

**Inter-Registrar Transfer Policy Part B PDP  
Transcription**

**Tuesday 27 April 2010 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Inter-Registrar Transfer Policy Part B PDP call on Tuesday 27 April 2010 at 1400 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

<http://audio.icann.org/gnso/gnso-irtp-b-20100427.mp3>

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

**Participants on the Call:**

James Bladel – RrSG – interim chair

Mikey O'Connor – CBUC

Kevin Erdman – IPC

Berry Cobb – CBUC

Michael Collins – Individual

Paul Diaz – RrSG

Matt Serlin – RrSG

Barbara Steele – RySG

Anil George – IPC

Chris Chaplow - CBUC

**Staff:**

Marika Konings

David Giza

Glen de Saint G ery

Olof Nordling

**Apologies:**

Michele Neylon – RrSG – Chair

Baudoin Schombe – At-Large

Eric Brown – RY (all Tuesday calls)

Coordinator: The recording has started.

Glen de Saint G ery: Thank you (Patricia). Good morning, good afternoon everyone. This is the IRTPD call and on this call we have Barbara Steele, James

Bladel, Mikey O'Connor, Kevin Erdman, Matt Serlin, Paul Diaz. And for staff we have Marika Konings, David Giza, Olof Nordling and myself, Glen de Saint G ry, myself. And we have apologies from our Chair, Michele Neylon.

Thank you James, over to you.

James Bladel: Thank you Glen and good morning, good day everyone. This is the IRTF call for Tuesday, April 27, 2010. And as Glen mentioned our Chair is absent so I will be the substitute teacher today I hope that's all right with everyone.

((Crosstalk))

James Bladel: I noticed there were several folks in the role call that are not showing upon the Adobe Connect. And since we will be looking at some documents there if it as all possible for folks to join Adobe I think the URL was in the invitation so please do so if you can assuming you're not an airport or behind the wheel. If either of those are the case, and the latter, please do not go to Adobe Connect.

So there's an agenda that is posted in the top window there on Adobe and that Marika has sent around, a few items. But I think if the group doesn't mind I'd like to start with Item - towards the bottom right before Item 4 and just talk a little bit - maybe take the first 10 minutes of this call to discuss scheduling.

The document cutoff to ensure that a initial report from this group would be released by - and open for comment by the Brussels meeting would be May 31 am I correct on that Marika?

Marika Konings: Yes that's correct, that's 15 business days before the start of the ICANN meeting. And apologies, I think I earlier communicated I think 4th of June but I actually counted days and not business days.

James Bladel: Understood, thank you for that clarification. So that gives us four meetings, not including this one that we're just starting, to complete the issues that Marika has listed in the issues A through E, finalize the language in the report and submit that for public comment.

And like many of you I'm a participant on several working groups and I can tell you that all of them are eyeing the 31st as a finish line and are racing towards that date so, you know, I can imagine what staff is going through trying to get all those things finalized for Brussels.

So if we can I would recommend that we push through with these remaining items and make the best - most optimal use of our four remaining meetings, and if necessary if we have to - if we feel that that date is in jeopardy maybe schedule an interim meeting or subgroup meetings or whatever we can to make sure that we don't miss that date. Any thoughts or concerns with that approach? I just wanted to emphasize the significance of making that cutoff.

And I see Marika's hand.

Marika Konings: Yeah, this is Marika. Just one point I just wanted to make is, you know, when we start looking at the different recommendations for the different issues I think we need to take into account as well that it concerns an initial report. So these don't need to be final recommendations yet that are, you know, completely worked out or,

you know, there might be areas where the group has different options it would like to take under consideration or get input from the community on.

So I think as well that, you know, groups should try to maybe see, you know, trying to get to the deadline as an opportunity as well of maybe putting out ideas instead of trying to really, you know, have every dot and comma in the right place. Because there still will be time following the initial report to review the comment and the input received and to really finalize and take that input into, you know, maybe finalizing those recommendations.

James Bladel: Thank you Marika. Mikey, you're next.

Mikey O'Connor: Thanks James, this is Mikey. I would sort of concur with that. I think one of the things I'm running into is that it's really hard to schedule sub-team calls now because there are so many work groups all competing for that unscheduled time.

So to the extent that we can really be productive on the scheduled calls I think we'll be better off and get better participation and run into less trouble. I'm speaking from experience on the (VI) side.

I'm sure that if we get all seven working groups that I'm on competing for the time then pretty soon I'll just say goodbye to my sweetheart, dial into ICANN at 6 o'clock in the morning and go straight until midnight. So let's try and really beat on the scheduled calls.

And I like Marika's notion that maybe this is a rough cut. And if it's not quite perfectly smooth but we have the major issues identified we're probably good to go.

