

From the RAP Final Report (dated 29 May 2010)

11. Conclusions, Recommendations, & Next Steps

Based on the discussion in the Working Group, having taking into account the comments received during the public comment period, the RAPWG has put forward the a number of recommendations to the GNSO Council for its consideration. Hereunder you will find an overview of these recommendations ordered by the level of support received.

Unanimous Consensus

CYBERSQUATTING		
<u>Recommendation #1</u> <i>Please see pages 26-33 for the full recommendation.</i>	The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the current state of the UDRP, and consider balanced revisions to address cybersquatting if appropriate. This effort should consider: <ul style="list-style-type: none">• How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process.• Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated.	<u>Unanimous consensus</u>

MALICIOUS USE OF DOMAIN NAMES		
<u>Recommendation #1</u>	The RAPWG recommends the creation of non-binding best practices to help registrars and	<u>Unanimous consensus</u>

<p><u>Please see pages 50-70 for the full recommendation.</u></p> <p><u>Additional view</u></p>	<p>registries address the illicit use of domain names. This effort should be supported by ICANN resources, and should be created via a community process such as a working or advisory group while also taking the need for security and trust into consideration. The effort should consider (but not be limited to) these subjects:</p> <ul style="list-style-type: none">• Practices for identifying stolen credentials• Practices for identifying and investigating common forms of malicious use (such as malware and phishing)• Creating anti-abuse terms of service for inclusion in Registrar-Registrant agreements, and for use by TLD operators.• Identifying compromised/hacked domains versus domain registered by abusers• Practices for suspending domain names• Account access security management• Security resources of use or interest to registrars and registries• Survey registrars and registries to determine practices being used, and their adoption rates. <p>Uses of domain names unrelated to</p>	<p><u>Supported by 7 member of the</u></p>
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<p><i>Please see pages 50-71 for the full recommendation.</i></p>	<p>registration issues are an area in which ICANN can impose mandatory practices upon contracted parties.</p>	<p><u>RAPWG</u></p>
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FAKE RENEWAL NOTICES

<p><u>Recommendation #1</u></p> <p><i>Please see pages 42-43 for the full recommendation.</i></p>	<p>The RAPWG recommends that the GNSO refer this issue to ICANN’s Contractual Compliance department for possible enforcement action, including investigation of misuse of WHOIS data</p>	<p><u>Unanimous Consensus</u></p>
<p><u>Recommendation #2</u></p> <p><i>Please see pages 42-43 for the full recommendation.</i></p>	<p>The following recommendation is conditional.</p> <p>The WG would like to learn the ICANN Compliance Department’s opinions regarding Recommendation #1 above, and the WG will further discuss Recommendation 2 looking forward to the WG’s Final Report.</p> <p>The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate fake renewal notices.</p>	<p><u>Unanimous consensus</u></p>

WHOIS ACCESS

<p><u>Recommendation #1</u></p> <p><i>Please see pages 71-80 for the full recommendation.</i></p>	<p>The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion.</p> <p>The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN’s new</p>	<p><u>Unanimous consensus</u></p>
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	Affirmation of Commitments.	
<u>Recommendation #2</u> <i>Please see pages 72-80 for the full recommendation.</i>	The GNSO should request that the ICANN Compliance Department publish more data about WHOIS accessibility, on at least an annual basis. This data should include a) the number of registrars that show a pattern of unreasonable restriction of access to their port 43 WHOIS servers, and b) the results of an annual compliance audit of compliance with all contractual WHOIS access obligations.	<u>Unanimous consensus</u>

<u>CROSS-TLD REGISTRATION SCAM</u>		
<u>Recommendation #1</u> <i>Please see pages 43-45 for the full recommendation.</i>	The RAPWG recommends the GNSO monitor for Cross-TLD registration scam abuse in the gTLD space and co-ordinate research with the community to determine the nature and extent of the problem. The WG believes this issue warrants review but notes there is not enough data at this time to warrant an Issues Report or PDP.	<u>Unanimous consensus</u>

<u>META ISSUE: UNIFORMITY OF REPORTING</u>		
<u>Recommendation #1</u> <i>Please see pages 97-102 for the full recommendation.</i>	The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting processes.	<u>Unanimous consensus</u>

<u>META ISSUE: COLLECTION AND DISSEMINATION OF BEST PRACTICES</u>		
<u>Recommendation #1</u>	The RAPWG recommends that the GNSO, and	<u>Unanimous consensus</u>

