

ICANN
Transcription ICANN Hyderabad
GNSO-Cross Constituency meeting between the IPC Registrar Stakeholder Group
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Greg Shatan: Hello and welcome to the Intellectual Property Constituency Meeting with the registrar stakeholder group. I believe we're being recorded. This is an open meeting, but hopefully still one where we can have a frank and robust exchange of ideas, as they say. Yes, well - no, I expect us to have many points of common interest. As a matter of fact, our first agenda item is identifying areas of perhaps common interest. So I feel like that's a good sort of kum-by-ya place to start our meeting.

And frankly I do think there are areas where registrars and IP interests -- the IP community, I should say rather -- have common interests in smooth flow of things. So I'd like to open the floor, because nobody's going to want to hear me talk for much of this meeting. And somebody else has to talk to give Michele a rest. So I'll open the floor.

Man: So let me just say thank you, (Greg) for reaching out, the registrars appreciate being here and we enjoy this dialogue and it's often spirited and fun. And I think it's good that we do these meetings and, you know, find those areas of common ground, because it's helpful going forward. So this is quite

open, so if you have - while we're talking about areas of common interest or concern you should feel free to run up to the mic and start that chat. Does anybody have a good one to start with? Ah, Steve.

Steve Metalitz: Thank you. This is Steve Metalitz from the IPC. One thought that occurred to me - I mean, I think some of the other things that were added to the agenda later may also be areas of common interest, but one that I think we actually talked about a little bit in Helsinki was the question of transparency in the compliance process. I think both from the IP perspective and from the registrar perspective, there are times when compliance does something or doesn't do something -- takes some action on a particular complaint -- and it's - we're left puzzled by the justification or why they did it that way and are there - what can we draw from it for future reference.

So I don't - it may be that there's questions that you guys have don't overlap with the questions we have, but I think there might be some areas of overlap and even so, there might be a common interest in having a more transparent compliance function. So, you know, with the compliance function under - obviously undergoing some obvious change with (Alan Grogen's) departure and a new position description for consumer protection just being posted, I guess, this might be an area that we're - our two groups could work together or at least, you know, interested people from our two groups might benefit from a discussion. Thanks.

Graeme Bunton: Thanks Steve. This is Graeme for the transcript. You know, there's certainly pieces of the compliance process that contracted parties would not want to have be transparent as we're working through our dirty laundry. But perhaps we can maybe narrow that question a bit more and figure out - so I'd be genuinely curious myself to hear which pieces you think should be more transparent. And - in a more sort of narrow concrete way and then we can figure out how on side we are for those sorts of things.

Man: Well, one example that has come up in the past is, you know, when a complaint is dismissed, it's usually just said - there's usually no real explanation given to the complaint - a compliance complaint. So - or, you know, the registrar responded appropriately is the reason given. So without even - you know, we're not trying to like open up a new appeal process or anything like that necessarily, but it would be good to know if there's something we can learn from that for possible - on future complaints. That would be good to know. That's just one example. I think there may well be others. I'm not suggesting that we hammer out a list of examples here, but maybe if we have people that are interested in a further discussion we could get that started.

Man: Get in there.

Michele Neylon: Gee, thanks. Michele for the record. I - there is kind of a balance -- I suppose -- between I think maybe trying to satisfy your frustration but also maintaining the level of confidentiality that is required in order for registrars and others to be able to resolve reported issues. Now, suppose the frustration on your side probably stems from you getting a kind of standard response saying, "Matter resolved" or something like that. So maybe breaking that out a bit further into some kind of generic buckets might help, I don't know.

I mean, I personally wouldn't be comfortable with saying, "Oh, yes, sure, make it completely transparent. We can put everything out there. So that's grand, there'll be no problem whatsoever." Because I can see that being - becoming a massive headache for everybody. In terms of maybe buckets of how these things were handled, maybe that might help you. I don't know. I'm trying desperately to throw you a bone here.

Greg Shatan: So this is Greg Shatan, if I could, you know, step into the middle of this, literally.

Michele Neylon: Do you really want to step in between the two of us.

Greg Shatan: Probably not, but at least I can kind of help fill out the group. But the way I look at this, you know, when you have that language -- as you say -- it's kind of a very boilerplate language. It tells you nothing. You know, my - in my lawyer life, that's kind of - sounds like the kind of thing you do when you settle the case between the parties and you don't want anybody to know whatever happened. The matter has been resolved satisfactorily and the parties have no further statement. You know, it just - it's intended to kind of tell everyone to move on.

And that is not conducive to understanding when you're - in the sense if you're the one who's made the complaint you feel like you're kind of a party. And yet you weren't invited to the party and you don't know how anything ended up at all. So I think perhaps the idea of at least another - a layer more of information being provided so that there's at least some understanding, some, you know, visibility into what's happened.

Michele Neylon: (Unintelligible) it's Michele. It's kind of what I was hinting at. Because I think - I mean, I can understand your frustration because, you know, speaking personally not on behalf of anybody else, I mean, I do report stuff to compliance from time to time as well. And then, you know, six months to - or later you get a response saying, "This has been resolved." But no actual reasoning behind it apart from it's been resolved.

So I suppose if you were to get slightly below that in some respect that might help. But at the same time, it wouldn't help any - it wouldn't help us kind of feel comfortable sharing information and working with compliance in a collaborative and positive way if we were as -- to use whoever's phrase it was -- airing our dirty laundry. I've got really smelly socks.

Greg Shatan: Kirin Malancharuvil is at the mic.

Kirin Malancharuvil: Lovely image, Michele, thanks for leaving us with that while we're eating lunch. But...

Michele Neylon: You're always welcome, you know that.

