

ICANN Transcription
GNSO Next-Gen RDS PDP WG
Tuesday 09 August 2016 at 1600 UTC

Note: The following is the output of transcribing from an audio recording of GNSO Next-Gen RDS PDP WG call on the Tuesday 09 August 2016 at 16:00 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 attendance can also be found at:

<https://community.icann.org/x/DAOsAw>

The audio is also available at:

<http://audio.icann.org/gnso/gnso-nextgen-rds-09aug16-en.mp3>

Coordinator: Recordings have started. You may now proceed.

Woman: Great, thank you. Good morning, good afternoon, good evening. Welcome to the GNSO Next-Gen RDS PDP Working Group call on 9 August 2016 at 16:00 UTC. In the interest of time today there will be no roll call as we have quite a few participants. Attendance will be taken via the Adobe Connect room. So if you're only on the audio bridge today please let yourself be known now.

All right thank you, as a reminder also all participants to please state your name before speaking for transcription purposes. Also keep your phones and

microphones on mute when not speaking to avoid any background noise.
With this I'll in the call over to Chuck Gomes.

Chuck Gomes: Hello everyone. Welcome to another Next-Gen RDS PDP Working Group call. Thank you for joining. I'm in a similar situation as to last week where I'm in my small RV. So I will certainly try to mute when I'm not talking but I apologize in advance if there are any interruptions in that regard. I do seem to have good connectivity so that's the plus.

The rollcall is in Adobe as you can see. Does anyone have an SOI update to report? Not seeing any hands I'm assuming that everyone is in Adobe. We'll move on from there. You can see the agenda on the right side of the Adobe screen. And if anybody has any questions, or comments or suggestions on the agenda now would be a good time to make those.

Okay let's go ahead then and go to agenda item number two. The - and first of all get a brief status on the problem statement and my mind went blank was it Ayden that was going to give that statement or someone else?

(Susan): Ayden and Alex Deacon are on the Adobe. So...

Chuck Gomes: Thanks (Susan). This is Chuck. So do one of you want to jump in and you can both speak if you'd like tell us the status of the development of a possible working group problem statement. Go ahead Ayden.

Ayden Férdeline: Thanks Chuck. Hi everyone. This is Ayden Férdeline. I apologize I wasn't on the call last Friday so I can't speak to what was discussed then but my understanding from the email thread which I followed since is that Mark has produced an updated problem statement which blends together the two earlier competing statements which we had previously been working on.

And earlier today Alex approved just some minor revisions to that statement. I think we're on the right track now. The statement basically that we as a

working group have been tasked with coming up with problems that are associated with making sure that the RDS is fit to purpose in the future is ever evolving Internet. I might just leave it there but Alex do you agree with my assessment or do you want to expand upon what I just said?

Alex Deacon: Thanks Ayden. Can everyone hear me this is Alex?

Chuck Gomes: Yes.

Alex Deacon: Yes Ayden that's right. I guess the only thing I'd like to add is that we did ask the leadership for one more week to finish this up. We weren't able to wrap things up as a subgroup in time to send this to the full working group. So we've asked and generously received one more week to put the final touches on it. But I agree with Ayden that I think we now have a statement that is agreeable to most of the group or all in the group and we'll work hard to publish it to the full group as soon as we can. Thanks.

Chuck Gomes: Thanks to both of you and to all of you who have contributed to the work going on there. This is Chuck speaking again. And we'll look forward to seeing something hopefully before our next meeting so that we can talk about that. Any questions or comments to Alex, or Ayden or any comments by anyone else working on this statement? Mark please go ahead. You may be on mute Mark we're not hearing anything.

Mark Svancarek: Okay. Can you hear me now?

Chuck Gomes: Now we can. Thanks.

Mark Svancarek: Okay thanks. I'm sorry. I had trouble connecting again because I was using the wrong browser in the plug-in blah, blah, blah. So I missed what was just mentioned. If you could summarize I'll let you know if there's additional information on the problem statement. The updated policy and dah, dah, dah, dah yes we - it was updated again on Sunday. And we think in - with one

more week, you know, and another meeting on Friday that we should be able to close it up.

Chuck Gomes: That's -- yes this is Chuck -- that's consistent Mark with what Ayden and Alex said.

Mark Svancarek: Okay because...

Chuck Gomes: And again I appreciate the good work.

Mark Svancarek: ...I'm sorry to reiterate.

Chuck Gomes: Okay any other comments? Is that an old hand Mark? Okay, it's gone thanks. All right let's go then to a brief update on the triage document and I'll let Lisa give that update. Lisa please.

Lisa Phifer: Thanks Chuck, this is Lisa Phifer for the record. We actually have several activities that are continuing in parallel on possible requirements in triage. The first is completing the outstanding assignments. We have just a few people still left that had volunteered to collect possible requirements from key input documents. And I think those of you who have outstanding assignments know who you are.

We may need some help in backfilling on the documents that are associated with internationalized registration data. And so I may be reaching out to some of you to see (unintelligible) in internationalized registration data. We could definitely use the volunteers to pick up those assignments and get those possible requirements together.

The second activity then is gathering the additional possible requirements and adding them to draft four of the ongoing document now in triaged format. And then the third activity is actually going through the triage document and applying...

Chuck Gomes: You're breaking up a little bit Lisa so we're missing part of what you're saying. And we're hearing nothing right now. Okay don't know if we've lost Lisa. So with regard to volunteers as she requested certainly if you're interested in helping on that please send a message to the list and we appreciate your contributions in that regard. Marika please go ahead.

Marika Konings: Yes this is Marika. Since we've lost Lisa I'll try to summon I think she was on the last part of the work on triage. And I think I presume she was going to say that that's still a work that is in progress. We now have the definition of the keywords submitted by (Susan) as well as the additional definitions from (Stephanie) so that (unintelligible) will need to be reconciled and that's still in progress. So I will hope to report in further detail on that during next week's call.

Chuck Gomes: Thank you very much Marika. I don't know if Lisa has rejoined us. Lisa if you have please speak up?

Lisa Phifer: Can you hear me now?

