

**Locking of the Domain Name Subject to UDRP Proceedings Drafting Team  
Meeting  
TRANSCRIPTION**

**Tuesday 21 February 2012 at 1930 UTC**

Note: The following is the output of transcribing from an audio recording of Locking of the Domain Name Subject to UDRP Proceedings Drafting Team Meeting on Tuesday 21 February 2012 at 1930 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

The audio is also available at:

<http://audio.icann.org/gnso/gnso-locking-domain-name-20120221-en.mp3>

On page: <http://gnso.icann.org/calendar/#feb>

**Attendees**

Wilson Abigaba, NCSG  
Laurie Anderson, RrSG  
Randy Ferguson, IPC  
Konstantinos Komaitis, NCUC - vice chair  
Michele Neylon, RrSG - chair  
Jonathan D. Tenenbaum, RrSG  
Joy Liddicoat, NCSG  
Matt Schneller - IPC  
Ken Stubbs, RySG

**Apologies:**

Victoria McEvedy, NCSG  
Paul Diaz, RySG

**Staff Support:**

Marika Konings  
Glen de Saint Gery

Coordinator: I'd like to remind all participants this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Glen de Saint Géry: Thank you very much, (Kelly). Good morning, good afternoon, good evening everyone. This is the Locking of Domain Name Subject to UDRP Proceedings Drafting Team on the 21st of February.

And on the line we have Konstantinos Komaitis, Wilson Abigaba, Matt Schneller, Michele Neylon, Randy Ferguson, Joy Liddicoat, Laurie Anderson. And for staff we have Marika Konings and myself, Glen de Saint Géry. And on the Adobe Connect I don't think we have got anybody who is not on the call.

Thank you very much. Over to you Konstantinos.

Konstantinos Komaitis: Thank you very much, Glen. I'm not sure - I'm the Vice Chair and the Chair is here...

Glen de Saint Géry: The Vice Chair - Michele, over to you.

Michele Neylon: We're co-chairs - we're co-chairs...

((Crosstalk))

Glen de Saint Géry: Oh well I...

Konstantinos Komaitis: I can start. I would like also to note that Victoria is sending her apologies.

Glen de Saint Géry: Yes.

Konstantinos Komaitis: I think that what we need to discuss is the recommendations that were proposed in the charter by Lisa, Matt and Randy. And then

the notifications that were proposed and one addition - the modifications were proposed by Marika and the addition was suggested by myself.

I am not sure because I sent the attachment - I'm not sure who made the original recommendations. Am I correct in thinking that it was you, Matt, do you want to take us through very quickly and we can discuss them? Thank you.

Matt Schneller: It was Randy's email originally. Randy, feel free to do it if you'd like. I can do that if you prefer - whatever.

Randy Ferguson: I'm sorry you want to add some new items you're mentioning?

Konstantinos Komaitis: This is Konstantinos. We've had - I've sent an email literally what half an hour ago and I added Number 7 in the recommendations. But it was in the agenda. No I can see it on the Adobe and it's under Notes 7.

Randy Ferguson: Notes 7. Oh okay definitely I can re-add that.

Konstantinos Komaitis: Okay. So I'm not sure, I mean, Matt, do you want to take us through the first six recommendations?

Matt Schneller: Sure I'm happy to do that. Let me - I lost the window. Sorry. One second. All right so actually maybe why don't we discuss - well I guess we should start with the first sentence about whether we use the phrase recommendations or some other phrase.

I saw the comments that the recommendations maybe - will be treated as more of a term of (arts) in the alternative language at least as far as I'm concerned from Marika looks completely fine.

I don't know if anybody else has thoughts about that but maybe make sense to address that first before we get into the numbered items since that seemed to be sort of a preliminary issue that lots of folks were interested in.

Konstantinos Komaitis: Okay thanks. Anyone want to comment on the use of the word recommendations? Remember that this - we're drafting the charter here. There is going to be a working group that will be established. Michele.

Michele Neylon: Hi. Yes, I have an issue with recommendations for the simple reason that it's the working group's job to come up with recommendations. So to suggest deliberations, questions to be considered, etcetera, etcetera is fine. And if you want to throw anything in there within reason that's - that will be okay.

But to start talking about recommendations at the drafting stage to me seems to be a bit kind of putting the cart before the horse or whichever analogy you're comfortable with. Because ultimately what we're doing is just drafting the charter so the - it's up to the working group to look at all the suggested topics and then at the end of that process to come out with the recommendations as opposed to us prescribing at this juncture the outcome.

Matt Schneller: I guess I'll read really quickly the - this is Matt again - the language that Marika had proposed in the alternative which looked fine to me. It was,

"As part of the WG deliberations the WG should consider amongst others..." and then went into the bullet point list.

Michele Neylon: Oh yes, which was fine by me.

Matt Schneller: Okay.

Konstantinos Komaitis: Okay thank you, Matt, thank you, Michele. Joy, you had your hand up but you took it down. So I suspect that we agree on the use of the language as suggested by - oh Joy wants to comment. Joy.