Kirin Malancharuvil: So I think that a way to think about this area of common interest as truly an area of common interest is to think about the ways in which we've clashed in the past on this issue about respond appropriately -- for example -- which is the language from the 2013 RAA which has caused a lot of tension between these groups traditionally. I think that if you consider that giving us more information -- and nobody is asking registrars to air their dirty laundry or to give us any confidential information about registrants or anything like that in this context -- but rather to give us more information about what it means to respond appropriately from your perspective would be something that's very valuable function for us when we talk about transparency with compliance.

And whether you are thinking about that in terms of buckets or whether you're thinking about that in terms of, you know, additional detail from registrar to registrar. Anything that gives us more information about that would help us sort of I guess eliminate some of the requests that we're giving to you, at least from my perspective and from, you know, what I understand our clients are perfectly willing to have a better understanding of what respond appropriately means so that they can stop spamming you with requests that you're not going to honor.

But without the information about why the - what - you know, the registrar responded appropriately and what that means and what you guys consider respond appropriately, we have no way to tailor our requests to you to what you're actually going to do. So I think an area of common interest is we don't want to waste our time asking you to do something you're not going to do. You don't want to waste your time reading a bunch of requests that you're not going to respond appropriately to or you're going to respond appropriately but not in our opinion.

So, you know, truly this is an ask in which we can come together because we do have a really significant common interest in tailoring requests to you. Or at least some of us do; I think most of us do. So I don't think that it's a contentious area at all. I think that that scenario we can come together. Thanks.

Graeme Bunton: This is Graeme. Thanks (Karen). And I think that's a good point. There is a lot of truth to the cleaning out those queues and making sure that what's coming in and what's going out is useable for everybody. So it sounds like maybe that's a place for us to have a conversation with compliance and figure out what compliance is comfortable sharing, what we're comfortable with compliance to share, and then we can move forward from there and see what pieces make you guys a little bit happier. And like Michele was saying, it's not just -- and I know - I can see (Maggie's) in the room back there, hi (Maggie) -- you know, our own tickets with compliance are often not resolved satisfactorily or the information is. So, you know, I think there's room for improvement there.

Greg Shatan: This is Greg. I thought I would just wade in a little bit more. I think we all want to learn and kind of picking up on how to be better at submitting, you know, compliance issues or issues to compliance. And not, you know, make requests that are in kind of - that don't make sense. So the only way you really - well, a major way in which one learns is iteratively. And if you can't learn anything from the experience, you keep - you're ending up - you're always on the ground floor. And so something that helps inform us -- and as you say -- you also submit tickets and we all need to kind of see better how things get resolved.

And I think this, you know, some extent goes into our topic on abuse reporting and response practices as well. And generally to the fact that I think that for both of us, you know, we have communities which are largely composed of good actors, but that we each have our crazies in the attic and,

you know, they don't benefit the ecosystem for either of us. So the more that we can kind of mature all of these processes and, you know, make it more obvious to people when they are kind of off the reservation then we have a better chance of, you know, kind of working together.

Man: Am I on mute?

Man: (Unintelligible).

Man: No.

((Crosstalk))

Man: Someone is talking on the Adobe? That was weird.

Man: Let's go ahead.

Michele Neylon: Sorry, Michele again. Just very briefly, we're not actually talking - is - are you talking about trying to understand - talking about the - because you kind of - you seem to have comingled two potential things. One is ICANN compliance's response to your complaints to them and the other is our response to your direct complaints to us as registrars. Now, (unintelligible) break that out a little bit further. Are you having - if you're having problems with registrars who you see and know -- in other words like me - I or Graeme, who's also here and others -- I mean, if you're having specific problems with us, then, you know, why aren't you talking to us directly and just asking us directly, you know, "What the hell do you mean by this response?"

Or are you having issues with the oft used term in ICANN spaces of these awful bad actors who nobody seems capable of actually naming by name? Because if you're having problems with specific bad actors who aren't actually people in the room, how about you just actually name them and let's talk about them specifically. And so that the compliance can actually focus on

dealing with them instead of us ending up wasting a huge amount of time dealing with issues that aren't actually impacting us directly. That I think would be more helpful.

I don't know. I'm not trying to be combative here, I just, you know, is - are - is it that you're having problems with some of us? Or is it you're having problems with people who aren't here? I just want to understand better the problem.

Greg Shatan: I do agree with you, Michele, I think we've probably mingled several streams here and maybe we need to pick them apart. Maybe the answer is all of the above, but in different ways. And I see (Karen) back at the mic.

Kirin Malancharuvil: Hi, so first of all I would like to point out that we should be more careful about comingling the issues, because I think that we risk losing ground on something that we do have common interest on -- like compliance transparency to a point -- by talking about something significantly more controversial like abuse responses from registrars in particular. I think on (Michele's) position about bad actors and why don't we name and shame them, in a lot of situations we and our clients have ongoing disputes with these bad actors, we'll call them, right? And so it's not productive for us or for our clients or for our internal processes and for our enforcement efforts to name and shame them. But that doesn't mean that we aren't dealing with them as best we know how with our internal processes.

I think that the vast majority of the people we have issues with are not in this room. I'm not saying that they all aren't in this room, but, you know, I think that we've had - we know how to have direct dialogue with the people that we've had issues with that attend ICANN. And that's -- for example -- what this group is all about, right? But I think it's also really important to note that we don't want to keep our processes as an individual who has a relationship who can have a conversation game.

We want to create policies that are equally applicable to those of us that have the resources to have lawyers who come to ICANN, who, you know, can come here and know who you are and know who Michele Neylon is and know who Graeme Bunton is and be able to talk to people directly. We want individuals and small actors to also be able to avail themselves of policies that relate to transparency and enforcement functions that are all above ground.

So, I mean, it's a nice thought that everything can be relationship based, but, you know, we're a privileged few that can have a relationship based situation when we deal with, you know, issues with registrars. And I think instead we should be aiming it at policies and procedures that are equally applicable.

Graeme Bunton: Thanks (Karen). This is Graeme. So maybe this is a good place to segue into the abuse reporting topic.

