rules about change of registrant delays 60 days, essentially we make it impossible for the (HOP)s beyond three to be handled by the TDRP as it stands right now because three HOPs at 60 days each would put us out to six months. And again the question is is that a good idea?

James Bladel: Okay thanks Mikey. Let's move to Kristine next.

Kristine Dorrain: Thanks. This is Kristine from NAF. I just wanted to comment that I think that I agree with Barbara that it's possible that the supplemental rules of the providers could be engaged to address the multiple HOPs issue if we decide that that's a way, you know, one way to solve the problem.

I just wanted to point out that it's going to be really hard for the group to mandate supplemental rules. I know that the providers do not - I mean we sort of clear our supplemental rules through ICANN in which we send them to ICANN's legal. And if there is no objection we sort of carry on with them. So ICANN doesn't mandate how our supplemental rules work.

So I'm willing, you know, I've in all the working groups I've been willing to, you know, amend my supplemental rules if need be for practicality and to make things happen.

But just to be really clear that the supplemental rules aren't consensus policy. And so to mandate that down to the other PDRP provider or maybe even to other registries I think would be really hard from the working group perspective.

So why I think it's a good solution to think about it's - you can't force it. It has to be sort of a here is a good suggestion, if you're smart you'll take it.

So I just want to throw that out there before we go too far down to put it in the supplemental rules category.

James Bladel: Thanks Kristine and good point here. And before we go to Barbara just a couple of quick questions.

So if we wanted to standardize a particular practice I think if I'm understanding you it should go into the language of the policy. And that would ensure that the - we don't leave it up to the individual providers to perhaps put their own spin on it in their supplemental rules or disregarded entirely. I mean that's another possibility right?

So if I'm understanding you correctly...

Kristine Dorrain: Yes absolutely.

James Bladel: ...we wanted to see uniform behavior treatment of these types of the effective cases it would have to go into the policy and not the supplemental rules?

Kristine Dorrain: Yes absolutely.

James Bladel: Okay. Thank you for that clarification. That's good to know. And I think it's, you know, as a registrar that certainly makes sense we have a number of internal procedures that are not let's say not subject to ICANN policy that if we want to do something that ensures that all registers treat situations uniformly then that's where we put those things. Barbara go ahead. You're up next.

Barbara Knight: This is Barbara. So yes Kristine you do have actually very good points relative to that. And I agree that, you know, anything that would have to be a requirement for everybody to comply with would have to be made part of consensus policy because, you know, you're correct in stating that supplemental rules definitely are not - do not consent to policy.

                     I did want to just add, the reason I raised my hand as well was just to address or actually let Mikey know that relative to those he was asking when we're looking at the data how many fall outside of the six month statute.

                     Unfortunately we really don't have any visibility into that because we would only be able to be what is actually filed with us as a case.

                     And typically I - to my recollection I don't recall seeing any that would really come in that have been outside of the filing window.

                     So we wouldn't have really visibility to be able to say, you know, multiple jumps that, you know, extended beyond the six-month window. Does that make sense?

James Bladel: It does thanks. That's almost like asking how many of these weren't filed.

Barbara Knight: Yes. We have no idea.

James Bladel: I get that. Yes that's a bit of a logic problem. Mikey go ahead.

Mikey O'Connor: Yes I get that. And as you were talking Barbara one of the things that occurred to me is that the way that the new IRTPC rules work interact with the TDRP.

And one thing about this is to sort of say well how many HOPs do we want to try and protect against? And right now we're at three basically if the HOPs happen as fast as they can go.

And is that enough given the sweeping domain problem?

So, you know, the more I think about it the more I think, you know, in gambling strategies in casinos there are all these strategies that work great as long as there's no house limit.

But is soon as you put a house limit, a maximum size of the bet the strategy breaks down. And in a way with the six month rule does is the same sort of thing. It breaks what we're trying to do in the IRTP by putting a limit. And the more I think about it the better I like the idea of taking that limit out.