Joy Liddicoat: Thank you, Konstantinos. You know, just by way of I suppose what I - is a hopeful - a helpful reminder is that this list follows the preamble to the mission and scope that we've drafted. And the draft mission and scope clearly say that the working group should as a first step request public input on this issue in order to have a clear understanding of the exact nature and scope of issues encountered.

And then this list that we're currently discussing followed from and followed from that preamble. So I'm certainly much more comfortable with the provision of - an indicative or suggestive list of topics that might be covered. I think that fits more comfortably within the mission and scope and it makes it clear that it's not a closed list.

Konstantinos Komaitis: Thank you, Joy. I will agree. I will agree with that. My reading also was that we are presenting this as being conclusive and we can say that we are suggesting (unintelligible) the working group can exercise discretion, A, whether they want to actually consider them and, B, whether they want to add new ones. Marika.

Marika Konings: Yes, this is Marika. Just to clarify indeed the language I put up in the note part was just kind of indeed for that addition to the original mission and scope which I've now shown on the Adobe Connect window. I can take you all there to that specific section.

So indeed it would be inserted between I think following UDRP proceedings and then, you know, you would have the list of, you know, the whether questions and then it would go into - as outlined in the PDP manual such recommendations dah-dah-dah. So it would indeed follow what is already initially discussed.

Konstantinos Komaitis: Thank you very much. Are we all right with that? Is everybody okay with it? I see people ticking so I suggest that everybody, you know, we're fine with it.

Okay let's go to the itemized list now and let's start with Number 1. Whoever drafted that can you please give us a little bit of background? I certainly have some issues but I would also like to hear from others first. Thanks.

Matt Schneller: So this is Matt. So I will just do a brief summary. The item was whether the creation, maintenance and publication by ICANN - the public email contact information for registrars for use with UDRP related domain name lock queries should be explored.

In the email sense Laurie Anderson has indicated that there actually is - I think it was Laurie - indicated that there was a system called RADAR that's not publicly available but which other registrars and presumably the arbitration providers do have access to.

The thought process behind this was one holdup frequently in - at least from the complainant's side in the UDRP in getting a domain name lock is that there isn't necessarily a clear point of contact for all registrars to notify the registrar that a proceeding has been filed.

And so the suggestion was just to provide some sort of a centralized list to ease the administrative burden and help registrars engage in locking when it's requested.

Konstantinos Komaitis: Thank you, Matt. I see Michele on the line. Michele.

Michele Neylon: Speaking as a registrar okay I understand - sorry - I understand where this might be coming from but, I mean, as Laurie kind of said on the list okay - just to explain what RADAR is first of all because I think some of you might not be familiar with it.

A RADAR is - it's a sort of an extranet provided by ICANN. Some of the data is linked directly to the RAA - well actually a lot of it is - and, you know, cannot be modified without a formal request being submitted to ICANN. Whereas other parts of it are things that any - I can go in as a registrar and update contact details and other things for ourselves.

And some of the data is accessible by other registrars so I could, for example, log into RADAR now and I could find the contact point for transfers and other things with any of the other ICANN-accredited registrars and various other data points.

The - my understanding is that the email address - there's an email address in there that is used by the - by WIPO and others around UDRP. So, I mean, we do all get notifications from WIPO and the

others whenever a UDRP is, you know, submitted, started, whatever you want to term it.

I'm not - I'm not 100% sure what providing a publicly accessible point of contact would do because it's already, you know, we're already getting the contacts from WIPO and everybody else. So I'm not sure exactly what purpose that would serve that isn't already being served by what's already in place.

Laurie, go ahead.

Laurie Anderson: Yes I was just going to say that I believe that if they - oh excuse me.

Konstantinos Komaitis: No problem, Laurie. We'll get back. Anyone else want to make any comment? Matt please.

Matt Schneller: I'll see to Laurie as soon as she's feeling a bit better. I guess the thought process was in the - or at least the fact pattern that had raised the issue was that sometimes when a complaint is filed obviously the complainant is served on the respondent.

And it's not uncommon that the respondent will - the domain name registrant will make one or even several changes to the listed registrant in Whois information prior to the point when the domain name is locked pursuant to the UDRP proceeding which can end up having the effect of sort of delaying the start of the proceeding while the various registrant changes are tracked back.

There's some administrative stuff the complainant has to amend the compliant, those sort of thing. And the issue - because there's no set timeline at this point when the lock has to be put in place some registrars have done a really good job of locking the domain name very, very quickly in the proceeding; other times it's a little bit slower.

And just having a notification to the registrar earlier on in the process might help reduce some of those issues. That was the thought.

Konstantinos Komaitis: Thanks, Matt. Laurie.

Laurie Anderson: Okay sorry about that. I've had a cold the last couple of weeks and it keeps coming back on me. When we receive a complaint we are not required to lock the name prior to receipt of a verification from the provider.

But we do. If we receive a complaint prior to receipt of a verification just to make sure that the domain doesn't go away. But, I mean, we wouldn't keep it locked indefinitely; we would expect to receive a verification request from the provider within a couple of days.

And usually it's we received, you know, we're just copied on the complaint when it's sent to the provider. So I'm not sure how the registrars handle that.

