

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

TRANSCRIPTION

Thursday 30 August 2012 at 1400 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 Thursday 30 August 2012 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. The audio is also available at:

<http://audio.icann.org/gnso/gnso-locking-domain-name-20120830-en.mp3>

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

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

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

Attendees:

Gabriela Szlak, CBUC
Randy Ferguson, IPC
Alan Greenberg, ALAC (Vice-Chair)
Matt Schneller, IPC
Celia Lerman Friedman, CBUC
Hago Dafalla, NCUC
Brian Beckham, WIPO
David Roache-Turner, WIPO
Ty Gray, WIPO
Michele Neylon, RrSG (Chair)
Lisa Garono, IPC
Kristine Dorrain, NAF
Luc Seufer, RrSG
Laurie Anderson, RrSG
David Maher, RySG
Jonathan Tenenbaum, RrSG
Volker Greimann, RrSG

Apologies:

Andrii Paziuk
Juan Manuel Rojas, At-Large
Faisal Shah, individual

Staff Support:

Marika Konings
Berry Cobb
Glen de Saint Géry

Woman: I think everybody has got it, please go ahead.

Glen DeSaintgery: Thank you. Good morning, good afternoon, good evening, everyone. This is the LOCK call -- for wanting a better short name for it -- on the 30th of August.

And on the line we have Hago Dafalla, Matt Schneller, Gabriella Szlak Celia Lerman , Brian Beckham, Randy Ferguson, Michele Neylon, Kristine Dorrain, David Maher, Alan Greenberg, Jonathan Tennebaum, Laurie Anderson, and Lisa Garono.

For staff we have Marika Konings, Berry Cobb, and myself, Glen DeSaintgery.

Thank you very much. May I just remind people to say their name for the transcription purposes. And over to you, Michele. Thank you.

Michele Neylon: Thank you. Good afternoon, everybody. I hope we're all happy or relatively not unhappy. As per usual, does anybody have any updates to their Statement of Interest or their Conflict of Interest?

Oh my God, the number of people in the (WIPO) - the (WIPO) attendee list is expanding, (we got) three of you.

Gentlemen?

Brian Beckham: Yes. Hi Michele, everyone. This is Brian Beckham.

I wanted to introduce -- I think I did last week, but unfortunately it was before we started the recording of the call -- my colleague (Ty Gray) who works on UDRP cases. And probably particularly of relevance to this group, acts as the liaison with registrars for UDRP cases for (WIPO).

And so I actually myself will be turning my attention elsewhere, so we'll leave (Ty) to replace me on this particular group. So we'll work with Marika and Glen and whoever else can help us on ICANN staff to get a Statement of Interest out for (Ty) and get him to replace me on the group from here on out.

Michele Neylon: (Do you say) you're running off to join the circus and deserting us?

Brian Beckham: Yes. Well it's, you know, the high wire act has been calling my name for awhile and, you know, this is a real passion of mine, but you have to follow your heart.

Michele Neylon: I'm very offended and hurt. I'll cry myself to sleep tonight. You know that, don't you? I take all these things personally.

Welcome to the group. I think I spoke to you already the last call, (Ty), I think.

(Ty): Yes, yes, thank you. I'm glad to be here and hopefully contribute as much as I possibly can.

Michele Neylon: And as mentioned previously -- for those people who are new to ICANN working groups -- if you're having issues, if anything is

confusing you, do feel free to reach out to either myself, Alan, or any of the other people. I won't say the old gang or anything like that, because I know that might upset some people.

Right. Now there's a couple of things that we wanted to have a quick look at. In the interim between the last call with the entire group and this meeting, Alan and I got together to put together -- with of course the help of the hardworking ICANN staff, Berry and Marika -- a workgroup plan and timeline, which is now up on the Adobe Connect for you all to see.

So there up on the Adobe Connect - at the moment we are at the end of August, so today is the 30th of August, you can see there on the workgroup plan and timeline. And then we put in a few other items in there. So for example, the initial public comment period, closing, and the various meetings and everything else moving forward. So it's all there in front of you.