Greg Shatan: Actually before that I'm just going to be very bold and disagree slightly with (Karen). And say that I think actually the idea of raising complaints with registrars and recognizing for some of them -- the bad actors -- it can be useless and that's when you need compliance. But I think that perhaps encouraging those and those beyond us, you know, few who, you know, can tell (Michele Nelen) from Graeme Bunton on sight that they also should have a feeling that if they go to a good majority of quality registrars that they can have a reasonable dialogue about whatever it is they would otherwise submit a compliance ticket on.

You know, there's a tendency to often ratchet things up a little quickly or to rely on structured processes. And sometimes -- again, putting my lawyer hat on -- sometimes I've accomplished far more by just picking up a phone and saying, "Hey, you may not realize this, but the thing you did is infringing my intellectual property - my client's intellectual property" rather than sending them some sort of two and a half page stiff cease and desist letter. And, you know, a lot of the time when I pick up the phone the person says, "I didn't

mean to do that. I didn't realize that. I really appreciate your kind of telling me this in this way and not, you know, turning this into some sort of battle royal."

So I think looking for and encouraging kind of a more mature, professional dialogue when issues arise and finding ways for each of us in our community to say, "Hey, you know, you can contact most registrars and they will deal with you like a reasonable human being if you in turn are a reasonable human being." And then you're going to find a few people on both sides who are not reasonable and may not even be human. Thank you.

Graeme Bunton: Thanks Greg. This is Graeme again. So maybe I will segue now into the abuse reporting, because I think it is quite tied to this issue. So let's - let me give maybe some context for the people in the room, which is registrars or a number of registrars agreed to try and work on a sort of -- it's not a best practice -- but it's sort of an agreement on what are like sort of general purpose abuse reporting requirements. And we came up with an initial draft that was hilariously huge and poured everything into it and it was a monstrous document that no one was satisfied with. And then it went through another edit that - no, that one was just kind of generally terrible. It went through a third edit where it became too in-specific and broad and not enough concrete action in there.

We're now working on the fourth version of this thing. I'm hoping to have the draft I'm working on sharable by the end of this meeting, before the end of this meeting. Depends on how the jet lag kicks in. And one of the pieces that I'm putting in there -- and this is still up for discussion amongst registrars, too, and we'll see how people feel about it -- is that, you know, so the document sets out the general abuse reporting requirements. If you're submitting any abuse complaint, it should have all of these pieces of information. And then there are - for specific types of abuse, there are these other pieces of information that we need.

But it seems sensible to me -- and other registrars may disagree and we'll have this conversation in our constituency day -- about, okay, so if someone has submitted all of these pieces, what are the things that they should get by default back? And so that would probably be a response that -- A -- we acknowledge that we have received that abuse complaint. B, the approximate time to complete an investigation into that complaint or the usual amount of time. A response when that investigation is completed and if we can't give more insight into the (unintelligible) some indication as to why. And so that could be things like it's now a law enforcement investigation or there's registrant safety issues involved.

But to try there and give a bit more transparency to that abuse reporting process. So even if you're not getting what you want -- which is going to be all the time -- you'll get some clarity into that.

Greg Shatan: Well, this is Greg Shatan and I for one am extremely happy to hear the progress that you've made on the abuse reporting guidelines or whatever they call them in the practice menu. Neither best or current or consensus, but that was one of the questions that has been on my mind is, you know, this document. And I think that, you know, we hopefully would like to give input on it in draft form, since we're kind of, you know, represent a piece of the other half of the equation. And I think it's also - it very much behooves us to deal with the people who send you, you know, rancid pieces of tripe and expect you to treat them like valid complaints and have something that can be pointed at.

And say that, "No, what you've sent is a rancid piece of tripe." And so we need to kind of, you know, have a good understanding of what's where. But I think that kind of setting expectations in the document and having something, you know, to point to I think is - will be hugely helpful in avoiding a lot of missteps. So - and the fact that, you know, may actually be done by the end of Hyderabad or as soon thereafter as (unintelligible) might sleep in a couple of more days of editing might do I think is really good. So thanks.

Michele Neylon: Michele for the record. Now, just on this entire thing around the abuse reporting, just bear in mind as well that there are multiple spaces where this is being discussed, not just within the ICANN space. It's also - the (unintelligible) Coalition were running, we have a -- what do we call that group again -- the public - I think we call it a public safety working group where we're looking at it. It's also being discussed at MOG. It's also - APWG are also looking at it. There's also some other discussions that have been held within the numbers community around abuse reporting. So it - and also the Internet Jurisdiction Project as part of one of the deliverables, even last year had a draft kind of reporting template type thing there.

But one thing just from being involved in a lot of these different efforts is specifics and examples. You know, the - one of the biggest issues we've all seen is people just submitting things like, "There's a problem with this IP address or there's a problem with this domain name" and not telling you why or how or where or whatever. So, I mean -- picking on (Mark Molliter), for example -- you know, "Well, I'm sorry (Kiera). Come on. You had it coming to you." You know, they act as registrar for a lot of big brands, which would include - which - so if they get a - they are suck their registrar as well. So I'm sure they get some charming abuse reports for things like google.com.

I wouldn't expect you to, (Kiera). That's okay. But the thing is, you know, it cuts both ways. I mean, getting a report -- like we've had reports from people telling - reporting blacknight.com to us -- which I thought was rather entertaining. You know, you need specific examples of what that is and also don't assume that we know what the hell we're looking at or that we can see exactly the same thing as you can. I mean, these - some of the people abusing resources are very, very clever. They will do things like they will target it to a specific IP address, a specific ISP, a referrer, a whole bunch of other things.

So sometimes you send us a report, I'm going to come back at you going, "I can't see this. I don't know what the hell you're talking about" and I'll close the complaint. Where on the trademark side I've had one repeat offender who keeps on telling us that our client is infringing his trademarks, but he won't tell us which bloody trademarks. Even though we have asked him repeatedly. So, you know, these are just a couple of simple little examples. But the ones around, you know, providing more evidence is good. We are not experts in everything. So sometimes we're going to close your report just going, "Can't see it. Don't know what you're talking about. Moving on to something I can actually deal with." Thanks.