Konstantinos Komaitis: Thank you, Laurie. I don't see anyone else wanting to speak so I would like to make a comment here. My understanding is of the system the way it works right now it works fine.

This RADAR system that is in place despite the fact that it might not be accessible by everybody I think that the people who - well the entities - the bodies that should have access to it already have access to it and it's been working smoothly. That's my first comment. I am not sure whether I can see the need to change that.

The second comment is that - and actually it was to Laurie - do you know that - I would really like to hear from Michele as well as a registrar whether this is happening because my understanding was that the domain name would be locked by the time you receive a complain since that's the official stage where everything starts, where actually one of the centers gets involved and says here you have an official complaint.

Thanks. Michele.

Michele Neylon: Well if Matt - does Matt want to jump back in because his hand is still up.

Konstantinos Komaitis: Oh sorry. Matt is that an old hand or a new one?

Matt Schneller: I apologize; old hand.

Konstantinos Komaitis: Okay. Michele.

Michele Neylon: Yes, I mean, Laurie pretty much covered I think what a lot of people do. The area of - the kind of - the bit which is a small bit of a gray area - and I think it goes to Matt's problems and frustrations - is okay if we as a registrar receive - we might be copied on some of the complaints but we're not going to be copied on all of them.

But the problem for us is of course that if - just because we're copied on a complaint does that mean we are meant to impose a lock on a domain name immediately or should we wait until we've received some - a confirmation from WIPO or whatever provider it is.

And that I suppose is part of the problem from a registrar's side. I mean, sure Go Daddy might lock the domains. I don't know whether that ever actually causes them issues or not - maybe Laurie could speak to that - as soon as they're copied.

But, I mean, is there - but normally in our experience, which compared to Go Daddy's is much more limited, if we were to receive a copy of a complaint from somebody submitting it to WIPO or one of the others, let's say for argument's sake in my time zone four o'clock in the afternoon we'd probably be getting back something from WIPO less than 24 hours later. So the window between the two is very, very small anyway.

I don't know if Laurie has any comments on that.

Konstantinos Komaitis: Michele, sorry, I think that we can - we again fall into the substance issue. This is something - when the domain name will be locked is something that I think the working group needs to deliberate.

What I'm asking here this group is whether Number 1 - Item Number 1 should be included in the suggestions that we will be submitted - this group will be submitting to the new working group that will be established. It is...

Michele Neylon: Do you want me to give you a binary answer to that, Konstantinos?

Konstantinos Komaitis: Please and then it's Matt.

Michele Neylon: Okay. Personally I would say no. I - no. But again I can't be objective about that. As a registrar I cannot be - I cannot give an objective view on that particular item.

Konstantinos Komaitis: Okay thanks. Matt.

Matt Schneller: I was just going to say whether the - this ends up being relevant maybe depends on what the working group ends up deciding is the appropriate time that a lock needs to be imposed. If the working group ends up deciding that a lock should be imposed upon the filing of a complaint then having a way to make sure the registrar is being contacted with that complaint - some registrars are great about providing contact information some not - becomes important.

So it's not necessarily something that would be a final work product for the working group but it certainly could be important based on what the working group decides on other issues that are within its scope.

Konstantinos Komaitis: Thanks, Matt. Before I pass on to Laurie can I then ask that this can be omitted and if - can I suggest - Number 1 to be omitted - and if the working group decides that the locking should have another point as a complaint they might want to discuss it as part of it because right now we might be confusing them. And it's - that's a suggestion. Laurie.

Laurie Anderson: I just wanted to say that locking the domain name when we're notified of the complaint by the complaining party does not cause an issue; it's not a secret when we do it; we notify the registrant immediately.

But when we have not been copied on a complaint, you know, it's been submitted to the provider but we haven't been copied the domain name in question has transferred to another registrar and that causes the complainant to have to go back and update the complaint.

So I can see benefits to locking upon receipt of - when the complainant is filing the complaint. And I can see problems if we don't lock because depending on the registrant the domain name tends to start flying from one registrar to another.

Konstantinos Komaitis: Thanks, Laurie. Matt, is that a new hand or an old one?

Matt Schneller: I'll figure this out soon enough. Sorry.

Konstantinos Komaitis: Okay. Thanks. I would just also like to read - Michele on the chat says that this point might be moot as this is being dealt within the RAA discussions. Can I then suggest because we're already 25 minutes - almost 25 minutes into the call that we discuss this - take this on the mailing list basically whether we want to keep this or not.

My understanding from Matt is that this will be relevant if they - if the working group that will be established decides that the locking should happen on the complaint. So perhaps we could let them insert that. But let's take that on the mailing list.

Item Number 2, Matt, do you want to take us through that?

Matt Schneller: Sure. I think we've essentially talked about in the context of Number 1. It's whether the creation of a proposed procedure that a complainant must follow in order to - for a registrar to process a domain lock would be desirable. So it would be essentially in the course of filing a complaint you have to let - does the complaining party have to let the registrar of record know by copying them on the complaint that a complaint has been filed or some other procedure to make sure appropriate notice is given.