James Bladel: Good points Mikey and Marika. I would agree with one qualifier is that I think that when initial reports are released they do tend to take on a certain degree of inertia. And while they do change between the initial and the final I think that they probably are 80% of the recommendations are contained in one (unintelligible) other.

So I would say let's not be hasty in putting together the initial report because those things tend to take on a life of their own once they're out in the wild so to speak.

Okay well - there's Mikey again. Is that a new hand?

Mikey O'Connor: Yeah, I'm just winking at you. I think that one of the biggest advantages of coming up with a rough cut and maybe some caveats that say look this is going to go through a fairly substantial revision is that the time between Nairobi and Brussels is a lot shorter than the time between Brussels and the next meeting. And so we have a little less schedule compression.

So, you know, maybe as sort of a blanket statement across all these working groups we sort of say, you know, look people we have a little bit more time to work between the next, you know, this meeting and the next so don't panic.

James Bladel: Okay thanks; I like the part about not panicking. Okay so are there any other thoughts on schedules or timelines? I think that making the most

of our time but recognizing that this is an interim report and not final recommendations is a good approach.

Marika?

Marika Konings: Yeah, this is Marika. I think one, you know, one of the main reasons of trying to get this done in time for the Brussels meeting that of course there we'll have an opportunity to, you know, discuss it with the community and have a workshop or some kind of information session to try to, you know, explain the issues and, you know, where we stand on the recommendations and try to encourage people to provide input as part of the public comment forum.

And to Mikey's point that there's more time between the Brussels meeting and the Latin America or South American meeting it's to a certain extent less relevant because I think the final report doesn't necessarily need to be submitted in time for an ICANN meeting. Basically that report will go straight to the GNSO Council and that could be submitted, you know, at any point, you know, when the working group is basically ready.

The only, you know, deadline there is that for the GNSO Council to consider it it would need to be submitted eight days before, you know, the next meeting so they have time to review it and add it to the agenda - unless of course there's, you know, a need or a desire of the working group to present the report in person to the Council and all for Q&A, I mean, that's something else that you might want to consider.

I think, you know, there's more pressure now to try to get it in time for Brussels to allow for that live community discussion and, you know,

hope we get some good input and feedback on the issues the group (unintelligible) forward.

James Bladel: Thank you that's a good point. And I think Paul raised a good point in the chat as well that the summer months traditionally see attendance problems and I think working groups struggle to achieve quorum let's say between mid-July and the end of August when folks are, you know, rightfully taking time with their families.

So it may be a little bit of extra time before the Latin American meeting, Mikey, but some of that time may be illusion. But I think Marika makes a good point about outside of Brussels not necessarily tying the output of this group to a general meeting unless we're expecting, you know, a workshop or a presentation.

Okay any other thoughts on scheduling or timelines? Okay the queue is clear so let's move into the agenda and jumping back to Number 1. And I don't seem to be able to scroll that anymore.

Okay Adobe is acting up for me. So I think Item Number 1 was relative to the expedited transfer reverse process, the ETRP. And Marika's posted something that I sent to the sub-team that on April 18 where I had received some offline feedback. And I thought that perhaps we could just take 10-15 minutes here to discuss these issues.

And then start to begin to at least put a bow on the recommendations and of course leaving open the idea that we would receive further comments on these when they're in the initial report or when they're raised during the next meeting.

So with your agreement I would like to dive into the list of four items that are on the screen now. Okay? Okay. The first one is with regard to Section 3.1 of the ETRP and as a reminder, you know, we established that the transfer - the request for a reversal had to be initiated by the pre-transfer registrar.

This individual mentioned that there is no incentive for the pre-transfer registrar to cooperate with the registrants claiming that they're a victim of hijacking. I'm not sure that that's always true. I think it's possible that that's the case.

But for example, you know, I think that, you know, in the mode of customer service or even just wanting to retain that particular customer that a pre-transfer registrar would have enough incentive to cooperate. But it's possible that if there were risks or if they felt that the situation were questionable that they might not willingly jump into initiating the ETRP.

So if we can start a discussion on that and I see Mikey in the queue.

Mikey O'Connor: Thanks James. It's Mikey. I think that that's where my notion that there needs to be a route to escalation is important. My thought is that if the PTR doesn't respond then, you know, through education, through community, through whatever we should make it clear that the registrant's next step is to escalate it to ICANN enforcement. Send David after them with a stick.

David Giza: Thank you Mikey.

Mikey O'Connor: Yeah, anytime.



David Giza: A big stick.

Mikey O'Connor: Yeah, a big stick. So that - I think that's my immediate reaction to that question is that there is an incentive that's negative if the sort of positive incentives that you're describing, James, don't work.