Graeme Bunton: Thanks Michele. And just for everybody's edification, you know, in this abuse reporting practices document, there are semi-extensive guidelines for that information we're looking for in an abuse complaint to make it actionable. Including things like screen shots and context and all of those pieces that a registrar builds to understand what's happening. And, yes -- we're belaboring this now -- but we get lots of -- what was it, tripe -- un-actionable...

Greg Shatan: Tripe.

Graeme Bunton: Tripe. So hopefully we can get this out there soon. People can wrap their brains around it, we can circulate it within our communities and get some good feedback and then try and start putting that in place. Now, it's again not binding on all registrars, but we had a good number that were interested and seemed to be on board. And hopefully we can make that happen and spread the word.

Greg Shatan: Thank you, Graeme. And I think even as an educational tool it's a good thing. Plus if you can - as we need to educate people there are well-meaning people who don't know what they're doing and there are ill-meaning people who know exactly what they're doing. And various other types in between. But there are plenty of well-meaning people that don't know what they're doing and want to do a better job and don't understand why they can't get a

good result for their client. And, you know, may just be - they may be a bit thick or they may just have, you know, come into this, you know, relatively recently or whatever the issue is.

But, you know, we can - if we have something we can promulgate with the right caveats through our professional organizations and that becomes, you know, more known and creates a, you know, some sort of a benchmark -- again with all the appropriate caveats -- then I think we move a lot closer to kind of cleaning up a lot of the misunderstandings and the things that make, you know, one side cast the other as either unresponsive or completely, you know, ridiculous and over-demanding, you know, results based on nothing.

So - and allows kind of both of us, you know, in a sense -- in our communities -- to try to - we can't really discipline the outliers, but at the same time, you know, I can look at something somebody's sent in and say, "By god, they're idiots." But if I can point to something that's a document and say, "This document shows you that this person's an idiot" that's helpful, because otherwise just my say so that they should have done it this way and not that way.

(Jonathan): Hi, this is (Jonathan) (unintelligible).

Greg Shatan: Yes, (Jonathan), go ahead, (Jonathan). And why don't you introduce yourself a little bit more since - as a new member -- or returning member -- those in the room may not know you.

(Jonathan): This is (Jonathan) (unintelligible). I just joined with IQ (unintelligible) global brands (unintelligible). Also (unintelligible) for intellectual property. I'm a lawyer by (unintelligible) and I've (unintelligible) number of Yahoo (unintelligible). I'm looking forward to participating (unintelligible). So I haven't been able to make it there just yet, but I am looking forward to seeing everyone in person.

I just wanted to say, I mean, (unintelligible) personally I think the biggest issue that I see (unintelligible) the ticketing system itself (unintelligible) using ICANN's compliance not generating tickets (unintelligible) ID numbers (unintelligible). Complaints are submitted (unintelligible) issue number to follow up on with some timestamping so that you (unintelligible). And then for those registrars that do (unintelligible) provide (unintelligible) where follow up to find out what the (unintelligible) whether it's in progress or (unintelligible). So it's not really a (unintelligible)...

Greg Shatan: (Jonathan), let me stop you there for a second. This is not the first time -- unfortunately in the Hyderabad meeting -- a phone intervention has sounded more like a séance with someone speaking from the beyond or perhaps for those of us old enough to remember the game Myst it sounds like we're, you know, receiving a message about how to try to unlock some puzzle and move on and we can't quite, you know, tune in. So that's a long winded way to say we couldn't understand much of what you were saying. But it sounded like really good stuff. So what I'd like you to do is if, you know, is to put it in the Adobe chat and then someone here can read it out. Apologies and it's just technical difficulties beyond our control.

(Jonathan): No problem. I'll (unintelligible) Adobe chat because I'm in transit trying to get (unintelligible). And I was only able to call in on my cell. So if the line is not here, I'll (unintelligible) to seeing everyone in person and follow up (unintelligible). Sorry for the inconvenience.

Greg Shatan: Thanks (Jonathan) and sorry that you, you know, had visa issues getting here and we hope to see you here soon in a few, I'm sure. One of the points of this meeting is to have a continuing dialogue that goes on beyond, you know, lunch in a room in Hyderabad. And to continue the process, so hopefully, you know, that - your intervention -- once it becomes intelligible -- can be part of that overall process of engagement. Kirin Malancharuvil.

Kirin Malancharuvil: By the end of this meeting you're going to know how to say my name right, I think. So Kirin Malancharuvil, for the record. (Mark Monitor) again. I think that there might be a really narrow scope of this abuse reporting document that might be where we we're seeing IUI and it might be sort of an easier deliverable by the end of the week than like the whole huge document that I know you've been working on, Graeme, for some time. And I think that it comes from what Michele was saying about being - you know, getting request -- like repeated requests -- from trademark owners that just don't have the relevant information in it.

I think that -- again, for those of us in the room and those of us that have been looking - lucky enough to sit in these meetings for the last six years plus -- have - we know what you need from us and from our clients and we've tried our best to sort of tailor their communication or help them tailor their communication to you accordingly.

But there are obviously a huge number of people who are communicating with you guys that don't know sort of what your core asks are. And it sounds like you are willing to respond appropriately if we're giving you the right information. Not, you know, respond appropriately according to you, you know, your values on that. I'm not saying that you'll definitely take things down.

But if you could provide to us a template even, similarly to what we labored over as a group which Steve initially created. That would be fantastic and that's -- it seems like you know exactly what you need from us in order to make a determination.

And obviously we're not asking you to make any sort of legal determination or be judge and jury, but to make an initial determination within the boundaries of what you're willing to do.