Konstantinos Komaitis: Thanks, Matt. Any comments on that - on Number 2? While you guys are thinking I can make a comment then. Let me - no let me understand this - see if I understand this, Matt.

So Number 2 if we ask the complainant to send a copy of the complaint at the same time they submit the complaint then the discussion we had on Number 1 when the locking will happen becomes sort of, you know, moot again because the problem with Number 1 was that, you know, normally the centers take, you know, between 24 hours to two days to notify the registrars. Am I correct in thinking that?

Matt Schneller: It's the 24 hour to two day period that's the issue.

Konstantinos Komaitis: Okay. Joy.

Joy Liddicoat: Thanks Konstantinos. And thanks, Matt, for raising this question. Bearing in mind that this is - the question that's being asked is whether this issue would be one that the working group should look at.

I certainly would have thought that this would be a useful issue for the working group to look at in other words should there be an outline of the proposed procedure. And I would have thought that that would have been particular interest to the working group not only for urgent applications in the sort of 24 hour, 48 hour window but also in other, you know, across the range of circumstances in which a domain name lock request might take place.

I have a separate point but this may be the place to raise it. And that is that I think one of the other issues which the working group should look at is some of outline - some sort of - well the issue of what are the rights of registrants and what are the roles and responsibilities of registrars where a domain name lock request is made.

And I'm concerned in particular about the issue of due process where for example issues of fair use are raised in relation to a UDRP (unintelligible). And I would have thought that the procedural question that you raise in Number 2 would also need to take into account those factors.

So I'm pondering whether we should add as a specific issue something of that kind. But I'll suggest that perhaps when we get to the end. So my summary is yes I support that this would be the sort of thing that the working group might want to look at but it also raises other issues which I think we need to point to in the terms of reference for the PDP.

Konstantinos Komaitis: Thank you very much, Joy. Michele.

Michele Neylon: How do I put this diplomatically? Honestly I think kind of questions of fair use and all those kind of things were - that's straying into an overall reform of the UDRP in my view.

I mean, what we're looking at here - I suppose that making - I mean, the registrar is already obliged to inform the registrant of actions that are being taken and all that and to where the registrant also agrees as a standard part of any registrant agreement to be submitted to the UDRP.

So, I mean, my kind of gut feeling is this - a discussion of kind of fair use and all that kind of thing might be a bit out of scope; it's more part of a larger UDRP reform at least that's my understanding of it.

Konstantinos Komaitis: Thank you, Michele. Joy.

Joy Liddicoat: Thanks. Michele, please don't feel the need to be diplomatic. But I take your point and the fair use example may not have been the best one to use. What I was really getting at was that somewhere in this process I think it would be helpful if the working group is articulating from a registrant's perspective what are the due process protections that are in place for it.

Michele Neylon: So you're looking for kind of a clarification - a possible clarification of what their rights and responsibilities are?

Joy Liddicoat: Yes.

Michele Neylon: Maybe?

Joy Liddicoat: Yes. Yes.

Michele Neylon: Okay. That should be covered in the registrant's rights and responsibilities document that all registrars are now obliged to link to.

Joy Liddicoat: Okay so it may be - it may be that some sort of...

Michele Neylon: I'll get you a link.

Joy Liddicoat: Okay thanks.

Konstantinos Komaitis: Okay thanks. Anyone else with any comments on Number 2? Laurie please.

Laurie Anderson: Yes I was just going to say that, you know, the complainant should only need to notify the registrar with a copy of the filed complaint after a UDRP contact should they choose to have one. But from a process standpoint I think it would be beneficial to provide registrars with an outline of the steps of a UDRP case.

See because there's only a defined number of steps to every single UDRP case and it's easy to have it broken down. And I believe that some registrars may not be aware of, you know, what to do in any step.

Konstantinos Komaitis: Thank you, Laurie. One comment from me as well. I think that I agree with Laurie; I think that let's - my understanding is that there is - at some point there is a (devil)'s communication in between the filing of the complaint to actually - the center receiving it and then sending back notifying the registrar.

So I think that it would be efficient a copy of the complaint with the steps of the UDRP, as Laurie said, these steps are very specific and they're not lots, can be sent to the registrar so the registrar from Day 1 actually is - they are aware of what is happening.

Do you - Laurie, do you want to suggest an alternative language on that? Are you happy with that language of Number 2 I mean?

Laurie Anderson: I guess because it seems to be addressing the complainant - what the complainant must do, I mean, other than - from the complainant's standpoint all they need to do is file the complaint and copy the registrar when they file the complaint.

But I think that if maybe part of the - I don't know, maybe part of the written complaint form should contain the steps although I don't know whether registrars are going to go through and read it because usually you look for the domain name and, you know, go and find it and lock it, you know, create a case for it - or a claim for it.

But I think that maybe it should be more addressed towards the process of the steps that it goes through.

Konstantinos Komaitis: Thanks. And do you want to suggest some language on that on Number 2 that incorporates your suggestions?

Laurie Anderson: I can suggest some language. I don't have it in my head at the moment.

Konstantinos Komaitis: No, I mean, we can take it on the mailing list, that's okay.

Laurie Anderson: Okay, okay I can do that.