Chuck Gomes: We can. Go ahead.

Lisa Phifer: My apologies. I think my line may be flaky but I think Marika actually captured just fine the third activity that was in progress.

Chuck Gomes: Okay. Thank you very much. Any questions or comments? All right let's move on to the main part of our agenda and continue to review example use cases. And the first one we have today is Number 13 Services Required by Registry Agreement. And Maxim Alzoba submitted that one. And just like last week Maxim I'd like you to give just a brief overview of your case to give people enough background to participate in discussion about your use case. Maxim you're up.

Maxim Alzoba: Hello everybody, Maxim Alzoba for the record. Do you hear me?

Chuck Gomes: Yes. We hear you fine.

Maxim Alzoba: Okay short overview. We have a category of use cases which fall into like required by the registry agreement what does that mean? We have few preauthorized parties like URS providers, UDRP providers, the registry that is (scroll) providers yes and ICANN audit usually they don't do it themselves they use help of KPMG or someone like them.

And where these party requires success to probably all fields of some records or maybe for the escrow to all fields all records register creates in the RDS. So the short version is we know who will access the data. We know particular reason because in which case of URD or UDRP it's documented what they're looking for. They look for the date of when it was the domain was registered by whom, which flags are set et cetera, et cetera, et cetera. Also the process URS process requires registrar operator to set certain PPP statuses and the URS providers checks because it's an obligation of a registry to do so on the URS procedure rules and technical parts of URS rules.

The same yes almost also similar things happens on the UDRP process. And if we talk about the escrow operator it's a daily process. And under the contract with the registry the registry escrow provider has to verify data. Usually it's just basic sanity check that for example we don't upload data with no cities in the fields or empty yes registrant fields or something.

Also they do – it's not disclosed in the contract but it says that they have to verify records. And if something is wrong with the upload from the registry they have to check what's went wrong. And most probably it will require check what's in their servers to compare with the contents of the RDS.

And the last thing is ICANN audit or the company which was allowed to do audit for them this time. The ideas why they want to check records and which

records they want to check it changes every time because one day they check how many facts fields were not empty. The other day they think that some particular registration had some minor violations of some policies and they have to investigate what brand where and how.

So basically all these four cases they might just split into two cases where the first is URS and UDRP because from one hand it's the legal framework not legal but anyway it's something similar to the litigation process. But from the other hand it's the yes known finite list of parties which all of them are preauthorized by ICANN to act to fulfill their roles. And yes basically that's it. I hope it wasn't long. Thanks.

Chuck Gomes: Thank you Maxim, this is Chuck. And be prepared to respond to questions that people may have. I'm going to start the discussion off before I give it to Steve. Just a clarification point for everyone Maxim do the providers have at the same access that the public has or are they given different access under the registry agreements? And maybe a corollary question is do they have to contact the registry before they get the access? Could you just explain that a little bit for everybody's benefit?

Maxim Alzoba: In the - for this case each of these four types of parties they have contracts on hand which clearly say what they can and cannot do because as I understand URS and UDRP providers they have some kind of contract with ICANN and definitely it's not the same level of access as public is going to have. The registry escrow providers they have one contract with the registry and I think they have another contract with ICANN. So - and of course the company which makes audit registry audit for ICANN they have contracts for this kind of access.

And I assume that all these four kinds of parties they have NDAs in place and their contracts say what they can access and what they have to do with the data after the process. As I understand for example audit companies they

have destroyed information in some period of time quite short period of time after the audit of particular registry. Thanks.

Chuck Gomes: Thank you Maxim, appreciate that. Steve Metalitz you're up please.

Steve Metalitz: Yes thank you, Steve Metalitz speaking thank you Maxim for preparing this example. One question I had is where looking at the URS and UDRP examples is where does the complaining party the complainant in the UDRP or URS case fit into this? I would think they would at least be another stakeholder that ought to be listed but it just strikes me that they certainly need access to some of the same information in order to prepare and initiate the case. I don't know whether that falls outside of this example and would be in a different use case but since you were talking about the URS and UDRP procedures I guess my question is why the access by the UDRP or URS complainant is not included here? Thank you.

Chuck Gomes: Thanks Steve.

Maxim Alzoba: It's Maxim...

Chuck Gomes: Go - Maxim did you want to respond?

Maxim Alzoba: Yes. The short version I think I forgot to add registrant to the other stakeholders because he might be affected because his data is going to be disclosed to someone but in the registry agreement registry required from registrar that they have consent for processing of data. So I'm not sure if registrant should be added there.

And the complainant - the party which files the case on the URS or UDRP I suggest they use the public access use case where they have equal rights as any other member of public or any other third party in the Internet. And the - these third parties they don't have any contractual obligations with a registry

or ICANN so they don't fit this I think. They might be affected but they cause the request they're not the part of the case that's what I think. Thanks.

Chuck Gomes: Thanks Maxim. Let's go to Alan.

Alan Greenberg: Thank you very much, a couple of points. On the escrow operator I've never looked into this but I always presumed that the escrow operator had to confirm that they have received data but they don't actually look at the contents of the data. I don't even know if it's encrypted when they get it or not. So I'm presuming the escrow operator does not necessarily and perhaps does not at all have actual access to the contents of the data but that's something that someone who's in the business could perhaps confirm.

With regard to the UR to the UDRP and I'm - don't know if it's the same with the URS. One of the curious things is that when the reveal is asked for when the registrar is asked Whois the registrant clearly if it's a proxy service the proxy is the - proxy provider is the registrant. Many proxy providers do not want to assume any liability for misuse of a domain that's registered through them and therefore their contracts allow them to reveal the name of the real registrant in a UDRP.

And if they do the UDRP provider again if I remember correctly from a number of PDPs I've worked on is required at the end of the process to reveal Whois the original registrant in other words to unmask the registrant if the proxy provider provided them with the information. So that adds another flavor to this that is not normally discussed. You know, if someone for instance files a potentially frivolous UDRP site that could end up with the proxy registrant the real registrant being revealed by the proxy provider. So it adds an interesting twist to the concept of confidential data with regard to proxies. Thank you.