You know exactly what you need. We don't know exactly what you need. Would it be possible to throw that into a template and have that be the jumping off point for this document that we've been working on for I think over a year now, and would that be an easy enough deliverable for you that we could do, you know, help you work on?

Graeme Bunton: So there is some gentle criticism in there about how long it's taking and I think that's pretty fair. It has taken...

Kiran Malancharuvil: On all sides. On all sides but...

Graeme Bunton: It's – and most of that is actually on me just not finding the time to make it happen and I apologize. Sorry this is Graeme for the transcript. I'm terrible at saying that.

So the sort of general reporting requirements I think are coverable, editable and sharable quite quickly and easily for discussion amongst everybody to see what people would think so that's easily done.

And they are in some sense inspired in – by the privacy and proxy illustrative disclosure framework, so yes I think we can make that happen.

Gregory Shatan: Oh this is Greg Shatan for the record and perhaps the mention of privacy proxy provides us a segue to the next item on our agenda and almost on time on the agenda, which is the PPSAI IRT.

And I hope those that don't speak acronym understood what I just said. But this is a – why don't you, you know, frame this because it kind of came from you into the agenda.

Graeme Bunton: I'm not sure that I have -- sorry this is Graeme for the transcript -- any direct information I'm looking for back from the IPC but it – I think a lot of us are going to be in there.

Probably let's – can we try – raise your hand if you're going to be in the PPSAI IRT? Yes. Yes so it's like a reasonable percentage of the room for those following remotely are going to be in there, and I think we're in there for the long haul.

I'm guessing this IRT is going to take 2, 2-1/2 years and we're going to be working pretty closely and at length with each other. And so I guess if – I don't know if anybody has anything they wish to address on this, but making sure that we can do so cordially and figure out how to answer a lot of the tough questions that I think are going to arise, and making sure also that we're able to restrain ourselves from rehashing policy issues and keep ourselves to just the implementation issues that are in front of us because for everybody who worked in that PDP, you know, there was a lot in there we discussed at length for forever and it'd be nice to put those things aside and work on the nuts and bolts of getting it done. Steve?

Steve Metalitz: Thank you. Steve Metalitz. I would just second what Graeme just said. I think when you think about it what we did in the PPSAI Working Group was – ended up being a pretty good example of IPC and Registrar cooperation to move things forward.

Obviously there are many implementation issues but I think Graeme is - has framed it just right as far as how we need to approach this. So I hope it won't take 2 to 2-1/2 years but there's a lot of work to be done so I'll just second – I'll just leave it at that. Thank you.

Gregory Shatan: Oh this is Greg Shatan. I think, you know, and I would put in a marker for 2, 2-1/2 years. Hopefully we could get it done faster than that and then everyone feel like they've accomplished something in record time.

So I think again the point I take from this is, you know, to try to keep, you know, open lines of communication, you know, and to avoid, you know, as

you say rehashing and also to avoid kind of feeling like we're, you know, in separate silos on this so, you know, as a common interest certainly getting it done and getting something done that works and, you know, hope that again kind of, you know, continued dialog and, you know, sometimes involving adult beverages if necessary can take place to get over, you know, some of the stickier topics.

And, you know, the more that we can – in the end we're going to have to find consensus so, you know, we're both well represented in the group and finding consensus.

You know, it's important to see ourselves as kind of, you know, working really toward a common goal so – and I hope that that's – I think everyone, you know, I think approaches it that way. We'll see how everyone feels in a few months. Thanks.

Graeme Bunton: Cool. And this is Graeme. I'm not sure there's anything else on the PPSAI IRT. Just a shout out that I think there's a working session here as well as an information session this week, so if it's on your radar you should come to one or both of those and we'll get that because there – I think there's only been a single meeting on PPSAI so far.

So it's – that ball is just getting rolling and feel free to jump on in and participate. IRTPC next unless there's anything else on that one. Cool. So Registrars sent a letter to the GNSO very recently and so many people probably haven't seen it yet.

But we're having significant issues with the implementation of a policy called IRTPC, which is about what's called the change of Registrant and I would encourage you all to find and read that letter.

If you would like a copy feel free to ask me about it and we can share it. The sort of fundamental problem for us is that the change of Registrant procedure

is being kicked off – let me backtrack a bit and say this policy wrapped up I think in 2012.

I can't recall off the top of my head when the IRT finished but I think it was about a year long and finished about a year ago. Implementation for this policy is supposed to go live December 1.

The policy in general is fine. The issue we are having right now is with specific implementation primarily around where this policy interfaces with privacy and proxy services, and that the change of Registrant procedure is being kicked off by say the additional removal of a privacy service.

And that could mean that a domain is locked for 60 days if someone wishes to turn off privacy in order to transfer their domain. I'd like to think about at risk Registrants and being – if they're - for whatever reason need to leave their Registrar would be tracked for 60 days, exposing their information in the public WHOIS and that for me is pretty problematic.

And so we've been sort of arguing with ICANN Staff about this implementation and we raised some issues about this in the implementation for at least a year.

And we've gotten sort of nowhere on that and this date is coming live and the more people start to write their code around making this thing work, the more sort of arduous and painful and problematic it seems to be.

So ultimately what we're hoping for is to get some consensus within the GNSO that because the policy is silent on issues of privacy and proxy and its interaction with change of Registrant, that the implementation issues we're having - and let me stress again it's just an implementation issue.

It's not a policy issue. We can move that particular piece of implementation into the privacy and proxy IRT where we can hopefully resolve it there. So

broadly again that ask is to get the GNSO to get some consensus on that, and I think the mechanism ends up being that we write a – the GNSO sends a letter to the Board saying, “These concerns have been raised.

We think it’s a good idea to move that piece into the PPSAI IRT and we can solve it there.” And what I think we need to make sure we’re doing is that we’re bracketing that problem quite narrowly.

And so it’s clear that our issues are not with the entire policy as a whole, that we have this narrow problem around change of Registrant implementation and also that we have a clear venue that’s at least reasonably immediate -- privacy and proxy IRT as I said is happening now -- so that it’s not – that we’re pushing this out for forever. We would like to deal with this sooner rather than later.