James Bladel: Great. Thanks Mikey. And I'm actually very - I put myself in the queue because I wanted to ask a question. I'm actually fairly intrigued by that last bit about the cutoff point being a house limit.

I'm wondering if that sounds like there might be some math involved. I'm wondering if you would be willing to maybe expand on that on the list. I not sure if we have sufficient time on the call.

But I think that given that that starts to lend towards a position of there should be no statute of limitations or stolen domain name is -- you know, I'm using air quotes over here -- is in the clear and outside the arm of any kind of dispute.

And I think that, you know, that would be a pretty extraordinary change to the policy. I'm not saying it's unwarranted but it would be a fairly extraordinary change and I think we would need to have sufficiently extraordinary justification for a recommendation like that.

So I think building on your point about the, you know, how that would impact just overall the idea of the strategy of that being a limitation I think that would, you know, probably should expand on that further.

I was going to mention something and I lost my point. So I'm going to go ahead and go to Volker and Barbara and put myself at the back of the queue.

Volker?

Volker Greimann: Yes a bit of the sense about this limitation. On the one hand I agree that having a limitation just opens up the policy for gaming. Because any hijacker that wants - wanted to make his hijack secure would just refrain from making any changes pointing out that there change control has actually happened.

And then after the deadline has happened then would do everything to gain actual control of the domain name.

And on the other hand removing the deadline entirely would mean that I is a domain owner or a purchase of a domain name would never be certain if a few HOPs ago the domain not being hijacked and somebody would be able to bring a complaint against that first transfer and take away my domain name.

So I think it would have to be - the solution that we come up with would have to be very, very measured.

And that leads back to my initial comment that I would prefer these issues to be handled in the courts instead of arbitration decision.

James Bladel: Okay thank you Volker. I tend to agree that, you know, no - removing that would perhaps address some problems but perhaps create more if we remove the six months.

I think one thought on that -- and I'm not necessarily trying to sway the group in one direction or another -- but just a thought to consider is that we are still sort of in the dawn of this industry let's say.

We are, you know, maybe closer to the beginning, you know, then, you know, basically look at its useful life span.

So we may be only dealing with domain names that were registered, you know, eight, ten years ago. Of course Mikey has a pocket full of names that were registered back when I was in college but I think that's the exception.

I think the, you know, the bulk of the bell curve there was probably in the, you know, in the early or last eight to ten years.

But what happens when these domain names are 25, 30 years old and that they're still being transacted and disputes could weigh in that they're taking it all the way back to 2004?

I think that's an extreme perhaps hypothetical but it's something that should maybe be a factor in our decision or at least part of our deliberations as this industry continues to grow up and mature.

So Barbara you're up next.

Barbara Knight: Thanks James. This is Barbara. You know, I think that Volker actually make some really good points about, you know, maybe that these types of disputes would be better handled in the court verses in a dispute and arbitration type environment.

But one of the things that I wanted to suggest is I'm not really in favor of not having any cutoff point for filing a dispute under the TDRP.

I mean maybe what we do is we do something along the lines of, you know, six months, you know, the latter six months or when the domain name comes up for renewal of the, you know, term during each time the alleged violation occurred.

Because at the time that it comes up for renewal the registrant of the domain name should have an idea that wait a minute, you know, I've not renewed my name somebody else must have done it. You know, they would have some clue as to, you know, there was some sort of an issue that has occurred with their name at that point I would think.

Like I said I personally I don't know that six months is the right time period for filing the dispute but I do think that there should be some end point after which time because, you know, James you're making a good point about, you know, some of these domain names could very well, you know, be 30 years old at some point and do you want to really go back to, you know, a domain name that was transferred 20 years ago or what have you, just like you said.

James Bladel: Thanks Barbara. I think that's a good point. And I like the idea of having a later of certain period or, you know, this renewal or expiration or redemption or some other event driven time cutoff.

I'm giving Mikey the last word but I just - I remembered what I was going to weigh in on earlier. And unfortunately I think it adds a whole new layer of complexity.

So maybe we don't want to get into it on this call but it's something to think about is that we did refer to the other type of policy, the change of registrant transfer that was developed as a component of IRTPC.