Chuck Gomes: Thanks Alan for that good information. And note there's been some answers with regard to the escrow provider in the chat that I think are pretty helpful in that regard, Lisa, your turn.

Lisa Phifer: Thanks Chuck, Lisa Phifer for the record. I just listening to Alan's question and also Steve's it occurs to me that this may really be three use cases that are intertwined here because there are different actors involved in the three contractual requirements URS, UDRP, audit and then escrow. And also to Steve's point there's perhaps a variant use case or a very related closely related use case where the complainant initiates the URS or UDRP. My question to Maxim is it possible to identify more specifically the data that each of those stakeholders actually needs and if it comes from the Whois today?

Maxim Alzoba: Maxim Alzoba I will answer the first question about yes from Alan about the escrow operator. In the contract they have it has wording verify. And also the keys to the encrypted files are sent with the file so they can if I'm not mistaken they have it from the beginning of the process. So the encryption works only for safe transfer of the data. And so they actually have access to all of these fields. And if you look through the contract with the registry and the escrow operator and it's available on the ICANN Web site it has wording verify in two places yes. So they have to do it. And the only way to verify content is to compare it directly. Anyway they have the one day old information so it's doesn't change much.

And the second question about splitting this case into use case into three it could be done because what is common is that these parties are - have preauthorization. They are created and we know who they are and we know what they're going to do with which set of data. But if you feel strongly that this use case should be split into two like URS and UDRP to the left and escrow operator and audit to the right or maybe in to three yes it could be done.

Also I must mention that the registrars might have something similar. So because I didn't travel through the registrar agreement accreditation agreement but they might have something which they have to do and which requires some particular parties to have access to the data. And about affected stakeholders it's - I'm not really good with UDRP. We might need help of someone who was a panelist or like pass through this (pain) a few times so he knows things thanks.

Chuck Gomes: Thank you Maxim. And notice again there's continually good and helpful chat going on with regard to proxy and privacy services, et cetera. So I'll let everybody watch that on your own. Any other questions or comments on this one? And keep in mind our goal is not to produce use cases rather to use the use cases to understand the various possible uses, and users, and requirements that we'll be deliberating on in the not too distant future. So - and I think that this discussion is doing a good job of making sure the working group understands the various issues is related to this particular set of use cases so any other questions or comments? Alan go ahead.

Alan Greenberg: Yes, thank you. I just wanted to clarify one thing I said. The reveal by the privacy proxy holder to the UDRP panel is not necessarily problematic. The problematic part is that the provider is required in the final public documents they create to say who the original registrant is even if the case has been found against the person who filed the UDRP. So that means the information is potentially revealed even though the person hasn't done anything which is deemed to be inappropriate and therefore is a way of essentially getting around any privacy issues. And that is the part that I think we're going to have to be sensitive to as we go forward. Thank you.

Chuck Gomes: Thanks Alan and again (Cal) thanks for responding to Maxim in the chat. And so all of that's really good information for us as we prepare for deliberation in a few weeks. Anything else before we move to the next use case? Okay the next one on our list is Number 16 the Whois misuse to shame, anger or scare

a registrant and Ayden if you would give us a brief overview of that I would appreciate that. Go ahead.

Ayden Férdeline: Thanks Chuck this is Ayden Férdeline for the record. So the misuse case that I introduced was where the existing Whois protocol is misused with the intention of angering, scaring or shaming a domain name registrant. And this can happen where a person or a group of persons and the Whois protocol to obtain personally identifiable information associated with the domain name registrant. And then circulated information widely perhaps (unintelligible) or on another platform with the intention of causing real and substantial harm to the victim with the obvious benefit or gain to the attacker.

And this is not a purely hypothetical situation because people like Randy Harper have already been the victim of doxing as a direct consequence of the Whois protocol being misused. So in order to prevent this misuse transpiring as we move forward in this misuse case I suggested that interpersonally identifiable information be stored in the RDS whatsoever because the only data elements that the RDS should cooperate are the domain name itself, the registrar, the domain names expiry date and its status as registered or not registered.

And they also noted that for it to be a functional use as I believe it was Andrew Sullivan who suggested a few months ago on our mailing list. There are two optional fields the domain service and they org code. If there are any questions about this misuse case I would be happy to try to respond to them.

Chuck Gomes: Thanks Ayden, this is Chuck. And keep in mind we're not at a point where we're deciding what fields should be stored, or revealed or whatever that will be part of our deliberation later on. But questions and discussion on this use case are welcome now. Steve Metalitz you're first.

Steve Metalitz: Yes, thank you. This is Steve. My only question was about I mean there's one sentence in here I didn't understand and that is the second sentence in the

story about repeating the process to obtain information about the registrants friend or family. I just wondered if you could explain in a little more detail what that is - what activity you're talking about there? Would this only be if friends or family were also domain name registrants or just how would this relate to the registration data? Thank you.

Ayden Férdeline: Thanks Steve. That's correct. So that would only be if the friends or family also were domain name registrants. And it was - and the details were in the RDS to be taken as well.

Chuck Gomes: Thanks Steve for the question and the response Ayden. Steve did you have a follow-up?

Steve Metalitz: No. I just was trying to understand how that would fit in. And I guess that would be I don't know how frequently that would be the case that it would be apparent from what was publicly available who the friends and family were and you could check to see if they had domain names. So I just don't - I'm not sure how common that would be but I think I understand that there might in some cases be that scenario. Thanks.

Chuck Gomes: Thank you Steve. Andrew Sullivan, go ahead.

Andrew Sullivan: Thanks. Yes so there is this suggestion and I guess this has cropped up in a couple of use cases where what we've got is a use case and then we've got a claim about what the causes of the use case ought to be. And it seems to me to be useful to separate that because it doesn't seem to me that it follows from this case that which I guess is an anti-use case that the RD UDS shouldn't have any of this data. It rather suggests that there are limits to how widely it should be shared and so on. And those seem to me to be very conclusions that come from the same premise.

Chuck Gomes: Thanks Andrew Sullivan, Chuck again. Stephanie, go ahead.