We think there’s an appropriate venue for that. So that’s my sort of longwinded introduction to the IRTPC issue and I’m here to see how you – the IPC feels about this.

If you guys have had a chance to read that letter raise some issues, and maybe we can sort out if there’s any difficulties there and allay some fears or answer some questions and help us move forward with that.

Gregory Shatan: Thanks Graeme. Greg Shatan for the record. We did get the letter today. I think, you know, it may have been up on the Council list a little before that but I only got a copy today and I’ve circulated that on the IPC lists.

So – and we did have our IPC meeting directly before this where we did talk about it so – but we’re still digesting it. I think that, you know, there is some, you know, general agreement that this seems like an implementation issue that, you know, is kind of a bit of over implementation perhaps and, you know, need to go back to the principles and the first principles of what the policy was about, which is about domain name hijacking and other changes

of Registrant that were not intended by the Registrant prior to the change essentially and figure out how to refocus a bit.

Now if anybody else – I don't want to keep it – it shouldn't just be us facing in this direction doing all the talking so anybody else – and plus Kiran of course. Well speaking of those facing in this direction Steve Metalitz.

Steve Metalitz: Yes this is Steve. I don't have much to add to what Greg just said but just to say that now I think I understand why you're talking about 2 to 2-1/2 years for the PPSAI IRT, because you're asking to move another – you move a complex issue into there but we'll take a look at that. I haven't even read the letter so we'll take a look at that and respond.

Kiran Malancharuvil: It's me again.

Graeme Bunton: Kiran Malancharuvil for the record.

((Crosstalk))

Graeme Bunton: Malancharuvil.

Kiran Malancharuvil: We can work on it afterwards.

Graeme Bunton: Malanchar, char, whatever. Kiran Malancharuvil for the record.

Kiran Malancharuvil: For the record. There you go. Thanks. I have a clarifying question.

Registrars are allowed to opt out of the 60-day law. Is that correct? And why wouldn't you just do that in that situation? I think I must be wrong about that. Can you help me understand that better?

Graeme Bunton: So there's a mechanism inside of the policy that allows you to get opt outs and become the designated agent for the domains in your purview. And, you

know, somebody who's implemented this is - more concretely than me is probably better to speak with this – to this than I am.

But essentially it undermines the policy as a whole where a Registrar becomes the designated agent for all of their domains and it removes a certain amount of discretion.

Or essentially Registrants are moving their discretion to the Registrar and giving Registrars essentially more power than we think we should have and guts the intent of the policy to a certain extent where all of a sudden we're the designated agent for all of our domains and we've opted everybody out of every notification. Well then...

Woman: (Unintelligible).

Graeme Bunton: Does someone know the answer to that question specifically?

Kiran Malancharuvil: What was your question?

Woman: Can you (unintelligible)?

Graeme Bunton: No.

Woman: (Unintelligible).

Graeme Bunton: Darcy's got an answer on this and I see James standing too.

Kiran Malancharuvil: Darcy.

Woman: (Unintelligible).

Jennifer Gore: Yes. I'll answer it from a ICANN Staff perspective but I'll defer to Darcy first.

Darcy Southwell: So this is Darcy Southwell for the record. I think there's two questions here. One is a policy question and one is an operational question. Operationally it's a real challenge to treat let's say privacy proxy services different than a change of Registrant/different than other issues.

And so while, I mean, and again I think to Graeme's point the policy is a little bit broad, and if the point is to reduce domain theft we can't operationally do something that counterbalances that and we don't want that power.

But it – it's also, you know, sort of contradictory to what the whole purpose of the policy was to begin with so we want the implementation to work at an operational level – help?

Woman: Sort of. I guess I don't understand why opting out of something as narrow is just (unintelligible) identified in the letter if necessary. We undermine the policy objectives.

Darcy Southwell: Because technology doesn't really allow us. I mean, it's a – that's one type of change so operationally for us to build various types of processes for a change of Registrant – because change of Registrant is one thing but there's a lot of reasons why Registrant information changes so that's the challenge.

Graeme Bunton: Jennifer?

Jennifer Gore: Thank you. Jennifer Gore, ICANN Staff. So in response to your question related to the policy recommendation whether or not the change of Registrant from a policy perspective can be limited just to the privacy proxy, there's no explicit prohibition against Registrars being the designated agent for any of - what are the triggers for a change of Registrant.

So to answer your question from a policy perspective it can be streamlined just to focus the designated agent as the change of Registrant for a privacy proxy, or all of the items that are defined to be the change of Registrant.

Woman: Jennifer thank you.

Michele Neylon: This is Michele. How can I put this genteelly? The policy was – this entire policy development was meant to address the issue – an issue around domain hijacking.

The implementation has taken it to places that were never, I mean, basically they go against the policy that was discussed. I mean, let's call a spade a spade.

And this entire designated agent thing guts the policy, makes a total mockery of it and doesn't solve anything and just causes massive headaches. Sure on paper and in theory you could end up in a situation where you have this designated agent only for specific things, but in reality it doesn't solve the problem that this was meant to address and actually causes another problem that shouldn't have, and as others have said ends up giving us as Registrars more powers over things than most of us would really feel comfortable with.

I'm sure James is going to speak much more eloquently to this than I can manage since he does that generally speaking. But personally I think if, you know, if the – if we go back to the policy, look at the policy discussions and then when we – then and move back to the implementation in such a fashion that the proxy privacy thing is dealt with, then that's more in the spirit of what was meant to be discussed and what was meant to be handled.

I mean, this – the entire issue was meant to be dealing with hijack. If you then end up making – giving us the things and we're all agents that might be fine in a case of say, I don't know, I've got 20 or 30 really high value clients who are paying me a crazy amount of money to take on that risk, but my average client is going to just kind of go click, check and the next thing be suing me because of something or I don't know.