Now if there's any changes or any revisions or any comments people would like to make on this, please feel free to speak up, make your thoughts...

Gabriella Schitteck: I just wanted to thank you both. My name is (Gabriella) for the transcript. It was real interesting to see this timeline for me as a first working group experience, I mean.

Michele Neylon: And just as a side note, it's my fault, we should've had that earlier but we didn't. But we do have it now.

Marika, go ahead.

Marika Konings: Yes, and this is Marika. And I think especially for those that are new, of course, after we finish now (at a time) and on 13 of December, but obviously after that there are some other requirements that their group will need to fill. So we'll fill that in as we get closer to those days.

And just to note as well that, you know, this is not a set in stone document, I think at regular intervals the working group might want to go back to this work plan to see if we're still on track or whether there's a need to, you know, revise the entries or possibly add more meetings if needed (unintelligible) still at a timeline you set out.

But this is also a tool for the GNSO council to basically follow where the working group is at and when they can expect to receive any of the work product.

Go ahead, Celia Lerman.

Celia Lerman : Thank you. Yes, this is Celia Lerman for the transcript.

I work on - I just wanted to know if there will be - what will happen in Toronto? Is there any presentation that will take place like in (Prague) or it's just the face-to-face sessions?

Michele Neylon: Celia Lerman, it's Michele. I think part of this is something that we can also look at closer to the (Prague) meeting.

One of the things that's very, very important for the public meetings is making sure that working groups get a meeting slot. So we have to book the slots very far in advance. So in some instances we know

exactly what we want to do. So let's say in some cases we've had a report out and obviously, you know, you want to discuss the initial report or the final report, depending on what point you're in in the (PDP) process.

Other times it might be suitable to give presentations. Other times it might be suitable to have a normal (unintelligible) meeting of the working group, and then throw things open a bit for input from the attendees afterwards.

I mean, it could be done a number of different ways, but the key thing is to get it on the timetable. So there is the non-answer answer, if that makes sense.

Celia Lerman: Okay, very clear. Thank you.

Michele Neylon: Marika, go ahead.

Marika Konings: Yes, this is Marika. And just to add to what Michele said. And so on that basis we have put in a request for a meeting and I think we've requested in principle the same time as in the (Prague) meeting, which if I recall well I think was on a Thursday from 9:00 to 10:30, if I'm not mistaken. Of course there's no guarantee that, you know, we would get that same slot because it all depends as well on the other meetings.

And in addition to that, there's also likely going to be an update to the GNSO council which normally takes place over the weekend session, but that's usually one that's covered by the Chairs. Or if the Chairs aren't available, staff can do it as well. It's not a requirement for the whole working group to be there, but it's an opportunity for the council

to get an update on where their working group is at and ask any questions that they may have.

Michele Neylon: And just adding to what Marika is saying about the GNSO council updates, both myself and Alan have given them at various times over the last few years for a variety of different working groups. Some of the updates, you know, you have a couple of slides just kind of going right, you know, this is what this working group is dealing with, this is what we've done so far and that's it. And, you know, you do that presentation and any questions and, you know, nothing, you just end it. But it takes five/ten minutes maximum.

Other times if you're dealing with something which is likely more contentious, there might be - or something that the councils don't really understand or whatever, we might end up in a situation where there's an entire discussion about, you know, what it is that we're doing. Other times we have to ask the council for guidance. Where, for example, let's say that the parameters of a working group might not be 100% clear or maybe we want to make sure that, you know, a particular item is within scope or whatever.

So it varies a little bit depending on both the working group, the stage it's at and, you know, a couple other factors.

But anybody who wants to come along to the weekend GNSO sessions is more than welcome. They're terribly, terribly exciting.

Is that okay, Celia Lerman?

Celia Lerman: Yes, perfect. Thank you.