Clearly the word would get around pretty fast in the community if a registrar was unresponsive, you know, the customer service chatter would be pretty compelling as well. But I think ultimately the path is to escalation.

James Bladel: Okay good point. Before we jump to (Michael), David did you want to respond to that? I mean, what would be compliance's actions now if they were dealing with an uncooperative registrar; you would enforce the policy by - by what?

David Giza: Yeah, essentially we would start with an email dialogue with the registrar pointing out to the registrar where they're deficient with respect to the policy and then give them essentially anywhere between 5, 7-10 days to respond back.

Presuming that they still remain unresponsive then the next step would be to escalate that into a compliance notice and then, you know, transmit the compliance notice via an email in an effort, again, to get the nonresponsive or uncooperative registrar to take some action.

If they fail to take action then it would be escalated to a breach notice. And we don't do that that often because generally registrars respond before you get to the third strike.

James Bladel: Okay. Just playing devil's advocate here for just a moment, what if that - the reason for the pre-transfer registrar's uncooperation was that they did not believe that the claim of hijacking was legitimate?

David Giza: Then it gets much more difficult because there's no particular clarity in the policy in terms of how to deal with that situation. So then it's a - it might require an escalation, you know, up through compliance into, you know, ICANN's legal department or, you know, potentially an escalation to, you know, over to the registrar liaison team for, you know, for some sort of, you know, cooperative solution if you can find one.

If you can't, you know, then we're sort of caught between a rock and a hard place where it becomes, you know, difficult to take the action I just described.

James Bladel: Okay. (Michael)?

(Michael): Yeah, this question maybe for David as well too, and the scenario that James just described you felt that it might be difficult but my question is what if a registrar just doesn't respond to a request by a registrant? Where in the policy is there a requirement for the registrar to file a - a transfer dispute?

My understanding it's available to the registrar but maybe I'm just not familiar enough with the policy but where is it required that they do so? That's all.

David Giza: Yeah the short answer I don't believe it is required. And Marika might, you know, want to, you know, assist me with this point as well but, you know, this could be an opportunity for a, you know, for a policy change that makes it clear, you know, that this is required.

But right now we're really working off of what I call the cooperative good graces of registrars who, you know, are attempting to do what's in let's say the best interest of registrants. But clearly if that doesn't result in action our hands are literally tied; we can't force the registrar to take action.

James Bladel: Okay. I put myself in the queue but I see that Paul is up as well. Go ahead Paul.

Paul Diaz: Thanks James. We may be saying the same thing. Look here I think we want to be careful about making this a requirement. This would definitely fall into the unintended consequences by requiring a registrar to file the process you're going to obviate what is in the real world the most often the quick fix which are the personal connections between registrars working behind the scenes to address an issue.

If we mandate it - this working group mandates that a registrar must file and start the process essentially you're going to guarantee that it's going to take weeks into months rather than hours into maybe a few days as things are typically done.

In the case of a nonresponsive registrar, you know, I'm going to assume that it's not the losing registrar who's nonresponsive it's the gaining registrar who allegedly received a jacked name in which case, I

mean, that's what, you know, the whole expedited transfer dispute - transfer resolution policy is all about.

But again I don't think we want to mandate that these tools - these processes have to be used because the process really is a synonym for red tape and in the interest of the customer I don't think you want to force registrars to have to go through what is undoubtedly going to be a longer term process.

Leave it at the discretion so that again we're providing as many tools as possible to try and get the end result that the registrant wants, get their name back.

James Bladel: Thank you Paul. And I'm going to jump in to my GoDaddy role here and agree. This process was I think intentionally designed to minimize the cooperation or eliminate cooperation requirements on the part of the registrar that received the hijacked name and as a result deemphasize the cooperation of the - as far as requiring cooperation from the pre-transfer registrants.

I believe that the latter, the pre-transfer registrants are cooperating and are requiring - are looking for additional tools and mechanisms now. So I think that, you know, the idea that there would be a registrar who would not necessarily respond to a registrant is a problem that we have today, as David mentioned.

It's a little more complex than it might appear on the surface because it could be that a registrar is being dragged into adjudicated dispute which they don't feel comfortable based on the evidence that they have

that they would want to say yes this is a clear cut case of hijacking or no this is an illegitimate claim.

And I think including that as a requirement might tie the hands of a registrar that would otherwise be cooperative in terms of helping registrants in this situation but it might make them gun-shy to use this process if they felt like they were signing onto - as a party to a dispute. So I think that making that a requirement is possibly, you know, is something that we should steer clear of. And I think that in fact that I would even submit this as a separate problem then what we're trying to solve with this document.

(Michael)?