There's just so many permutations to this it just makes my head want to explode. But it's – I don't think this was what the policy was meant to end up looking like.

I think the IRT went to an – up – went somewhere it shouldn't have done. It wasn't helped by the way by the fact that there was a massive delay between when the final policy was published and the IRT kicked off, which meant a lot of people who'd been originally involved in the policy had all moved on with their lives and that did not help matters. Thanks. James?

James Bladel: Thanks. James Bladel speaking, Registrar and the former Chair of the IRTPC Working Group. So it's my fault. It's – I keep – just when I thought I was out they pull me back in.

But the – and Michele's absolutely right. I think that we designed in the policy. We understood that there were going to be these edge cases and unanticipated situations where we were going to need to find a way around some of these policy constraints or it's going to disrupt, you know, very basic functions in our industry like domain transactions or implementation of a UDRP.

You know, that could be another one where you would change a Registrant. You certainly wouldn't want a situation where a Registrant was saying, "No I don't want you to. I reject, you know, this."

So we tried to come up with all of these edge cases and we said, "Well the – for the ones we can't think of there's this designated agent that would help us out of this."

But to Michele's point the implementation has gone in such a direction that I'm concerned that I hear a lot of Registrars saying, "I'm just going to have a checkbox that says, 'I'm the designated agent for everything,' and I'm going

to make all those decisions for you Registrant,” because that’s a hell of a lot easier than writing all this code and developing all these procedures that catch all of these things.

So what we’re saying in this letter is let’s take a fresh look at this. The biggest problem right now seems to be privacy proxy services. Let’s get that where it belongs, which is not a new idea.

It came up when we were talking about the policy itself. Put this with the policy development that it belongs as opposed to where it’s currently stuck, and maybe we can avoid this situation where the designated agent becomes this (durez), you know, that jumps in and solves every problem, you know, that we can’t think of.

So I’m in agreement and I don’t know that there’s a whole lot of controversy here, or if there is it’s between us and Jen. But generally I, you know, I think, you know, if we could speak a little bit with one voice maybe we can get this IRT back on track. Thanks.

Graeme Bunton: Speaking of Jen.

Jennifer Gore: Hello. Hi it’s Jennifer Gore, ICANN Staff. So just – I just want to regurgitate the purpose of the designated agent. In this context it only has the power to approve the material change such as change of Registrant.

It doesn’t have the power – designated agent doesn’t have the power to be the de facto control over the domain name itself. And from an IRT perspective I believe in the recordings going back there were several members in the IRT that wanted to defer privacy proxy or suggested that we defer that information to the PPSAI IRT, and I know that that will be brought up during the IRT for that.

Gregory Shatan: Thanks Jen. This is Greg Shatan again and I've got kind of a very minor question just, you know, trying to understand the letter. In section – at the end of Section 1 it says that ICANN's view contradicts Section 1.2 of the 2013 RAA, which states that PP service providers are not the Registrant.

If I'm looking at the right document, the 2013 RAA, 1.2 is just the definition of accredited or accreditation.

Graeme Bunton: I think that's probably Section 1.2 of the interim spec on privacy and proxy.

Gregory Shatan: Oh okay, not the main document then. Okay. That's probably...

Graeme Bunton: It's in that document. It's just...

((Crosstalk))

Gregory Shatan: Right. It's one of the subsections.

Graeme Bunton: Yes.

Gregory Shatan: Subdocuments or sub pieces. Okay.

Paul McGrady: Can I ask a more fundamental question? This is Paul McGrady for the record. Somebody mentioned that it's possible to move on with your life. How do we do that?

Michele Neylon: This is Michele. Alcohol I find helps.

Gregory Shatan: Anybody else with an opinion on how to move on from your life or...?

Graeme Bunton: Anyone who...

((Crosstalk))

Gregory Shatan: Or in your life not from your life. That's – entirely different question. Maybe scheduling a seven day ICANN meeting that takes two days to get to in each direction is one of those ways, but three days on the way here but in any case happy to be here.

And this is Gregory Shatan. So at this point we can go to the last topic on our agenda, which is continuing dialog after ICANN57, which hopefully doesn't just mean meeting at ICANN58. Michele?

Michele Neylon: Thanks Greg. No just before you move on just as we – just one thing just to close out the last topic around IRTPC. This is something that pretty much every single Registrar has voiced concerns about on our members list.

And, you know, and we – we've sent the letter to the GNSO Council list so we will definitely be tabling or trying to have tabled some kind of dialog and discussion around this during the Council meetings this week here in Hyderabad.

So I suppose the question I suppose I have for you is, you know, if you guys on the – in the IPC having discussed this and everything else, I mean, if you're going to turn around and go, "Well no actually we totally disagree with the Registrars," or you agree with us or you're ambivalent or whatever, maybe there's some way you could actually let us know. Thanks.

Gregory Shatan: Thanks Michele and I think that does fit the point of bilateral dialog as opposed to always having to kind of speak through ICANN.

Michele Neylon: Yes.

Gregory Shatan: I mean, we can speak at ICANN and even between ICANN...

((Crosstalk))

Michele Neylon: I do quite enjoy speaking at ICANN and through ICANN and picking on ICANN. I do enjoy it...

Gregory Shatan: Yes.

Michele Neylon: ...and so do you I know.

Gregory Shatan: But – well I' m shy and retiring but any case – and just on the other point Graeme I have checked. The 1.2 in specification on privacy and proxy administration is the definition of privacy service, so now we understand that part and may want to change the draft. We have James Bladel at the mic.

James Bladel: Hi. Thanks Greg. Just a brief note on scheduling and coordination. Darcy's letter that we wanted to table during the Council meeting – if you've seen the Council agenda it is ambitious and it would probably fall to AOB and we all know what happens to AOB.