Michele Neylon: Okay. Right, then anything else on this? The initial report, if you look there, I mean, basically what we got is up to now what we've been doing. We've also had an exchange as well with - there's also the possibility of a meeting with some people from the ccNSO in Toronto, which obviously wasn't on the agenda because the email only landed in our inboxes in the last hour or two.

Other working groups have from time-to-time had some kind of interaction with the ccNSO people because, you know, they deal with domain names too so, you know, they have a lot of experience.

Because we'd asked for input from other SOs under ACs. And SO is a supporting organization, an AC is a - what's an AC, Marika? My brain's not working very well this afternoon.

Marika Konings: Advisory committee.

Michele Neylon: Thank you. Sorry. ICANN acronyms, if you step away from them for too long you forget what they all stand for.

So a lot of this stuff is always getting, you know, getting as much input as possible. So you can see that throughout September we are going to try and work our way through our (charger) questions, we've already got some work which we'll be dealing with today, then we will review the public comments. There's been several public comments we've already had a look at briefly.

What can happen with public comment periods is that all the comments come in literally in the last 24 hours that the comment

period is open. So if there's nothing there now, it doesn't really mean anything because they could all arrive at the 11th hour.

Then we have from the 25th of October onwards is the entire - the several weeks we put in for creating and reviewing the initial report. And then towards the end of November publishing the initial report for public comment, and then moving on from that.

And as Marika said, there's obviously other stages that have to go after that. I mean, I think - what are the obligations, Marika? There's initial public report, comments and feedback on that. And then can you go directly to a file report or do you need to do something further? Remind me, please.

Marika Konings: This is Marika. It could go directly to a final report, it depends a little bit. If there are significant changes to the recommendations as a result of the public comment, you know, working groups are recommended to actually put it then again out for public comment to really make sure that everyone had an opportunity to review and provide input.

But if there are few changes or non-substantial changes that make the report from the initial to the final report, that can be then submitted immediately to the council for consideration.

Michele Neylon: Okay. Thanks, Marika.

So any other comments, questions, or anything on the working group plan-type thing? Nothing? Are we all happy? Okay.

The other - okay, then moving back to the agenda. The public comment forum - let's see, how many more comments have we got at this stage, Marika?

Marika Konings: This is Marika. At the moment we have three comments received. I think the initial public comment forum is open until the 4th of September, and then the reply period starts. But in principle nothing prevents people from submitting normal comments that are not replies in that period as well.

Something the working group might want to do is have a look at the comments that have been received to date. Because if there are any clarifying questions the working group would like to ask to those that submitted comments, there's nothing preventing the working group from doing so during the reply period as well.

Michele Neylon: Okay, thanks. No other comments there? No, okay.

On the, I mean, as mentioned already, you know, we could probably end up - we could end up with a load of comments coming in at the very last minute. But, you know, have a look at the ones that are there.

Now the other thing as well was last night we had a document from I think it was Kristine - oh sorry, go ahead, Marika.

Marika Konings: Yes, this is Marika. If I can just go back to the other items under Agenda Item 2 just as an update and maybe for people as well to check with their respective constituency and stakeholder groups.

Because we did send out a request for a stakeholder group and constituency statements -- which is one of the requirements of a (PDP) -- at the end of July with the request to submit that by the first of September. But today we haven't received anything.

I think Glen has or is in the process of sending out reminders. But it might be helpful if people can check with their respective constituencies whether anything is forthcoming so the group can at least anticipate if those are being submitted at a later stage.

Then also we did have some delay in getting out the request for input to the other supporting organizations and advisory committees, but it has gone out now as well. I think some of them were already aware of our request for input as a result of the public comment forum, which was also widely distributed.

And as Michele mentioned, the ccNSO has come back and said that they might have a challenge in actually providing input to us in a written form as the ccNSO or a ccNSO council because they need quite a bit of time to actually go through their respective processes.

But they have suggested that if there's an interest from this working group to liaise or have a discussion with ccNSO members as some of those also, you know, use UDRP or similar UDRP processes, that might be something that can be explored for the Toronto meeting.