<p><u>View A</u></p>	<p>Policy Development Process by requesting an Issues Report to investigate the appropriateness and effectiveness of how any Rights Protection Mechanisms that are developed elsewhere in the community (e.g. the New gTLD program) can be applied to the problem of cybersquatting in the current gTLD space.</p>	<p><u>members of the RAPWG</u></p>
<p><u>View B</u></p> <p><i><u>Please see pages 26-33 for the full recommendations.</u></i></p>	<p>The initiation of such a process is premature; the effectiveness and consequences of the Rights Protection Mechanisms proposed for the new TLDs is unknown. Discussion of RPMs should continue via the New TLD program. Experience with them should be gained before considering their appropriate relation (if any) to the existing TLD space.</p>	<p><u>Supported by 7 members of the RAPWG</u></p>

Recommendations that Council do nothing

<u>FRONT RUNNING</u>		
<p><u>Recommendation #1</u></p> <p><i><u>Please see pages 34-37 for the full recommendation.</u></i></p>	<p>It is unclear to what extent front-running happens, and the RAPWG does not recommend policy development at this time. The RAPWG suggests that the Council monitor the issue and consider next steps if conditions warrant.</p>	<p><u>Unanimous consensus</u></p>

<u>GRIPE SITES; DECEPTIVE and/or OFFENSIVE DOMAIN NAMES</u>		
<p><u>Recommendation #1</u></p>	<p>Make no recommendation. The majority of RAPWG members expressed that gripe site</p>	<p><u>Rough Consensus</u></p>

<p><u>Alternate view</u></p> <p><i>Please see pages 37-42 for the full recommendation.</i></p>	<p>and offensive domain names that use trademarks should be addressed in the context of cybersquatting and the UDRP for purposes of establishing consistent registration abuse policies in this area, and that creating special procedures for special classes of domains, such as offensive domain names, may present problems.</p> <p>The URDP should be revisited to determine what substantive policy changes, if any, would be necessary to address any inconsistencies relating to decisions on “gripe” names and to provide for fast track substantive and procedural mechanisms in the event of the registration of deceptive domain names that mislead adults or children to objectionable sites.</p>	<p><u>Supported by 4 members of the RAPWG</u></p>
<p><u>Recommendation #2</u></p> <p><u>View A</u></p> <p><u>View B</u></p> <p><i>Please see pages 37-42 for the full recommendation.</i></p>	<p>Turn down a proposed recommendation that registries develop best practices to restrict the registration of offensive strings.</p> <p>Registries should consider developing internal best practice policies that would restrict the registration of offensive strings in order to mitigate the potential harm to consumers and children.</p>	<p><u>Strong support</u></p> <p><u>Significant Opposition</u></p>

<u>DOMAIN KITING / TASTING</u>		
<p><u>Recommendation #1</u></p>	<p>It is unclear to what extent domain kiting happens, and the RAPWG does not</p>	<p><u>Rough consensus</u></p>

<p><u>Alternate view</u> <i>Please see pages 48-49 for the full recommendation.</i></p>	<p>recommend policy development at this time. The RAPWG suggests that the Council monitor the issue (in conjunction with ongoing reviews of domain-tasting), and consider next steps if conditions warrant.</p> <p>The RAPWG recommends policy development regarding domain kiting / tasting with input from the appropriate parties</p>	<p><u>Supported by one member of the WG</u></p>
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The RAPWG also calls the GNSO Council’s attention to the issue of *registration* versus *use* abuses and how they may intersect. This report goes into detail regarding this topic. Understanding and differentiating between domain *registration* abuses and domain *use* abuses is essential in the ICANN policy context, and failure to do so can lead to confusion. The Council should note that members of the ICANN community do not profess a uniform understanding or views of these issues—and therefore do not share common understandings of ICANN’s mission or the scope of GNSO Consensus Policy-making. One set of community members who participated in the Working Group feels strongly that ICANN cannot and should not regulate content or all uses of gTLD domain names. Another set of community members professes strongly that ICANN can regulate potentially any use of gTLD domain names, including what occurs on or through them. These opposing views are illustrated in this report. But clearly, these opposing views cannot both be valid, and the GNSO Council and the ICANN Board may occasionally be called upon to make judgements about what view is correct.