And the question that I think that maybe we're assuming or maybe we didn't examine very completely is whether or not TDRP would also allow the dispute of those types of transfers which are slightly different then a transfer that is an inter-registrar transfer.

And certainly that process, the change of registrant process did not exist when our charter was developed. So is this a gap? Is this something that we missed and do we need to account for that?

Maybe I'll ask (Lars) to bookmark that idea and for a discussion on next time but we're six minutes left in our call and I want to give Mikey the last word and have him take us home. Mikey?

Mikey O'Connor: Thanks James. That was a really good idea. I was sort of going oh, so I completely agree on your last point about the impact of change of registrant on this. We certainly need to fold that in.

A couple of points though to Volker's thing, I think one of the facets of the (judication) of this is look that the TDRP is a really infrequent process. We can definitely demonstrate that. It's very structured. It's really rigorous. It's very specialized.

And so I don't imagine that we're going to see very many instances of this ever being invoked but if it ever is it would be I think really helpful to be able

to go longer than an arbitrary amount because this is sort of in a way planning for the crime of the century.

This is a, you know, an extremely valuable name being taken by very sophisticated folks and this is precisely the place where a typical court isn't going to have a clue about what's going on because it's going to be a very tightly argued, a very technical case.

So I think there's an argument to be made that the TDRP is a better place to resolve some of these things than the courts.

In terms of Barbara's point the typical registrant today probably won't even have a clue at renewal time. Because typically they put auto renew on and they then forget about that domain.

And it just magically continues to be theirs. So I'm not sure that the renewal boundary is good from that standpoint and I'd also just note that the renewal interview of these days is often five years which is pretty long.

I mean if we went all the way out to renewal on a relatively new name that's much longer than six months. So I think there's some puzzlers in that as well.

So just a few thoughts but James I do think that you got a good one there with that. And with that I'm all done, back to you.

James Bladel: Okay Mikey thanks.

And I think, you know, some thoughts about the renewal thing is something for us to chew on particularly in light of and just because it's fresh in my brain right now is the implementation of the ERRP which even if the name is auto renewal we, you know, registrars are almost required to spam registrants with notifications of their impending expiring and auto renew.

So it's in some respects it's we'll still auto renew as you pointed out that it will be less of an automatic or visible process to registrants because of this new policy that we're implementing on August 31.

But anyway let's go to we've got real quick couple of minutes left here. We'll go to hear Greimann here and then I'll close this off for the day. Volker?

Volker Greimann: Yes thank you James Bladel. I was just thinking that I agree that this is a very rare process.

James Bladel: Volker the sound quality at least for me is almost on usable. Can you...

Volker Greimann: Better now?

James Bladel: Oh much. Thank you.

Volker Greimann: I had to just speak into the microphone again. I agree this is - currently this is a very rare process. But we were also discussing if maybe we wanted to open this up for registrants to use instead of being process involved between registrars.

And at that point I don't think that we can rely on this being a rare process anymore because registrants that want to contest a transfer will use it in any case.

So if we change the access requirements to this process we cannot rely on previous experience on the rarity of this - these kinds of cases. That's just a point I wanted to make.

James Bladel: Thank you Volker and it's a good point. And it also made me think just a moment here. When we say we open up this to registrants we really actually mean opening up to the general public don't we? Because we're talking about former registrants disputing the current registrants.

So it wouldn't necessarily be a registrant. It's more of an ex-registrant. But that's a perhaps a just a nitpicking here but it is something that maybe we should think about.

So lots of good thoughts today. Thank you everyone for participating and contributing your ideas and expertise and your experience.

And we will look for everyone to reconvene this group same time next week on the 26th August where we will be led by Mr. Mikey O'Connor...

Mikey O'Connor: Mikey.

James Bladel: ...who will take the lead while - because I will be pulled into another ICANN function and will be on the other side of the world.

So thank you very much everyone. Have a great Monday and look for traffic on the list.

Woman: Thanks everyone.

Mikey O'Connor: Thanks James.

END