Konstantinos Komaitis: Okay, Marika, can you please make a note that, you know, we will be suggesting language with Number 2 but generally speaking my understanding is that we are all happy with this.

Let's go to Number 3; whether the timeframe by which a registrar must lock a domain after a UDRP has been filed should be standardized.  
Matt.

Matt Schneller: Sure so this was added just to reflect the concern raised in our very initial call that Michele and Laurie had raised that there isn't any clear guidance for registrars as to how quickly they needed to act and what the trigger was for locking a domain name. And this just puts that squarely on the working group's plate.

Konstantinos Komaitis: Thanks, Matt. Can I ask the registrars one question? Is there any norm as to when you guys are locking the domain name? I mean, my understanding is that, you know, there is not a rule but is there a norm? Thanks. Michele and then Laurie.

Michele Neylon: Laurie has got more experience in this area so I'll let her go first.

Laurie Anderson: Actually as soon as we receive notification - if we receive notification of a filed complaint - so if a complainant copies us on their submittal then we will lock the domain. And then we set a follow up and if we don't hear from the forum within five days then we will reach out to them and say is there really a complaint.

And sometimes it's just they're going through their process and they just haven't gotten to us yet for verification. But generally we receive something from them within two days.

Konstantinos Komaitis: Thanks, Laurie. Michele.

Michele Neylon: I mean, we're not as big a registrar as Go Daddy. This is where you're meant to go get out your little pint-sized violins and, you know, go oh poor Michele.

You know, for smaller registrars that don't have dedicated teams - legal teams and everything else this - some level of clarification with clearer - how can I put this? With - it's some kind of level clarification will give you clearer parameters under which we are meant to operate in order to remain compliant is the key reason why I volunteered for this working group.

It's because from my perspective if I'm going to lose my ICANN accreditation I want it to be for something massive that I intentionally did. I don't want to end up falling foul of ICANN's compliance team due to a misunderstanding or a possible misinterpretation of something whether, you know, there aren't - when it comes to this entire topic it's not very clear.

So the wording that's there from my perspective I'm perfectly happy with that kind of query. Thanks.

Konstantinos Komaitis: Thanks, Michele. Anyone else would like to make a comment? Yes? No? I think that since you don't have a comment I think that makes this an uncontested item and we can leave it. So

Number 3 we all agree that it should be there and we should ask the working group to address this issue.

And I think the same goes for Number 4 whether what constitutes the locked domain name should be defined. I think that from the mailing list at least I think this also was uncontested. Unless anyone wants to say anything on Number 4 we can go to Number 5. Great.

Number 5; whether once a domain name is locked pursuant to a UDRP proceeding the registrant information for the domain name can be changed or modified. Matt.

Matt Schneller: Sure. And I can run the alternative - I don't think there's any issue with the modified language that you had proposed either which was whether once a domain name is locked pursuant to a UDRP proceeding the registrant information for that domain name may be changed or modified.

I think that's - that phrasing seems like it addressed some of the concerns that were raised on the mailing list and doesn't change the underlying issue which is just a clarification of the definitional question. If it's locked can the registrant name be changed in any way.

Konstantinos Komaitis: Thank you, Matt. Anyone want to make a comment on Number 5? Michele.

Michele Neylon: So, Matt, would it be fair to say that 4 and 5 are basically the one thing? I mean, in other words if a lock - or maintenance of the status quo because locked doesn't actually appear in the UDRP language - is

more clearly defined than that does the same thing, I mean, it achieves the same goal. Is that correct or am I putting words in your mouth?

Matt Schneller: No that's exactly right. This is just one of the most commonly encountered definitional issues and that's the only reason why it was called out separately.

Michele Neylon: Okay.

Konstantinos Komaitis: Would it make sense to put it under 4a and 4b perhaps?  
Marika, I mean, I see that - yes let's put that 4a and 4b. Anyone want to make any other comments on 4b?

Michele Neylon: No.

Konstantinos Komaitis: No? Great. Then we can move to what previously was 6 and right now it's 5. Whether the timeframe by which a domain should be unlocked after termination of a UDRP should be standardized? Haven't we discussed that? Oh it should be unlocked, sorry, after termination of a UDRP should be standardized.

Any - Matt, do you want to - who suggested this? Matt.

Matt Schneller: Sure so 5 is essentially the same thing as 3 except for the end of the procedure. And just to provide some clarity about the rules once the proceeding is over.

Konstantinos Komaitis: Thanks. Can I ask one of the registrars here what's the norm here again? When does normally the domain name get unlocked after the UDRP? My understanding was that it happens as soon as you

receive the decision calling for the transfer or the same status quo.  
Laurie.

Laurie Anderson: There's a 10-day waiting period after the - after you've received the decision. And...

Konstantinos Komaitis: Of course, yes, sorry.

Laurie Anderson: ...we count the 10 days. Now if we're talking about a termination then there is no more dispute so it's over with and we'll unlock it immediately. But if there is a decision then the other party has to have the option to dispute it through a court so they would have to wait the 10 days.

Konstantinos Komaitis: Thanks, Laurie. Ken.