(Michael): Well thank you James. I would like to say that while I don't disagree with anything you said and I do not think that there is no incentive for a losing registrar to be cooperative I think that you've mentioned some cases where cooperation might be limited or withheld for other reasons, you know, reasons that are important to the registrar.

And all I ask is that we really need to be careful that we don't talk about involving compliance if compliance doesn't have anything to enforce. But, I mean, I think that we need to be clear that this is a voluntary. Because if you start talking about bringing in compliance it suggests that compliance has some policy to enforce, that's all.

James Bladel: That's an excellent point. So the queue is empty. I think that maybe we can conclude this topic with the thought that we have identified some incentives for registrars to cooperate with this. We're not expecting cooperation from the registrar that received the hijacked name.

And we are leaving some flexibility or discretion on the part of the pre-transfer registrar to stay away from something that they feel may be a false claim of hijacking or just a traditional dispute to avoid them taking sides in that dispute.

Is that kind of what we're saying here or am I missing any major omissions with that statement? Okay queue is clear.

The second item that was raised to me was 3.2.1. We should seek wider feedback on the (unintelligible) or consequences of making the 60-day lock mandatory. I think that the concern is that there are domain investors, the aftermarket service providers and auction service providers that would have significant problems with that delay.

You know, perhaps we could maybe preempt some of those concerns in the report or in the recommendation by stating something to the effect that we recognize that there is no way to completely eliminate the inconvenience to the aftermarket as far as the portability of domain name registrations.

But that is part of the tradeoff to have increased security and have increased confidence in the inventory of those marketplaces that they are legitimate registrations. And maybe we can say something to that effect and put that into our initial report and see if we can get some comments about making this 60-day lock mandatory.

So I just wanted to maybe take five minutes on this if we can open the queue for any comments on this. And I see Barbara first.

Barbara Steele: Hi, this is Barbara. I will say I did take an informal survey and I'm hoping for some additional feedback. But the feedback that I did receive was that some of the registry operators actually have put in place a systematic restriction on transfers that occur within 60 days of a transfer.

So once I have all of the information relative to the registry implementation of that particular I'll call it an option which is available to the losing registrar then I'll put that together and distribute it to the team.

James Bladel: Thank you Barbara. And would that be something that you think could be included in our initial report?

Barbara Steele: I don't see why not.

James Bladel: If we don't name names...

Barbara Steele: I'm hoping to have it - pardon ?

James Bladel: I said if we don't name names or...

Barbara Steele: Well I don't know that it even really matters. I think that, you know, if we just said, you know, registry by registry so who has...

James Bladel: Okay.

Barbara Steele: ...already implemented that versus, you know, those who leave it up to the registrars to, you know, determine if the domain has transferred in the 60 days and thereby (nac) it.

James Bladel: Okay thank you I think that's a great idea and would help possibly build support for this idea.

Barbara Steele: Thanks.

James Bladel: Mikey.

Mikey O'Connor: Hi James, this is Mikey. Yeah and I think another - I liked your lists and I like Barbara's thing. I think another addition to the list is to make it clear that this is only when it's an inter-registrar transfer that if I'm an aftermarket person and I want to move a name around to a bunch of registrants within the same registrar this doesn't apply and thus mitigate the sort of pain of a 60-day transfer hold.

You know, this is a fairly limited subset of all transfers. And if I were an enterprising auction provider I would just make sure that I had accounts at major registrars and leave the name within the registrar and then this wouldn't apply.

James Bladel: It wouldn't apply necessarily but I would submit that most registrars who honor the 60-day lock for transfers would do the same for internal change of a registrant.

Mikey O'Connor: Oh really? Oh okay. So...

((Crosstalk))

James Bladel: ...that's necessarily a given but I would suspect that's the case.



Mikey O'Connor: We might want to clarify that...

James Bladel: Okay.

Mikey O'Connor: ...in our language because it's just a choice. It's another dimension of it.

James Bladel: Right. Well I think - and first I wanted to ask Marika are we - we're getting some good things here but are we going too quickly? Are we capturing most of this or...

Mikey O'Connor: (Unintelligible) an MP3.

James Bladel: Yes, that's true.

Marika Konings: Yeah, this is Marika because I'm actually - I'm not capturing this because I was under the impression that you would be updating the document following this call related to this issue. But...

James Bladel: I am now, yes. Okay.

Marika Konings: I'm sorry but I had taken the lead on that one, I was - yeah.

((Crosstalk))

Marika Konings: ...assuming that you would take it to the next level as well but, you know, we can always talk offline about how to manage that.

James Bladel: No problem, no problem I just wanted to make sure we were - and I think that the good news is we have an MP3 and a transcript so.  
Michael.

(Michael): I'm not sure really any other further comment is necessary. But I was also concerned like Mikey that it wasn't clear to me whether the 60-day lock referred to a registrant change or an IRTP transfer. Thank you.