Stephanie Perrin: Hi thanks, Stephanie Perrin for the record. I was just responding to Steve Metalitz's question about the parents because I did have a conversation with a girl who was a victim of doxing back in the CCFAI days. And she said she because of who was a change of address she had to contract her parents to warn them that their address when she was a kid -- she was living at home with her parents when she got her first Web site -- and they had tracked back to her parents. So she had to warn them that some idiot would possibly come by and shoot at the house or whatever they were doing. The degree of violence that goes on in these doxing things I must say I find rather shocking. But anyway that's a side line. Thanks.

Chuck Gomes: Thanks Stephanie. Mark your turn.

Mark Svancarek: Yes. So two points there to just to pile on to the regional use case and then Stephanie's comments, I was once indirectly doxed by some right wing Nazi fools because I have a very unusual last name. So the concept of I can look up somebody else's family in the RDS I think that, you know, if my name is (Chuck Jones) that would be pretty hard. If your name is Mark Svancarek then it's is not so hard, you know, so they were looking for my son and they found me. So it's a real thing. I think it's limited to certain classes of names of course which doesn't make it any less severe because they did say that they would do all sorts of horrible things which of course they didn't.

Then secondly to Andrew Sullivan's point again let's keep remembering that there's different information that is applicable to different people in the value chain and they may have different privacy, policy and access policy applied to them on a (datem) by (datem) basis when we get this all sorted out.

So as Andrew Sullivan says good to think about. This information may be perfectly valid and perfectly safe in this one place but not perfectly valid and perfectly safe in another place. That doesn't mean the use case isn't valid but as we're thinking through the process and policy implications of it that's good to keep in mind.

Chuck Gomes: Thanks Mark. Lisa, go ahead.

Lisa Phifer: Thanks Chuck, Lisa Phifer for the record. I - and actually Mark set me up quite well because I just wanted to point everyone to a link that I placed in the chat about a Whois misuse study that was done at this point it was done a few years ago but a study that was done to try to examine what kinds of data in Whois is - are misused, the extent to which they're misused and then also try to assess the impact on the registrant of that misuse.

And that study looked at misuse from a couple of different angles both trying to collect real world cases - examples of misuse from first responders and law enforcement around the world and then also trying to simulate by registering some domain names which proved a little bit tougher in terms of, you know, actually providing a juicy target for misuse. But in either - in any event I still think it's a useful study to think about to take a look at and think about because it looks at what specific data elements are abused or misused and its impact.

And just to give you an example of that all of us get spam email addresses get misuse quite frequently but they seem to be - that seemed to be a relatively not impactful kind of misuse because we all have spam filters whereas when phone numbers get misused they have a higher impact. So - and that's just one example of kind of teasing out what the impact is of misuse of specific data elements as input to policy discussions in the future.

Chuck Gomes: Thanks Lisa, your turn Alan.

Alan Greenberg: Thank you. I certainly don't want to get into the discussion of what we should be doing in a future RDS. But I do question the statement that no personally identify information is needed in the RDS. Certainly for issues related to domain renewal, hijacking, transfer and a number of other things there needs to be information available to other than the original registrar in many cases.

And certainly the original registrar has all sorts of information so they can run their business. But there needs to be information for available to other parties in this game to handle a whole host of issues that can come up. Thank you.

Chuck Gomes: Thanks Alan. Again this discussion in my opinion is -- and this is Chuck speaking -- is really helpful. And helping us all see the competing issues that we will be dealing with when we get into deliberation and start trying to reach consensus on some recommendations for requirements. One of the things I'd like to encourage everybody to do and maybe even before I say that let me say that I've been impressed the way everybody for the most part has really adjusted and has tried to avoid getting ahead of ourselves and start delivering and arguing cases and so forth. I've been very pleased over the last couple of weeks how people are starting to monitor that on their own and you don't need me to chime in and remind you. So thanks for that. That's very much appreciated.

The second thing I wanted to encourage everyone to do first of all let me preface what I'm going to say next by saying that we want everybody to avidly defend their points of view in our discussions. We need that but also I'd like you to balance that with trying to understand -- and I think we're seeing that happening in discussion of use cases -- others points of view and other needs that are different than yours and that may compete with yours because that balanced view is going to - what's is what's going to help us to find solutions hopefully that we can maximize the benefits to everyone. So the - please try to continue to do that. Again I've been pleased with the way as going -- sorry for the background noise -- and Alan your hands up. Your hands up so please go ahead.

Alan Greenberg: Sorry that was an old hand.

Chuck Gomes: Okay Alan and again sorry for the interruptions. The - any other questions or comments on this case? Okay then let's go to the next one and scrolling back

up the agenda here Number 12 the Trademark Infringement. And Mark you're up. Go ahead and give us a brief overview.

Mark Svancarek: Okay. Oh is it being shared or do I need to provide my own copy of it?

Chuck Gomes: I think they're going to bring it – they're bringing it up right now.

Mark Svancarek: There it is. I see it now. Okay great. All right so the main goal is a corporate employee attempting to misuse to prevent misuse of her corporations brand and trademarks. And the summary of it is that by various means both reactive and proactive people and organizations who misuse a trademark online can be identified in order to ask them to cease and desist. And RDF lookups are usually where this process starts.

So in this case the primary actor will be a trademark attorney at a company whose marks are being infringed but people who will be involved or entities that will be involved include the registrant, the registrar maybe a privacy proxy service. And the scope will involve other companies who are potentially being infringed by the same entities and maybe even outside counsel.

So the data elements that -- I'm going to jump ahead sorry I never really figured out the template and I didn't go back and fix it either -- so let's imagine that (Terry) is working in the legal and corporate affairs division of a prominent brand holding corporation. And she receives information very frequently from the individual businesses that comprise her company.

So this is a big company it has many products and services organized into many businesses. And by various means they find out that people are infringing. And so they inform her of the sites which are violating the trademarks or maybe the licensing terms of her company and the domain name string or the content. And this happened several times a week.