Ken Stubbs: Hello can you hear me?

Michele Neylon: Yes, Ken, we can hear you.

Ken Stubbs: I'm sorry. I'm sorry. Yes, there's just a couple of questions on these time periods. Correct me if I'm wrong, Laurie, but isn't there a specific requirement for the 10-day period? This is not an internal Go Daddy policy but rather a policy that's hard-coded into the UDRP is it not?

((Crosstalk))

Konstantinos Komaitis: Yes that is correct. Sorry.

Ken Stubbs: Well then why are we even worried about whether or not this should be standardized? In effect it is standardized, you know. We're talking about - are we revisiting the current policies that the UDRP has with respect to these time periods?

And what right would a registrar have to continue to lock a registration on a domain that has cleared a UDRP with no, you know, no change or anything like that? The registrar would be in violation of the - I'm guessing again not being a registrar - would probably be in violation of one of the ICANN guidelines in the registrar accreditation agreement. Am I right or wrong there?

Konstantinos Komaitis: You're right, Ken. And Matt has just (unintelligible) on the chat saying - sorry, I wasn't clear enough. After the 10-day wait period how soon thereafter does the registrar need to unlock. So basically, you know, this refers to after the 10-day period has lapsed how long does it take to unlock the domain name. Michele then Matt then Laurie. Thanks.

Michele Neylon: Yes, I mean, Matt actually asked the question. I mean, it's how - it's - sorry - because I think, Laurie, even though you're thousands of miles away it's catching.

It's not - there seems to be some confusion and this is based not on my own experiences but just from kind of chatter and what people have said - that it's - there seems to be a bit of confusion - yes Ken is right, there is a 10-day thing mandated by policy.

The - I think part of the - it seemed to me part of the confusion stems from whether it is on the 10th day or the 10th day plus one or

something like that. It's actually - it's not 100% - I think whatever it is - whatever way it's worded seems to cause some confusion. Maybe Laurie can speak to that.

Konstantinos Komaitis: Please, Laurie.

Laurie Anderson: Okay the 10-day period is only on the decision. And if, like I said before, if it's a termination it would be unlocked immediately. But the 10 business days is in the location of the registrar so if there's a holiday or whatever that's - if the registrar is celebrating then, you know, it would be moved onto the next day.

We wait 10 full days. So, you know, the first 24 hours would end the day following that we received the decision. So we would wait 10 full days - 10 full business days and then implement on the following day.

Konstantinos Komaitis: So at least basically then happens as long as it is a business day after the 10-day period this happens on the 11th day correct?

Laurie Anderson: Correct.

Konstantinos Komaitis: Thanks. Ken.

Ken Stubbs: Yes, I guess my concern is why do we want to be putting these additions into our mission scope? It seems to me that what we really need if we have any concerns is a request specifically to ICANN to develop some sort of a clarification whether it is a chart, a time, a guideline or something like this that would go on the Website where they discuss the UDRP.

And I don't think we're - we're not really doing anything that's policy-related here but rather maybe more operationally related; how to make it work more effectively to ensure that the public understands exactly what their options are and if necessary the registrars - it just ratifies to the registrars exact - you know, gives them the clarity as well.

Konstantinos Komaitis: Thanks, Ken. I think that what we're trying to do here is to, you know, this is subject to the locking of the domain name. We're trying to standardize as much as we can the process. Actually we're not trying to even standardize that; we are asking the working group that will be formed whether there is a need to standardize the process. Michele.

Michele Neylon: I mean, Ken does ask a very good - raise - oh God my throat is going again. Ken raises a very valid question. Yes, I mean, of course this is what we're actually trying to get - to clarify. It is primarily operational. It's not - this working group's - the working group - this isn't even a working this is a drafting group.

The working group will be working on clarifying an operational thing. But unfortunately the operational aspects cannot be completely divorced from the policy.

So as the policy - as the - the policy that fits over this cannot be touched for whatever period of time it is that's where this came from because there is a strong feeling amongst registrars and obviously amongst people who are submitting complaints that there does need to be clarity and this needs to be cleaned up.

So, I mean, yes, Ken, these are the questions that need to be dealt with. But I for one wouldn't be overly comfortable with the idea of ICANN unilaterally pushing out something and just saying, you know, this is the law without actually offering us the ability to have a working group where we could actually get input from affected parties both who submit complaints and those of us who have to deal with the complaints plus the affected parties just to see what exactly the issues that we're facing on a day to day basis are. Thanks.

Konstantinos Komaitis: Thanks, Michele. Laurie.

Laurie Anderson: I think that the timeframe is allowable - is for allowable court-filed complaints after a decision. So say the decision was to transfer the domain and you're waiting 10 days and then the other side is going to file a complaint.

If the name was still locked after the 10-day period and a court-filed complaint was received after the 10-day period then, you know, do you leave the domain name in the current registrant's account or, you know, in their name?

Do you implement it and then relock it for the decision, you know, relock it for the new complaint that's come in? Do you consider that court complaint a new complaint even though it's filed against, you know, the previous decision. So I think that - I believe that the 10 days is the timeframe that, you know, you're allowed to accept a court complaint.