James Bladel: Well in this particular draft recommendation we're referring only to the IRTP.

(Michael): Okay.

James Bladel: But I'm just - I think in the - from a practical perspective any registrar that honors that 60-day lock probably has an equivalent lock for a change of registrant. I don't think it's required and it's not spelled out in the policy it's just more of an internal procedure.

And to my knowledge the change of registrant function - and this is where we get into longer discussions about some of GoDaddy's internal practices as well, the change of registrant function is not defined. We have built a pretty healthy secondary and commercial markets in this industry around the portability of domain names between individuals and entities.

But in fact that was originally designed to allow one individual to exercise their choice and freedom to go to different registrars. So, you know, I think we've - registrars have had to kind of invent the change of registrant function on their own supported internally and I think very

cautiously gauge the risk level that they're assuming by supporting that  
- by supporting that function.

I think we've talked about this before in ccTLDs they call this a trade  
right? So a lot of ccTLDs will support this.

((Crosstalk))

James Bladel: Go ahead.

(Michael): I'm sorry I didn't mean to interrupt you. I was going to just say yes we  
have talked about it some.

James Bladel: Yeah.

(Michael): In the past. But it wasn't clear in this particular document what - to me  
which 60-day lock we're referring to.

James Bladel: Yeah, I think registrars might feel a little bit more comfortable with a  
tool like this in their back pocket to maybe - I'm saying this as gently as  
I can but maybe be a little more flexible in their restrictions on change  
of registrant if they felt they had a solid reliable anti-hijacking  
mechanism at their disposal.

(Michael): I know you've spoke in the past for reason not to include the registrant  
- a registrant transfer initiating a lock. But I wonder if that wouldn't  
make one thing a little bit easier and that's reducing the occasions  
where a registrant change takes place immediately, you know, a  
hijacking occurs let's suppose and the hijacker changes the registrant  
and then immediately transfer it to another registrar.

And now the initial registrants wasn't the registrant at the time of the IRTP transfer so what rights do they have to contest that transfer is the question. I wonder if the 60-day registrant change lock would help in that scenario. And I know we've discussed it and I apologize if this particular issue has been covered but I can't remember what was said. That's all.

James Bladel: Yeah, thanks (Michael). I think we have discussed it but I don't know that we've arrived at any conclusions or included that in this draft. I think that that's an important consideration. And I think that - yeah, I think you're right; I think we need to spend some more time on that.

But I do think that's sort of taking us a little bit off of this particular topic but we should definitely circle back when we get to Issue - I forget if it's D - I think it's D or some of those other issues on the agenda.

Mikey.

Mikey O'Connor: Thanks James, this is Mikey. I'm just going to sort of follow up to (Michael)'s point, which is I think we should be careful in linking this to anything beyond inter-registrar transfers, because as soon as we get into specifying transfers that stay within - specify things about transfers that stay within the same registrar, we're pretty far outside the scope of this working group among other things and probably walking into an area that has a lot of other ramifications.

So just sort of basically repeating my first point, which is that one of the advantages that a registrar has is that as long as the domain stays within the same registrar they have a lot more flexibility in terms of

recovering it so we're kind of addressing a different problem there. So I think; I'm just repeating myself. There you go.

James Bladel: No that's a good point Mikey. And to (Michael)'s earlier point we have - we do have a specific charter question just for that particular scenario that he's discussing and I wanted to be sure that we're not blending them together too much just so that we can get through this particular document.

Mr. Serlin, good morning.

Matt Serlin: Good morning James. Yeah, I mean, I don't - I'm sensitive to spending too much time on this but I just want to pick up A, I agree with what Mikey just said and I've probably been a pretty outspoken opponent to the 60-day lock when a change of registrant occurs.

But (Michael) said something interesting that caught my attention actually in that if a hijacker changes the registrant and then transfers the name away the previous correct, if you will, registrant then doesn't necessarily have any standing.

So while I still don't think the blanket 60-day lock across the board is a good day on registrant changes I think what (Michael) brought up is probably something that's worth further discussion and making sure that whatever proposals we come up with have some mechanism to address that because I can see that being a real issue.

James Bladel: Okay thanks Matt and that's - you're absolutely right that is something we should spend some time even if not in our initial report perhaps

putting those questions out for public comment with that submission so we can get a broader discussion going on those things.

Okay we have 20 minutes remaining so moving onto Section 3.4.2, ID verification. There was concern from one individual that the - I think in the procedure we specified that the pre-transfer registrar must validate the identity of the person making the claim of hijack.

And we didn't get too prescriptive in this area because I think that we were trying to allow for different procedures, different jurisdictions and different types of identification that were acceptable.