Now (Terry) besides relying on just serendipitous findings of these sites also has a tool that she's licensing from a third party. And that's scraping around the Internet doing DNS searches, doing Web searches and applying AI based analytics so all of this is going on in parallel besides the reactive responses that she's getting from her various business organizations within the company.

So when the infringing sites are identified she uses a reverse Whois to identify other sites that may be tied to the registrant. And we did discuss in an earlier use case that sometimes bad actors are not very clever at covering up their tracks and so you'll find that they're doing multiple bad things in multiple places and doing a reverse Whois is a good way to find them.

And sometimes they're not just doing bad things to (Terry)'s company they're doing it to other companies. And so just as a professional courtesy she may have someone in her company inform them of this, you know, just to let them know so that we - and hopefully they do the same for her. Now if they can be identified and then contact using this RDF data cease and desist order may be sent. Maybe the communication will be less formal than that.

Sometimes a UDRP is filed so that we can - so that (Terry)'s company can reclaim the infringing domain. But often the information is not correct, or it's incomplete or maybe it's hidden behind a privacy proxy service. And in that case (Terry) will contact the registrar and probably contact outside counsel too. And this is because frequently these notifications either are unproductive or take a lot of extra effort. And this may also spawn additional investigations online to determine the identity of the infringing party.

So I have two variations of the story. One of them is that the RDF data falsely identifies her company as a registrant. And so a UDRP would not be appropriate and (Terry) will work directly with the registrar. Another variation is that if not the domain name itself that's infringing it's the content on the site. So seeking the - so this is sort of on the edge of the domain name system I

guess, you know, people who are more well-informed could tell me whether or not this is really a domain name problem or something else.

But in my example Pirates R Us might be impersonating her company and then using her trademark on the site to offer say unauthorized software downloads which may or may not include malware which makes it a digital crime as opposed to simply a trademark violation. In those cases cease and desist won't change their registrant behavior. (Terry) must work directly with the registrar. And since this is not specifically part of the domain name system and it is not covered by the same contract the success rate is actually pretty low.

So the privacy implications as I see them - okay I'm going to roll back to the data element. So this is all the boilerplate. She's looking for data elements that allow communication in real or near real-time email addresses, IM addresses, telephone number things like that. The privacy implications are that data are being collected and stored according to (Terry)'s corporate privacy policy which is based on hopefully good privacy principles such as collect only what you need, use it only for what you need and then keep it for only as long as you need.

And this privacy policy will probably be distinct from the public privacy policy that (Terry)'s customer gets. So most large corporations publish a privacy policy that tell you, you know, which data they collect from their customers what they do with it, et cetera. This privacy policy would be an internal risk management privacy policy probably not published.

It would be subject to the legal and corporate affairs, you know, group at the company but different. Who has control and access to this data so (Terry)'s company of course is collecting and accessing the data that they require to perform these functions. They do this in a way that is secure and only a limited number of employees have access to it. And that makes the risk of it escaping their security boundary less.

But the data will be shared with the registries, with outside counsel, with law enforcement on a case by case basis. And the outside counsel would be held accountable to the company privacy and data (unintelligible) policy these other parties would not. So the scope of this use case, you know, once you hand it off to law enforcement they're going to do what they're going to do. And so these data will be available and the registers are in compliance when the information is complete and accurate when the privacy proxies are not in use and how the data can be accessed. So there's various implementations of Whois of course. Some of this will be manual, some of this will be automated. And then there are some questions. Would you like me to address those directly?

Chuck Gomes: Sure, go ahead.

Steve Metalitz: Okay so Andrew Sullivan has some good comments. Lisa asks are the data elements of the registrant admin contact head contact or all of those? I think it's, you know, I don't have the specific detail on what (Terry) uses right now specifically. I imagine she collects everything that's available and then uses whatever she feels is appropriate. Steve makes a comment that not sure that the ultimate success rate in Variant 2 is relevant. It was merely a comment to just show the challenges that are related to using this data that, you know, that sometimes the success is limited. It's more of an interesting data point I think.

Chuck Gomes: Thank you very much Mark. Fabricio you've had your hand up for a while. Go ahead.

Fabricio Vaya: Hey thanks Chuck, Fabricio Vaya for the record. Say I just wanted to suggest along the line of what's going on in the chat with regard to data element. When doing trademark infringement analysis whether it be about the domain name or on the site we're – you're going to need more data on just the contact ability data elements.

We talked about this to EWG but you really do need to get into who it is, where they are and how long they've been added meaning how long they've registered the domain and used it. And all that goes into whether there's an infringement or not because trademarks are based obviously on use, types of goods, channels of trade, geographic region. So without all that you're basically just shooting in the dark and sending a letter based on mere kind of identical or confusingly similar look of a mark but you don't really have a basis for infringement unless it's just absolutely blatantly obvious. So I would just suggest that we need more data elements put into the use case otherwise very good, thank you.

Chuck Gomes: Thanks Fabricio. Other questions or comments And again I'll let you – everybody watch the chat. There's great discussion going on there as well. Certainly if anybody wants to speak up on any of those things just raise your hand and you're welcome to do so. Stephanie?

Stephanie Perrin: Yes thanks, Stephanie Perrin for the record. I just wanted to point out that if you're operating in a jurisdiction that has data protection law the odds are quite good that those internal policies that you might want to protect in your legal department, certain elements of the conditions for release to law enforcement to, you know, those alleging infringement, et cetera, might have to be made available old under an openness and disclosure policy to the individual who's personal information we're talking about here. So I just wanted to put that on the record there. Thanks.

Mark Svancarek: This is Mark (unintelligible)...

((Crosstalk))

Chuck Gomes: Yes. Thank you Stephanie.

Mark Svancarek: Absolutely right.

Chuck Gomes: Identify yourself and say that again please.

Mark Svancarek: That was Mark again and I agree with Stephanie that since the variety of data access and privacy laws there's a wide variety around the world. And so in some cases you may need to contact people. You may need to publish those privacy policy (unintelligible). A large corporation like (Terry)'s has a large organization that makes sure that they're in compliance with all these laws. Smaller operators may or may not be compliance (unintelligible).