Michele Neylon: Thanks, Marika. Any other comments on this at this time? No, okay.

Kristine has a little bit of homework to do for this week, which was basically to come up with a working definition of what (ALAC) means,

okay? So she posted that to the list with a couple of discussion points, and also the URS definition.

So far on that we've had -- apart from my reply -- (Luke) also suggested some alternative wording.

So let's have a look at the wording that Kristine - Kristine, are you there? You are, I think.

Kristine Dorrain: Yes, I'm here. Kristine.

Michele Neylon: Okay. All right then, so the (unintelligible) wording you have is, "The registrar shall restrict all changes to the registration data including the data displayed in the publicly available Whois database, and including transfer and deletion of the domain names, but name will continue to resolve."

(Luke) suggested adding, "Unless otherwise set forth in the UDRP policy and/or UDRP rules, the registrar shall restrict all changes to the registration data including the data displayed in the publicly available Whois database, and including transfer and deletion of the domain names as well as the name servers on which the name is hosted."

So it's just adding a little bit more to it and twisting it around.

I had a couple of - answer one second. I had a couple of queries as well. So there's a couple of discussion points and queries.

From Kristine, Whois privacy/proxy services (unintelligible) can the registrar unmask? Another question...

Kristine Dorrain: (Unintelligible). And this is Kristine, I just wanted to interrupt with these are sort of my in line thoughts. And then I just realized the other night that I never actually sent this document to everybody, so I needed to get it out there.

But really with this question, I know that we (unintelligible) the position of deciding whether or not they can unmask necessarily, but how did that affect the definition? Like how do we want that to tie in and do we want to make an explicit sort of, you know, finding a specific sort of recommendation in the definition of (ALAC)? Or will that just maybe be part of the greater recommendation that we come out with at the end of the day?

So it was just sort of tossed out there. Does that fit anywhere in part of (ALAC)? Or is that just something for a broader consideration?

Michele Neylon: Okay, thanks. Alan, go ahead.

Alan Greenberg: Yes, I think the answer to that is linked with the answer to your first question, Michele. There are strong benefits to not changing Whois period, I think, because it's a lot easier rule to apply than to say you can't change it accept, and then try to define what the accepts are. So that's number one.

Number two, there's an issue of registrants rights. And at this point if they are unmasked in Whois, their privacy has been violated potentially for a UDRP that will fail. And potentially even for a capricious UDRP that was filed just to find out who the real registrant is.

So there's strong benefits to not unmasking public. The question is does the rest of the UDRP require that we do that? Or can the unmasking be done through a back channel?

So if we can do the latter, one way or another, then it becomes easier to define what (lock) means.

Kristine Dorrain: This is Kristine. And I don't want to necessarily answer, you know, any your questions accept to say that I'm trying to consider the practices of - the actual practices of a lot of the registrars we deal with, which is some of them do want to lift that privacy service. And they have that contract with their customers that in the event the UDRP is filed, we're pulling the Whois information, we're pulling our privacy information, your information's being unmasked.

So should our recommendation basically say the contract you have with your clients is no good? I mean, and I'm just throwing that out there for discussion.

Alan Greenberg: I think the answer is if we change the rules they may ultimately have to change the contract with their clients.

I mean, we're looking at changing a policy in a narrower way, nevertheless, but we're looking at changing a policy and there may well be implications. One of the things we have to consider is is the change that we're requiring too onerous to require, but that's part of the process.

So I don't think there's anything that says we cannot do anything which will require registrars to do things differently, but that's for us to decide.

Kristine Dorrain: Okay, this is Kristine and I'm (circling) back around to last week - or last call because I think that maybe I'm the one who's under a misunderstanding here. But I didn't think we were actually changing any policy. I thought we were here to make a recommendation about some best practices or to talk to people about what the proper steps to comply with the current policy are going to be.