But this person mentioned that, you know, it would be problematic perhaps for a registry or ICANN to verify or audit those that the fact that the registry - the pre-transfer registrar did in fact verify the identity of the person claiming to be a hijack victim. How will they know?

We talked about submitting those either the identification or as part of an affidavit as part of the packet of documents and supporting materials that would be sent to the registry when initiating this process. But I think the point is is how would the registry know that that is legitimate and how would ICANN know that that was actually done?

Now one thought I had here was that I think that the IRTP has some guidance that might serve as a model here. But I just wanted to throw that open to the group for discussion. Paul.

Paul Diaz: Thanks James. Honestly isn't the fact that the pre-transfer registrar is stepping forward and assuming a liability for this in and of itself a pretty strong indicator that they've done some due diligence? Most times, you

know, registrars are seeking waivers or exemptions from liability so I would think that would be a big one.

As far as, you know, whatever the forms are, I mean, we have FOAs - I thought we had discussed that there would be some kind of package or a turn that we weren't very, very detailed about in the proposal, what exactly that would entail.

But, you know, there would certainly need to be something that the registrar attests to says, yeah we did the check, we looked at one of those forms of identification that's already, you know, listed in existing ICANN policy, you know, so it covers the range, it gives the flexibility. We're not saying it must be this or that but, you know, you choose something off of the list that's ICANN - the community has already developed.

You know, but the fact that the registrar is going through this process I think speaks volumes that it's done some level of due diligence and it's confident that it's doing the right thing.

And clearly if it's, you know, if the policy is broken and that, you know, we find a particular registrar is abusing it to essentially affect a reverse hijacking, you know, then that would be, you know, a case where - for compliance to look into. Hell it might even become a civil case because it's fraud.

James Bladel: That's an excellent point. I especially like the phrase that you use that registrars are notorious for running away from liability wherever they see it but the fact that they're coming to a registry with an assumption of risk and a packet of materials in hand should speak volumes to the

idea that they are - they've done their due diligence and that they're confident...

((Crosstalk))

James Bladel: ...that they know who they're dealing with. Yeah, that's an excellent point.

Paul Diaz: And without maligning any colleagues, I mean, everybody in the ICANN community beginning with ICANN is risk averse in the community and, I mean, it's just the nature of business in a litigious society. But...

James Bladel: Yeah.

Paul Diaz: ...I guess I'm missing something with, you know, that question or comment it's like wait a minute you have a registrar stepping forward and saying we're doing this on behalf of a wronged registrant? I mean, that just speaks volumes.

James Bladel: I think the only folks in this industry that aren't risk averse are the criminals. So and the criminals and the hijackers are the ones out there on the edge and, you know, that's probably one of the reasons why we're so cautious in responding to them sometimes.

Mikey.

Mikey O'Connor: Actually this last sentence you said, James, my question was what's the problem that this question is trying to solve? And maybe that last little throwaway comment that you made is the problem which is...



James Bladel: I make a lot of throwaway comments.

Mikey O'Connor: Yeah, I know, I know. It's because we don't have anything better to do here in the Midwest. But is this person concerned about a scenario where a hijacking registrar, you know, I was trying to sort of put together the circumstances where the registry or ICANN would have to audit. I mean, when would they have to do that?

And the only one I can imagine is one where a registrar is hijacking names. And, you know, to Paul's litany of remedies to that strikes me as pretty profound. But are there other circumstances? I'm just trying to figure out the problem this person's trying to solve.

James Bladel: I think that it was more of a general process question where if you're requiring - if you're requiring that the pre-transfer registrar collect Document A, B and C and you're essentially using that to extend some confidence into the registry to execute this policy that we have to be - have a way to, you know, we have to have a sanity check on those documents and the fact that they were actually collected, and that they aren't turning into driver's licenses for historical figures or cartoon characters.

Mikey O'Connor: Well...

James Bladel: So...

Mikey O'Connor: ...isn't it sort of self-documenting? I mean, you know, there's two ends to this thing; there's the end that the registrar is collecting the data but

then the other end is the registry that's saying well give me your stuff.  
And they look at the stuff and it's not all there. You know...

James Bladel: Well but does that imply that the registry then has the right to say no this identification is not acceptable or we do not, you know, we reject this application based on the lack of identification?

Mikey O'Connor: Well maybe that's the way to do it.

James Bladel: I'm okay having that discussion...

Mikey O'Connor: That's kind of a presumption I guess I made was that, yeah, if you didn't have the identification pulled together then no ticky, no laundry.

James Bladel: That's a good point. And I see Barbara in the queue before I could call on her so thank you Barbara.