Chuck Gomes: Thanks for responding Mark. I appreciate that. Any other discussion on this case? If not let's go to the next one. Again thanks for all the – so all of you who are jumping in the discussion both in the chat and audibly. So the next one is the Number 8 the real world contact. And Fabricio that's yours. So if you could give us an overview of that as they're bringing it that would be appreciated.

Fabricio Vaya: Sure, thanks Chuck, Fabricio Vaya for the record. So this use case comes from real world in that it's spawned from something I was actually doing during the EWG. The scenario's very simple which is that someone, a consumer goes online to purchase something, does a search for a part or good service, et cetera. They get a bunch of search results for various Web sites offering presumably the same part but for different price points.

The consumer goes to the lowest price point that is on a Web site that is unfamiliar to them, they don't recognize the brand or if they do recognize the brand they want to verify that the Web site offer is actually from that brand, store, et cetera, that they recommend. So what they do is they go and check the RDS to confirm that who they're about to do business with is actually who they think they're going to do business with or someone that seems reputable to them.

When I get this back in the day I was looking for a part to replace the burners on my gas grill. I got a bunch of Web sites, something seemed really great. I honestly did not know who this company was. It wasn't like a Sears or a Home Depot or something like that so I just want to check and see, you know, does this look like a reputable company, someone that I could contact or double check or do I just kind of put in my credit card info into a Web site that is going to either steal my info or go into a black hole?

And the alternative a play on this use case is that it's not just for consumers who may be looking to interact with a Web site commercially but also a consumer may have already interacted with the Web site commercially is unable to identify contact information on the Web site when they have a problem either with deliveries, returns -- what have you -- and wants to go ahead and check to see if there's either alternative information they can use to contact the vendor or just contact they can't find on the Web site.

That covers I think the goal in this scenario. The primary actors obviously is the consumer looking for online goods and services put down that the stakeholders are obviously the RDS, the a person or entity associated with the registered domain name, validator or having the system we are. The registrar and registry lacked the data initially to get to the RDS. And they're all stakeholder obviously because they have to, a person has to give up their information to the registrar and the registry and then it goes into the RDS.

The scope here is interacting with the RDS. The level is the user level, put down the data elements here really is since we're verifying ownership and for communication in real-time would be the registrant name, address and contact details, email and phone number. Let's see I put down privacy implications here. And Stephanie you and I had an exchange about this last call but that there should be no privacy implications in this context based on the fact that many jurisdictions and Stephanie as you mentioned good practices for companies doing commercial to list their -- identify themselves physical address. This obviously makes the assumption that it's not a

company forcing an individual to put their own information out there or that that individual's consented to - so happy to qualify that based on our prior conversation.

And who has control? Obviously the registrant supplies the data, the registry and registrar maintain it and the display of the data or warehousing of data at least based on the EWG discussions we had in the past with the RDS and then conditions under which that data is accessible today. And how you access the data today there are no restrictions and it's easy to access and in today's world and obviously up for deliberation at some point whether and based on the prior discussions we just with Andrew Sullivan and Alan whether there's a discussion about restrictions on display that EWG called (unintelligible). So that's it, happy to address any questions if anyone has any.

Chuck Gomes: Thanks Fabricio. Alan you can be first.

Alan Greenberg: Thank you very much, two comments. First of all there been some comments in the chat saying not too many people know to do this. And that's probably true on a relative scale. But that's not the same as the information couldn't be used in this way. If for instance someone came up with a - an app with an application, a Web site which says identify who your seller is here, put in their domain URL and we'll tell you who owns the company. You know, suddenly that information might be used by a much larger number of consumers if the provider is good, you know, is - does a good job at publicizing their new service.

But it raises an interesting question. If we set up ultimately a system where you cannot make - get this information available then consumers who either through their own volition or through this kind of service want to check on who it is they're dealing with will not be able to. So as long as the information can be there it is to the - it may well be to the advantage of the seller to make sure their information is there so they pass the test for those who choose to

go to that level of testing. But if we set up rules so no one's information is ever in the RDS then we are prohibiting this method of verification. Thank you.

Fabricio Vaya: Chuck can I weigh in on what Alan just said? This is Fabricio?

Chuck Gomes: Yes, go ahead Fabricio.

Fabricio Vaya: Yes I just want to thank you Alan. So yes I recognize this isn't something that, you know, all consumers do or know of. As mentioned I actually did this myself. I've done it now twice. I've done it for automobile parts which is what I have data just doing in grill parts. And then I do it for various reasons. My mom gets emails from solicitors. But to Alan's point one of the things that was proposed back in the EWG stage was whether just like Web sites now will tell you things are locked or secure you would be able to hover over the browser and that would just tie in, you know, the API to the RDS.

And we didn't explore that but as far as technology goes on this area I think it could be something that you could hover instead of getting a red or green, you know, or a lock on the browser you would actually be able to hover and it would give you the - with information. But it'd be horrible to cut that access off and the possibility for that technology.

Chuck Gomes: Thanks Fabricio. Andrew Sullivan, go ahead and jump in.

Andrew Sullivan: Oh there we go. Thank you. So I was pushing back a little bit on this in the check. But I want to press a little bit harder because I think people are collapsing on two things here. And it's really important not to collapse them because there is a serious seriously dangerous current that people are opening here and I - and they may not realize it.

When you get an EV certificate, an Extended Validation certificates from a certificate authority – and I'm not an apologist for the certificate authority so

don't please interpret this as some sort of suggestion that they really know what they're doing. The – what that has done is it's validated actually the control of the server that you're talking to. So when you make an HTTPS connection right, you validate the connection over TOS. And so you're actually validating that you're talking to the server that ought want to be.

And the thing about EV certificates is that they're supposed to validate somehow that that server is under the control of the person that it's supposed to be. So under the control of the certificate issuer. The RDS doesn't tell you that. What the RDS tells you is who registered the domain name and actually who registered the domain name about the domain name that you're talking to a lot of the time.