That doesn't mean that we couldn't maybe recommend policy changes. But I understood that our charter was to, first and foremost, try to work within the policy that we have with recommendations to registers for how to stay within the policy that we currently have.

Alan Greenberg: My inclination is to call in Marika. But my answer to that is it's a (PDP) and changing policy is one of the outcomes, one of the (positive) outcomes.

Michele Neylon: Okay, just so I could - this is Michele speaking as Chair. Ladies and gentlemen, would you please use the Adobe Connect to raise your hand when you - you all have an opportunity to speak and to respond, because we will descend into chaos if we do not have an orderly queue.

Alan Greenberg: Noted, thank you. I apologize.

Kristine Dorrain: My apologies.

Michele Neylon: Okay, just please use the queue thing.

Okay, Alan, that's fine. With respect to Kristine's query about the charter and everything else, okay, first of all, as Chair of this group I am very conscious of the fact that the GNSO does not want any revision or change to the UDRP policy as a whole. I'm very conscious of that.

I'm also very conscious of the fact that there is and there are gaps and there are areas of clarification. And with respect, for example, to this question that Alan has raised here and I also raised with regard to (Reveal) versus (Relay) and everything else, this is something that has come up several times in the past.

So personally I don't feel that there is any issue with us discussing it. Maybe we cannot implement a policy because I don't see any reason why we cannot discuss those because it does cause headaches.

Alan, have you anything further to add? Or can I move on to Laurie?

Alan Greenberg: Yes, just one very quick thing about - my computer's frozen right now, so I can't put my hand down or raise it up again.

My understanding is the GNSO definitely did not want a revision of the overall UDRP, that is take a look at the whole thing. But they did start a (PDP) on the issue of (locking), and therefore my reading -- and I may be wrong -- is that, you know, if a policy change is necessary, with regard to the narrow issue of (locking), that is within our scope.

Michele Neylon: Okay.

Alan Greenberg: But they certainly did not want an overall review of UDRP was the main issue. Thank you.

Michele Neylon: Thank you, Alan.

Alan Greenberg: And consider my hand down until I can actually lower.

Michele Neylon: Okay. So Alan, we will ignore you studiously until such time as you tell us not to.

Alan Greenberg: I will call out if I need your attention.

Michele Neylon: Okay. I'm going to let Marika go first because she's probably going to say something meaningful. Not that the rest of you won't, but she generally says things very meaningful which we all need to hear.

Go ahead, Marika.

Marika Konings: Thanks Michele. This is Marika. Just to, I think, agree with what Alan said, I think at this stage the working group shouldn't feel confined by, you know, what to recommend. Indeed, as Alan said, the charter does specify that it's not the objective of this working group to review the UDRP as a whole or make any changes that, you know, affect other parts of the UDRP, but should really focus on this narrow issue.

However, depending on the recommendations that come out, I think there's a further discussion that then we had, and possibly we need to get some input then as well from our legal staff to see whether, you know, such recommendations would need to be incorporated as part of the policy or possibly become an advisory or an explanatory note or

whatever shape or form that it will make sure that it's implementable and enforceable.

So I think at this stage we shouldn't worry too much about, you know, where those recommendations are going to end up, as long as we make sure that we focus indeed on these specific issues that are outlined in the charter.

Michele Neylon: Okay, thank you Marika. Laurie Anderson, good morning Arizona.

Laurie Anderson: Good morning. It's very early here. It's Laurie. The UDRP was written before there were any thoughts of privacy services, so it's understandable that, you know, it's a difficult question, but legitimate privacy services should be able to cancel their service for their terms of service with the customer.

And if we don't allow, the true registrant could be prevented from defending their rights to the name. So - but that said, we don't really have a problem with disclosing privately to the forums if there's a concern about the registrant's information being available publicly.

Michele Neylon: Okay. Laurie.

Laurie Anderson: Yes.

Michele Neylon: Is that it? Are you finished or?