Barbara Steele: Hi. This is Barbara. I guess from our perspective, I mean, we obviously would look for some form of identification to be submitted with any cases that are brought to the registry.

But to everybody's point, I mean, if there are evil people out there there are definitely a lot of people out there who can forge what looks like a government-issued identification such as a passport or drivers license or, you know, federal ID card or what have you.

So yeah I think it's important to practice due diligence but, you know, the validation of that is tough. I mean, we've seen some pretty good forgeries of people, you know, sending in documents trying to get access to accounts and what have you.

So it's not to say that - it's not going to be a - I guess 100% guarantee that the data is correct. And I don't know how you go about validating it other than, you know, we had, you know, relationships with the people that they were trying to represent themselves as being and we knew that the picture on the IDs that they were providing were definitely not the individuals that they were posing to be.

So I don't know, you know, how you get around it. I mean, obviously I think it's important to have some form of ID. How you make sure that that's bullet proof, I don't know.

James Bladel: Okay thanks. Boy we're building quite a queue here so David is next.

David Giza: Just quickly I wanted to agree with Barbara. Validation is really a key issue here. But from ICANN's perspective as everyone on the call I think knows we have some very strong audit rights now under the 2009 version of the RAA.

And so, you know, when appropriate, you know, we would work, you know, collaboratively with the registrar to, you know, to request access to certain business records, you know, for the purpose of essentially establishing what data was collected and what processes the registrar deployed to validate you know, that particular entity's identification.

Now I can't honestly say how that would work until we were, you know, in beta test mode. But I think we would use that process, you know, when appropriate to audit and then try to establish some corrective action plan or process with the registrar, you know, short of having to, you know, initiate a compliance notice or a breach notice.

James Bladel: Okay thank you David. Kevin.

Kevin Erdman: Yeah, when talking about the idea of ID verification my question is is there some procedure at the frontend when the - when a registrant first gets a domain name that is then counter-matched on the backend with that identity verification?

And would it be, you know, part of our purview to suggest that that might be something or some sort of standard for the whole process? Because, I mean, part of the, you know, way that ID verification is going to work is that you get the right data in the frontend before you can, you know, verify it on the backend.

James Bladel: I don't think we considered that. I think my initial reaction would be that if someone is willing to forge one they're probably willing to forge both. But I hadn't really thought of all the downstream implications of that.

Kevin Erdman: Well, I mean, one thing that I was thinking about when this was going out is could is, you know, either at the frontend when someone is registering a domain if they got some sort of unique token that they could use to later verify a subsequent transfer.

You know, or just have some sort of standard identification requirement because when we're looking at the emergency, you know, transfer because there has been some sort of forgery or something like that the forger might not have access to the original documents that were submitted.

So even if they can make a great forgery if it's not identical to what was originally submitted then that would be a way of, you know, making the ID verification more robust.

James Bladel: I think that's an interesting idea. And it might be something that registrars could or should do as part of verifying the ID and submitting an affidavit to the registry that they are dealing with the person they think they're dealing with.

I think it's quite another subject all together to put that prescription or any process into this policy. I think we're deliberately trying to leave it as flexible as possible to account for different business models, different jurisdictions, etcetera. But I think it's a good recommendation for registrars that would choose to use that method as opposed to identifying it on the backend.

Mikey can I be rude here and say that we have six minutes left in our call and the next item I think will probably consume all of those. Is this a quick one?

Mikey O'Connor: Shocked, no I'll go away.

James Bladel: No I just - I wanted to close off this topic and keep this moving here, because I think when Michele comes back and he sees that I have taken his working group and made a lot of long distance calls and drank all the beer in his fridge, I don't think he'll be very happy with that - my caretaking day here.

So the last part here is - there's actually - it's a compound part here is that there's no precedent in a consensus policy that specifies or limits the prices that registrars can charge to registrants.

Now I understand we had a very healthy discussion about the idea that you don't want to kick somebody when they're down or use the fact that they're now claiming hijack to - as an opportunity to extort, you know, what the market will bear in terms of a fee.

On the other hand I think that from a practical standpoint we have to recognize that this could be a deal breaker in terms of registrar support for this idea. And that it's - without registrar support it's effectively we're just talking it words on paper.

One idea that I had -- and I did kind of have a lengthy discussion with this person about this concern -- was the idea that we don't specify what the price should be or limit it, but we specify instead that it is posted conspicuously in their registration agreement and in the ETRP affidavit or form that we specifically, you know, give the hijacking victim visibility to that as early as possible what they will be paying, and that the registrar is held to that - whatever they said they would do at the beginning of the process is what is actually charged.