So very frequently, you know for instance we are using right now `icann@adobeconnect.com`. And what would happen as we would get an RDS answer from this that is about `adobeconnect.com` and not about `icann.adobeconnect.com`. The danger here is that what you would do is train users to believe that there's a tight relationship between who controls the domain name under which a name is being operated and every Web site underneath that domain name. And I think that that is dangerous.

I see Alex Deacon is saying in the chat that not all Web sites use EV certs. And I completely agree. But when I'm arguing here is that we don't want to make this worse. So in fact I don't believe that consumers should really be encouraged to do the kind of thing that people are talking about here because it can lead you astray.

If you are, you know, sufficiently understanding of the relationship between the domain name and the URL that you're using then perhaps the RDS gives you the kind of information that you would like here. But I actually think that this is a dangerous use case and I'm not particularly convinced that we ought to pursue it.

Chuck Gomes: Thanks Andrew Sullivan. Stephanie?

Stephanie Perrin: Thanks. Stephanie Perrin for the record. I'll try not to repeat what Andrew Sullivan said. Obviously I cannot make the same technical claim. But I would just like to say that I did do a random sample when I was giving a speech a couple of years ago during the ESG. And this was an informed audience at a privacy conference with senior bureaucrats who ought to if anybody would understand what Whois was. And almost nobody put up their hands when I asked the question, "Do you use this?"

So I find that heartening because first of all I think that there's a risk that we will discriminate against smaller companies who are using privacy proxy services and hosting providers who do all the registration and all the work for them and offer them turnkey systems. It's not clear at all that their data is going to be in the RDS. Obviously It will be somewhere but it won't be right in the public end of the RDS so that a consumer would look up (Steph)'s Homemade Quilt not find it registered to somebody called (Steph) and say, "Oh this must be a scam."

Now given that consumers are pretty well left on their own figuring out what's a scam these days and what the hack their browser is supposed to tell them and what the heck the problem with Certs is I would just like to put the caveat that it was going to actually stand on this and provide Whois data inserts.

And I would argue it's not within ICANN's mandate to start messing with the browsers. There's a massive consumer education campaign that has to be done. So who's going to do that because government has not stepped up to the plate? Thanks.

Chuck Gomes: Thanks Stephanie. Rod Rasmussen?

Rod Rasmussen: Sorry my phone was I was problems trying to unmute you. So a couple of things of interest I think on those this current discussions thread, one of the

things we had talked about in the EWG is actually creating potentially contact for Cert authorities to use. So that's in the documentation somewhere because in the (Cap) forms been the responsible party for promotion of Certs and how that works and all that so we'll leave it to them I think to handle the worldwide education effort there.

The one thing I do want to point out though is that and perhaps we need a use case to talk about this. I know we did talk about this and EWG has become even more prevalent since that time is that people are using information like Whois to create reputation to data and services that then go out and rank, you know, how trustworthy is a Web site for the Web of trust in places like that. Those become part of an application or an ad into your browser or part of your scoring metric for your email when they're not as much spam, et cetera.

And those are all using Whois information. Is there's something that is attended by privacy and proxy services those are usually downgraded as less trustworthy. There are correlations done between domains that have been seen before doing dodgy things that are been new domains used – using that same registration information will also be downgraded as far as reputations. You are less likely to be finding that in a search, more likely to be finding a warning attached to that or less likely to receive an email from that domain name if it's got a sketchy reputation based on those kinds of factors. So this stuff does, you know, it's got kind of tangential to this what's started here but it was - it's certainly part of what we're talking about in this conversation thread. So they may want to take a look at that as well.

Chuck Gomes: Thank you very much Rod Rasmussen. This is Chuck again. And just to set (Karnika) and other's minds at ease we're not eliminating any possible use cases at this stage okay? It's okay to suggest that maybe should be but we'll decide that later. And so please understand that. And any other discussion on this use case before we move on? Okay. The next one I think is from one of our vice chairs. So Number 15 fraudulent contact information, (Susan)?

(Susan): Thank you Chuck. This is a current issue that we're facing. So two domain names were registered and recently just in July and used on our site in a fraud phishing scam so targeting our users. They registered com-video.net and login-account.net and used all of Facebook information completely throughout. So it looks very much if you look at the facebook.com registration it looks exactly the same Whois record except the servers.

So they control the servers and, you know, technically they shouldn't control the domain names because domain@fb.com is the admin email of record on the registration. But so basically this is all valid information. It's not inaccurate but it is inaccurate for the registrant that used it because they do not have the right to basically steal Facebook's corporate identity.

And so to, you know, once we saw these domain names were being – we detected them. Then a, you know, Whois look up was done and, you know, surprise, surprise. But it's not a surprise this kind of thing happens frequently. It is, you know, we found our heir information on the Whois record. And so therefore a registrar accepted this information because it is accurate but it's fraudulent use and so therefore I would contend is inaccurate information because the registrant didn't have the right.

So basically it's all the stakeholders would be the registry registrar third party Whois service providers in our - in general just interacting with the domain directory service. And it's all the entity name, email address, name servers, postal address, phone number, creation date which is really critical in doing investigation for these like, how long has this domain name been around. So what has it done, and what has it been used for. And also last update is also critical.

So we see this quite frequently sometimes out of just somebody thinks it's fun, other times in this case where we know they were attempting to do bad things we were able to stop that. But, you know, the struggle continues with

convincing a registrar that it is inaccurate information for that that registrant and then gaining control of the domain name. And that's about it.

Chuck Gomes: Thanks (Susan), Chuck again. Questions or comments on this use case? Several people are typing so we'll watch that. Anybody want to ask a question audibly or make a comment? Please raise your hand. Lisa go ahead.

(Susan): We can't hear you Lisa.

Lisa Phifer: Sorry on mute. This is Lisa Phifer for the record and the point that I wanted to raise about this use case is that if I'm understanding correctly it's not that the data itself was invalid. In fact it is valid. It just belongs to someone else. And the reason that this is possible today is that anyone can enter anyone's data in Whois. Is that correct?

(Susan): Correct. So, you know, you could enter Mickey Mouse. That's a valid character, Disney character. And so it is a valid name or in this case Facebook. And so it is not invalid or inaccurate information but it is fraudulent in my opinion, fraudulent and inaccurate use by that registrant because it does not identify the registrant of the domain name. It identifies the company that they were targeting for their - with their bad behavior. And...