Konstantinos Komaitis: Well the - thanks, Laurie. The UDRP states that very clearly that the 10 day frame - can I ask the registrars before I go to Ken - is

the standardized process whereby after the 10 days something flags up in front of your systems to let you know that the domain name should be unlocked? I mean, how - what is the process? Do you go manually? Because if there is such a system I am not sure that this is necessary. Ken and then Laurie. Ken, are you there? Is that a new hand or an old one? Ken?

Michele Neylon: I think that's an old one, Konstantinos.

Konstantinos Komaitis: Laurie, do you want to say something? Is that a new one or an old hand?

Laurie Anderson: Well it's an old hand but I can say something else.

Konstantinos Komaitis: Okay thanks Laurie.

Laurie Anderson: We have a process that, you know, we just - we use the calendar follow up dates. You know, and when we receive a decision then we set it out, you know, 10 business days and we follow up. And if we haven't received a complaint then we implement the decision or unlock the domain, you know, or not unlock it but we would implement the decision. If the complaint was denied we would unlock it immediately.

Konstantinos Komaitis: So am I correct in understanding, Laurie, that you consider Number 5 to be a little bit pointless?

Laurie Anderson: Yes, I mean, the 10 days is pretty standard in the UDRP. So I guess, you know, there have been arguments in the past over whether, you know, when did the 10 days start? Did they start on the day that -

do you count the day that you receive the decision? Do you start counting the day after?

You know, so there's some - maybe that should be clarified but I don't know - I think it's pretty standard.

Konstantinos Komaitis: Thanks, Laurie. Well I don't think that this drafting team or the working group can clarify when the 10 days starts because that's part of the UDRP review. That's my reading at least. Matt.

Matt Schneller: Yes, I think that's probably right that clarifying the 10 business day thing is probably beyond the scope a little bit if you're trying to figure out exactly when the counting goes. But there's nothing in the UDRP - the rules or in supplemental rules that dispute procedures have that tell - that say at the end of the 10 day period you then have to unlock it immediately or do you just have to unlock it at some point.

There's no standard just like there's no standard on the front end how quickly does it need to be locked after a complaint is filed. I just think that clarity would be useful.

Konstantinos Komaitis: Thanks, Matt. But I - Matt, I understand where you're coming from but at the same time I do not see what the benefit, for example, would be for the registrar to keep the domain name locked indefinitely or for more than is required after the 10-day period.

I mean, my understanding is that, you know, this is sort of an unconventional uncontroversial issue whereby as soon as the 10 day lapse is the day or even by the latest two after they unlock the domain

name because they have no valid reason or they don't get anything out of it by keeping it locked.

So what I'm trying to say is that it is - I don't - it is not as controversial as the Number 3 where you need to standardize when you will lock the domain name. But that's just me.

I don't know - I suggest that this is not necessary but this is - and I touched on the (unintelligible) so I think that we should take it on the list and we should put a vote for each one of them and see whether we need it. I don't know. Laurie, do you want to say something?

Laurie Anderson: Sorry that's an old hand.

Konstantinos Komaitis: Ken. I think that's an old hand as well. And last but not least Number 6; whether the standard of the locking of a domain name subject to UDRP should be raised and not be based on the single request of the complainant. I guess I need to speak on that because I was the one that suggested it.

The rationale behind this is that complaints can be against cyber squatters but as we have often seen in the UDRP they're also against legitimate owners. I think that there needs to be - in order to preserve due process and fairness here we will need - the complainant will need to establish that this locking should happen so the burden of proof needs - the same way it falls to the complainant to prove their issues with the UDRP I think that before we start asking registrars - and registrars of course will comply - to have a much higher standard as to why the locking should be done.

That is the rationale behind it. May I ask - Michele. Thanks.

Michele Neylon: I'm troubled. The - oh how do I even reply - respond to that? It's not really of the - I think, Konstantinos, what you're getting at here is way beyond what we're meant to be looking at. Because ultimately under the current UDRP as a registrar if we are informed of a UDRP process starting - surrounding a domain name we are obliged to lock the domain or maintain the status quo, whatever you're more comfortable with.

Whether the UDRP that is being submitted is totally spurious or not it's not up to us to look at that it's just basically we have received a UDRP. I think if the - it kind of goes back - I'm not even too sure where this is coming from because if the domain is subject to UDRP proceedings we are obliged to lock the domain.

If the UDRP is totally spurious well fine but that's up to the panelists to decide surely. I don't see how this is in scope. I'm quite confused by it to be perfectly honest.

Konstantinos Komaitis: Thanks, Michele. I can clarify a little bit where this was heading to. Right now my understanding is that we do not know when the registrar is asked to lock a domain name. So for example we may end up with a process where what this tries to prevent better yet is the scenario where the complainant first sends the complaint - the request for locking to the registrar and then after three or four, I don't know, 10 days files the UDRP complaint. So basically...

Michele Neylon: Oh okay so what...

((Crosstalk))

Michele Neylon: Okay so Konstantinos, what you're saying then is if - is that instead of a complainant copying the registrar on a complaint as it's sent into WIPO or whoever that they send a separate - that they're sending a separate complaint with or without submitting it to the forum, the arbitrator, the panelists, to WIPO, the whatever you want to call them.