I don't want to get too deep into the pricing discussion here but I just wanted to point out that actually specifying prices would be uncharted waters for an ICANN consensus policy. So maybe we can take just a couple of minutes to discuss that or if you guys think that's too big of a discussion we can take it onto the list but my compromise alternative would be to specify that it is posted and that they honor it but not that we specified the amount. (Michael)?

(Michael): Doesn't the existing registrar transfer dispute already specify a price?

James Bladel: This is the TDRP?

(Michael): Correct.

James Bladel: I don't have that in front of me so perhaps we can - I see Barbara do you have a quick answer to that or...

Barbara Steele: I think I might. I don't believe that the TRP does specify the price. In fact I think that you'd get into probably some antitrust issues if, you know, we were talking about specific pricing.

But I can say that we - and I think that the other registry operators who provide that service do put it in their supplemental rules what their specific prices are.

James Bladel: Yeah, thank you Barbara. I don't think there's any prices listed anywhere in terms of what registrars would charge to registrants. I think that registry to registrar fees are abundant in all the different agreements. But I think Barbara is correct, there have been some deliberate avoidance of that letter - of that former price type. Mikey.

Mikey O'Connor: Yeah I think this - this is Mikey. I think this is just pushing the pricing out one layer in the ring. And just like TDRP doesn't specify a price but a registry does. I think in this case your compromised solution works where the policy doesn't specify a price but registrars are responsible for setting and informing people of those prices. And then I think you're okay.

James Bladel: I can make that modification and I think we should definitely include something to that effect in our initial report. I would just maybe hold out to this group that be prepared for registrars to pounce on that one.

I think, you know, you're not going to see it from Paul or I or Michele or Matt or some of the folks that participate in the call and understand the context but if someone maybe jumps down to the bottom of the recommendations and sees that out of context they might assume the worst. So let's maybe dangle that out there and see who jumps at the bait so to speak. That's a bad analogy.

So the last question and it didn't refer to a specific section but it was essentially that this process or this policy didn't really consider how it could be gained or abused or used by, you know, reverse hijackers or folks, you know, let's say unscrupulous registrars who were looking to reverse all transfers for a given week or month.

Maybe they raised their prices or changed their terms of service and their customers were, you know, bolting for the exits and the registrar decided to, you know, are there enough safeguards to prevent this process from inadvertently becoming the world's greatest reverse hijacking tool?

And what I would recommend is rather than digging into that now and I see that we've just gone over our allotted time - is that we have maybe a healthy discussion on the list. And we're really looking for non-registry, non-registrar input on this idea.



So from the folks from the IPC and (BC) or, yeah, (CBUC) and, you know, all the folks from the At-Large and the folks that are not registry and registrars on this call. I think we could really use your help flushing out this idea that, I mean, what are your concerns? Or, you know, let's game test this a little bit as far as how this could be abused on the list.

Any volunteers to poke this process with sharp sticks and pretend that they're a black hat hijacker and try to break it? No volunteers.

Mikey O'Connor: I was going to volunteer (Collin), he sounds like a black hat kind of guy.

James Bladel: Well here's the thing is that if nobody volunteers...

((Crosstalk))

James Bladel: I'm going to assume that everybody believes this thing is ironclad and perfect if nobody volunteers so...

Kevin Erdman: Well this is Kevin Erdman. I'll volunteer to take the first poke at trying to exploit some vulnerability in it as long as people promise to tear into it and tell me why I'm wrong.

James Bladel: That would be excellent, Kevin. And I think that anything that we can do to close any loopholes or, you know, tighten up any loose language that might undermine this whole process I think would be very productive and very helpful. Thank you.

Kevin Erdman: Okay.

James Bladel: And of course the sub-team which is Michele, myself, Paul, Mikey and Barbara are at your disposal if you have questions of intent or, you know, why a certain - why it says what it says I guess.

Kevin Erdman: All right.

James Bladel: Very good.

Kevin Erdman: I will put on my black hat and try to figure out how to bust it open.

James Bladel: Okay. You know, I think that'd be a useful exercise. Thank you I think that will go a long ways. And then I think we'll receive even more when we put this out into the wild for comment.

Kevin Erdman: No doubt.

James Bladel: So with that said it's now 10:03 Central Time which means three minutes after our allotted hour. If there are no additional orders of business we can conclude this week and then await Michele's return. I only hope he is well rested and recovered from his ordeal there in Milan.

Mikey O'Connor: Poor guy.

James Bladel: I know. It's sad.

Mikey O'Connor: I could get lost in Palermo and never get back.

James Bladel: Well hopefully he can come back and he'll be pleased with what we were able to achieve today. And I will review the MP3 and the

transcript once those are posted and try to capture some of the things that we've said in this draft. And then we can keep driving towards that May 31 date for an initial report.

Mikey O'Connor: Cool beans. Thanks James.

((Crosstalk))

END