((Crosstalk))

Lisa Phifer: ...(unintelligible) that would have been antidotal and doesn't really have anything to do with this. You would not believe how many registrars I've had this argument with. So and just in the current scheme of things there is an email validation requirement and that was never done here so because that would have come directly to me.

Chuck Gomes: Thanks (Susan) and Lisa. Anyone else want to weigh in on this one? It's interesting noticing in the chat all throughout this meeting I think is the variety

of people who have used the current Whois for uses that are being described. So certainly we have a lot of people in the working group using them this way. That doesn't mean that we will decide that they should be valid uses or not. Well we'll discuss that later but good to see the level of experience on these things.

So if there are no more – if there's no more discussion on this use case my understanding from the chat is that Elaine Pruis had to leave the call so we can't go to the next one and probably don't have time for to do another one anyway because we want to talk a little bit about how to complete our discussion of use cases. Now let me ask for some information from Lisa or Marika first of all in the sense that I know we have the use cases that Rod Rasmussen presented and that (Michaela) presented that we never really discussed. I don't know if there's interest in discussing those at a future meeting or not. We can talk about that now. But also a question for Lisa and Marika do we have any more use cases that have been deliver that we haven't discussed yet excluding the ones from Rod Rasmussen and (Michaela) that we did kind of as an introductory topic for this particular function? Lisa go ahead.

Lisa Phifer: Thanks Chuck. Yes we do still have a couple use cases coming in. We do have the one from Elaine Pruis that's already been submitted and we also have cases promised Geoff Noakes, (Jabi Boss) - sorry if I mispronounced your name - Vicki Sheckler and Rod Rasmussen. So we have basically another four or five cases coming in within the next week.

After that however the one question that I think is worth raising to this group is whether there any – whether this group feels like we've covered a representative set of cases. I had one question from someone on the working group this week about well what about all the EWG use cases? Are they - aren't they still there? We can still use them?

And that is absolutely correct. They will always be there for this group to use when and if those cases come up, you know, the potential uses of data come up in discussions as this group enters deliberation. But the benefit of the use cases as we've seen is actually talking through them as part of preparation and understanding the broad spectrum of how Whois is used today. So if anyone feels that something on that list has not been discussed and would like to actually bring that case forward for this group to review these while we wrap up this session of use cases that would be the time to do that.

Chuck Gomes: Thanks Lisa, appreciate that. So one action item for you or for Marika if we could reach out to those that have promised use cases and find out two things, number one can they deliver it by the end of this week? And secondly will they be beyond the call next week to provide an overview and respond to questions and discussion that will occur on that?

Secondly I want to call everyone's attention to the questions that Lisa asked. And that is are there any types of uses that maybe we should – that we try and get a use case for? Now keep in mind we're not trying to get an exhaustive list of use cases but we're trying to get a fairly representative sample of different uses just for discussion purposes in preparation for our deliberation. So let me open it up right now to anyone just with regard to whether or not they think there is a particular type of use we would benefit from having a discussion on a use case.

Anybody can anyone identify any of those? I would appreciate you doing so now or on our list in the next day or two if you think that there is one that maybe would be good to cover. And I'll just pause for a little bit. Lisa is that old or new one? Okay thanks.

Okay. Well again so we have a few more. And the agenda for our next meeting will be determined by the receipt of the pending use cases that people have promised to write. But also is there any value in discussing further the use cases that Rod Rasmussen and (Michaela) went over as a

kind of a precursor to our discussion of use cases? If anybody thinks that would be a good idea please indicate that either in the chat or on the - audibly raise your hand if you'd like to. I see Andrew Sullivan mentioned consumer fraud as a possible gap. And so is there anyone who would be willing to write a use case on that one?

Andrew Sullivan: Sorry Chuck, just to be clear the consumer fraud that I was talking about is introduced by the use case that we talked about a few minutes ago. So I'm not actually suggesting that that is a gap that we haven't addressed.

Chuck Gomes: Okay sorry about that. I – in bouncing back and forth I misread that. Sorry about that. Steve Metalitz asked a question there. And if Lisa can you quickly or Marika quickly go over the cases that (Michaela) and Rod Rasmussen discussed? Rod Rasmussen you're on the call. Maybe you could just mention the ones that you shared with the group as a preliminary step on this particular part of our working group activity.

Lisa Phifer: And Chuck this is Lisa Phifer. The draft – the list of draft example use cases on - is on the screen now. So Rod Rasmussen actually introduced a technical issue resolution example case about a month ago. And following that Michaela introduced – gave four examples of domain name control use cases. But at the time we weren't prepared really to discuss. We were still learning what a use case was. But those were the five that you're referring to. They're on the screen now.

Chuck Gomes: Thanks Lisa, that's helpful. You can take a look at those. If anybody would like to request discussion like we've done on the use cases today and last week on any of those from Rod Rasmussen or (Michaela) there at the top please indicate so and we'll put them on our list to discuss. Otherwise we'll assume that no further discussion is needed at this time, doesn't mean we can't discuss the issues that they raised up in the future because we probably will, pretty much guarantees we will.

All right so I think that we're coming out to the end of our time and the end of our agenda. Is there anything else we need to cover? Now please note that next week our call will be at the alternative time. So keep that in mind.

And hopefully those of us who have benefited from more pleasant times for our meetings will still participate as much as we can even when it's not so convenient for the benefit of those who three or four times out of every month have to participate in and vary on times. So remember that next week. Anything else we need to talk about before I adjourn the call?

Thanks again for the great participation. It was impressive to see how many different people participated both audibly and in the chat so thanks very much for that. And thanks again for all those who contributed the use cases to get the discussion going and for being responsive in the discussion. Have a good rest of the week and I will adjourn the meeting now.

Woman: Thank you.

Woman: Great. Thank you Chuck. Again today's meeting has been adjourned. Operator please stop the recording and disconnect all remaining lines. Have a great rest of your day everyone.

END