Konstantinos Komaitis: Exactly. Exactly.

Michele Neylon: Okay.

Konstantinos Komaitis: So I was trying...

((Crosstalk))

Michele Neylon: So hold on, hold on. So basically what you're actually talking about here, if my understand, would be that it's more to do with cleaning up the other request about the - I think that Matt was speaking to. I mean, Matt has got his hand up maybe he might want to address this. But I think the way you're phrasing that I understand what you're getting at now but the way you phrased that scared the hell out of me.

Konstantinos Komaitis: Okay Matt. Matt, you have your hand up.

Matt Schneller: So sorry.

Konstantinos Komaitis: Oh thanks.

Matt Schneller: I apologize, I still had the mute on. Maybe one way we can address this issue and the follow up concerns that Michele had about not wanting to be a UDRP decision maker in any way is to simply - if the working group decides it's the appropriate way to do it - and obviously that's a later step - to require the notice to the registrar that is a locking request to be in the form of a carbon copy of the complaint as filed with the dispute service provider.

At that point it's clear to everyone involved that the complaint has been submitted. Obviously there still needs to be the formality check by the service provider. But that happens, as was noted earlier, within two to three - in rare instances maybe five business days. And all we're talking about is making sure that the domain name ownership doesn't change in that interim period.

Konstantinos Komaitis: Thanks, Matt. Anyone else want to make any comments?  
Nope. Joy. Thanks.

Joy Liddicoat: Thanks, Konstantinos. And I'd just like to support Michele on his point that he's raising about keeping this as simple and as clean for registrars as possible and certainly keeping registrars hands off as it were the dispute itself. I think that's critical.

And point taken, Matt, on the issue of those complaints where there's simply a simultaneous notification of the registrar of the complaint that's filed with the - under the UDRP.

So I guess the only question then is if there are, you know, direct requests, just responding to your point, Konstantinos. And I suppose my only sort of observation would be that I sent one of the useful

questions for the working group to look at is whether - in order to both protect registrars and their hands off role and also registrants with some other further requirement might be needed in the case of a complainant - in the case of a complainant that hasn't simultaneously filed the UDRP request - dispute or whether they just simply don't have the right to request the domain name locking at all.

And I'm not sure whether that will cover you point, Konstantinos, or not or whether that's going to be outside the scope of the working group (unintelligible).

((Crosstalk))

Konstantinos Komaitis: Thanks - oh sorry.

Joy Liddicoat: Yes, just reinforcing that hands off role for registrants and keeping it clean and simple for them is quite - really important.

Konstantinos Komaitis: Okay thanks, Joy. I can submit much better word - language for Michele's sake as well. Michele wants to speak I think. We're already past the time so Michele, please quickly.

Michele Neylon: I can be quick when necessary. I think, look, ultimately Number 6 in its current form needs to go because I think it's moving into a dangerous area. What I think would actually work is maybe Konstantinos if you want to have a look at combining the spirit of what you're getting at, which I don't have an issue with - please don't get me wrong; I don't have an issue with what you're suggesting.

But I think it needs to be - it's more to do with - it's more to do with the entire kind of communication side of things. And just as a side note complainants don't get to request locks. I've never come across that concept. I mean, you don't get to request the lock. You submit a complaint. It is up to the registrar to take appropriate action to freeze the domain. But the complainant can't ask us to lock the domain like that, I mean, that's not really how things work.

I think it's been great. There's been some wonderful backwards and forwards here. Maybe we just continue this on the mailing list. But, I mean, I think we're getting close. I can smell - I can smell it. Thanks.

Konstantinos Komaitis: Thanks, Michele. Yes, I agree I think that we're getting there. Can I ask Marika - my understanding is that we have a very tight timeframe now because if we want to have this for the agenda for the GNSO in Costa Rica we need it submitted by the 6th of March? Is that correct, Marika?

Marika Konings: This is Marika. Yes, that's correct. That's the deadline.

Michele Neylon: So I think we should meet again next week then, Konstantinos.

Konstantinos Komaitis: Yes that's what I was about to propose. I think that we should do a lot of work on the mailing list like we've done and possibly meet next week and if possible finalize what this charter will look like so we can just put it before, you know, insert it with the GNSO agenda. Is that okay?

Marika, can we please send out a Doodle poll for next week even though I would suggest that we meet the same day and the same time.

But if you can actually send a Doodle poll and see whether - how many people would be able to do it - to make it next week.

Any other issues? Matt actually says hopefully we can finalize an email. Yes, I mean, if we manage to do that and at the last minute we consider that there is no need for a call then we can certainly not have a call. But I think that it would be better to have it scheduled just to be on the safe side.

So, Marika, can you please put out the Doodle poll and - to see - and to basically schedule a call for next week - same day, same time.

Marika Konings: Okay.

Konstantinos Komaitis: Thank you very much. Any other issues? Any other comments? Well thank you very much; it has been great - great discussions. And see you - speak to all of you next week and through email. Bye.

Michele Neylon: Bye.

END