So I think a more opportune time to raise this issue would probably be in the update from GDD staff, which we're going to have tomorrow so if you guys could take a look at the letter between now and then that will probably be the one and only time that it'll come up.

Graeme Bunton: If I may just offer apologies for not giving you guys lots of time.

Gregory Shatan: Oh no problem but at least we've kicked off the discussion and we have some understanding and, you know, we'll have our own dialog and, you know, if there are, you know, further questions and - we want to pick at then, you know, we – then do so.

But I think that, you know, certainly if we decide we're going to, you know, blow it all up in some way we'll let you know in advance so you can put on your gear.

But that's not the – what I think we do. We're interested in what this was tailored to do and, you know, mission creep and spread and whatever other things you can apply and, you know, doctrines of unintended consequences or, you know, not things generally.

I – speaking for myself I'm not interested in those things and I think that's, you know, I don't think that we're looking at this to say, "Ha ha we're glad. Well they kind of, you know, put this in under the radar into the implementation," because, you know, as we were looking for that thing.

I could be wrong. Some people may disagree with me but – well at least I think we've now resurfaced the issue. We have an understanding of it and I think we can talk amongst ourselves and then talk to you as opposed to, you know, sending some sort of ozone blast of the, you know, that's indirect so thank you for raising it with us.

Michele Neylon: So basically what we're saying is that Greg and Graeme are going to become best buds now and pen pals. Is that it?

Gregory Shatan: Absolutely. And if Donald Trump wins the election we could even become neighbors.

Michele Neylon: I've seen the house he lives in. It's not a bad neighborhood.

Gregory Shatan: Looking forward to it. Probably, you know, living where I do in New York it probably would buy my closet but, you know, we look, you know, we work like the Japanese to live like the Russians as someone once said.

I think that moves us to our last topic, which again is continuing dialog after ICANN57. So I think, you know, for something like the abuse document I think we'd like to, you know, come back to you obviously before ICANN58 with – well before it with commentary and thoughts.

And similarly on the IRTPC not only, you know, meet to the extent that we were talking about in the IRT but to continue – discuss these things. So, you know, I'm happy to be the point of contact and, you know, ideally what we'd do is find points of contact other than the chairs that we could give to each specific topic, especially those who – I can't say I deal with every topic equally in my, you know, life between ICANN meetings so, you know, might find some people who are, you know, the most plugged in in our group to kind of head those.

But I think it's important for us to kind of keep the flow going, and again if issues arise where we think we, you know, some dialog with the Registrars would be valuable but it's somewhere between an ICANN meeting we should, you know, go forward and vice versa.

Graeme Bunton: Yes that's great. This is Graeme. Sorry again. And actually I think that IRTPC conversation was sort of a really nice example of being able to talk with each other and say, "Hey we've got an issue. Let's figure out where we all are on this, you know, before it moves forward into the rest of the community," and making sure that we're all on site.

If we all have problems we can sort it out and that's why these sorts of dialogs are great and we should continue doing that sort of thing. But, you know, right in between meetings I do my very best to give responsibility to as many other people as I can so that I am just a beautiful figurehead to moderate success.

And we can figure out probably between the chairs who those pieces of contact are and make sure that as we tackle various issues that those get tackled by the right people.

Paul McGrady: Greg can we just go back for a minute and a half on something? We do have a topic that kind of got short shrift and I'm sorry to bring it up at the end when we're in our kumbaya landing glide.

But this week speaking of open dialog I would especially appreciate an opportunity to visit the topic informally, not right now because we're out of time but about – I'm not sure how we phrased it but essentially living together happily in a post-IANA transition world.

There are some issues that are going to be discussed around the GNSO Council table this week about the – how the powers of the Empowered Community are used and the process involved in that.

And I know that that is an interesting topic for almost everybody in this room, and I think that it's a good opportunity for dialog and trying to reach some common understanding.

So without getting into details I'd just like to throw that out there and say that that is especially something as you're sitting around the bars having beers together or, you know, having a chance for lunch or catch up time to consider making that part of the topic as well. Thanks.

Gregory Shatan: Thanks Paul and apologies that we kind of did skip that over as we melded the topic before and after into a single conversation. We kind of squeezed out the issue of what life is like in ICANN after the transition under the new bylaws, under the new powers that are being given to the GNSO and how, you know, we can react and interact in that area.

So I think we – now we're there and we'll have to see how it works. There are some proposals floating around that I think we'll need to continue. I think if we, you know, keep a open dialog it's very important to us that the GNSO is a, you know, working functional organization and it's not just the Council.

It's all of us. It's the chairs. It's every member of every stakeholder group, you know, where we all need to figure out, you know, how to work together and, you know, deal with kind of where we now find ourselves because one of the places we find ourselves is under a worldwide microscope, you know, a small part of the world that even knows what ICANN is.

But nonetheless whether we can exist without the backstop that we've had and show that we can, you know, engage in a greater degree of self-governance I think is important to us.

So I think we hopefully keep that dialog going and let's generally keep the dialog going and we will hopefully do this again in ICANN 58 and – but hopefully at that point it'll be, you know, a – just another point in an ongoing series of conversations. Thanks.

Graeme Bunton: Yes. Good working together. We'll see how that pans out as we talk about those things that Paul raised. And I think that – are we wrapping it up?

Gregory Shatan: We – it – we have literally two minutes and there's no time between this session and the next one. We're supposed to transmogrify ourselves from room to room apparently.

Graeme Bunton: Right.

Gregory Shatan: So...

Graeme Bunton: So let me say thank you Greg to the IPC for reaching out. I think it's incumbent upon us to do that for the next meeting to make sure we have this dialog happen there.

And like I said about giving responsibilities to others I'm going to give that to (Zoey) to make sure we do that then. But I enjoyed this discussion today and I hope other people got something good out of that too so thank you.

Gregory Shatan: And thank you Graeme. Thank you to the Registrars Stakeholder Group and the members for showing up and hopefully it wasn't just because there was lunch. Thank you.

END