Laurie Anderson: That's it. That's it. Okay, sorry. It sounded like it stopped mid-sentence. My apologies. Okay, thank you Laurie. I put myself in at the end here. Taking my hat as the chair off, passing it to Alan temporarily,

putting my hat as a registrar and as a registrant, I'd agree with Laurie, that you know, that you know, in the terms and conditions of a privacy proxy, the privacy proxy provider might wish to reveal and change the Whois and make it so that it's accurate.

So I don't see what that - that shouldn't be an issue. But at the same time, if the privacy proxy provider is protecting the identity of somebody then, you know, revealing it in private to the dispute provider should also be allowed, I would think.

However, wasn't there a UDRP decision there recently where it was decided that the registrant was a repeat offender because of the privacy proxy service being used by a domain name even if they weren't the registrants in question. You know, it just causes another issue, so I don't know. I'll leave it back over to the rest of you.

Kristine Dorrain: Hi, this was Kristine Dorrain. I was just going to chime in that, yes, I think we just recently had a decision about the - one of our panels decided that the repeat offender was the privacy proxy service. But it's such a wide range. We have panelists who want to just go with the straight up, whatever's in the Whois, so if it lists a privacy service every time, it's just going to assume it's the privacy service.

Some panelists want to assume it's underlying. So I mean, I think it's helpful if we solidify sort of what the right answer is for, you know, where - you know, should you lock or should you not? I mean, lock the Whois information, should you not. I mean, that might also help the panelists be a little bit more uniform in their decisions because I've got panelists kind of all over the board on it. Some of them, you know,

when a registrar does release the privacy information but just to us, doesn't change it in the Whois information.

Obviously we're going to serve that information. We have to. The panel sees it. In some cases, the panel wants to change the registrant listed in the case from the proxy service or the privacy service to the registrant. Sometimes they don't. So there's really a lot of - I mean, there's a lot of ambiguity sort of all over the board on this issue, not just with registrars I think.

Michele Neylon: Volker has posted in the chat a link to an article covering a decision for UDRP panel and - which might be worth circulating to the list. Volker, could you circulate that to the list? That might be of some interest to people. By the way, welcome back Volker.

The other queries there that, okay, on Kristine Dorrain's discussion point, whether that transfers deletions requested immediately prior to the filing of the complaint, my comment on that was - and what about ones that were already in a deletion cycle, in other words, that were expiring naturally. They were - it wasn't that somebody had explicitly decided to delete them. It's just that nobody - they weren't being renewed. Does anybody have any thoughts on that? Kristine Dorrain has her hand up. Go ahead Kristine Dorrain.

Kristine Dorrain: Hi, I'm trying to follow the rules. This is Kristine Dorrain. See, I would say with respect to that question, you know, I know that while we have - ICANN has the expired domain name deletion policy, which does apply for a - to a domain name that has expired during the course of the dispute.

So that is covered, although there are many registrars in my experience who also will sort of apply that to domain names that have expired sort of immediately before the dispute is filed or, you know, right about that same time that the - where the domain name is naturally expired.

One problem we've sort of run into - it's not necessarily a problem. It's just a lot of inconsistency. If the registrant has requested deletion, or a transfer of the domain name, ostensibly before the complaint is filed, there are many cases I think (Ryan) or (David)...

Michele Neylon: Can I just interrupt you for one second because you're assuming that everybody on this call is 100% okay with every single policy in minutiae - or however you pronounce that word - which I - and I'll admit personally I'm not. What is the relevance of the EDDP policy in this? Could you explain what - or how this is relevant please?

Kristine Dorrain: Oh yes, absolutely. I'm sorry. This is Kristine Dorrain again. So the very last paragraph, I'm trying to remember of it's 3775 or something - anyway, the very last paragraph in the EDDP says that if a - and I'm going off memory here so I apologize - if a domain name is expired, or you know, I think it says deleted, but in the course of the UDRP, so after it's filed, then the complainant in a UDRP has the option to redeem the domain name.

Not renew it, but redeem it on behalf of the registrant essentially. And what happens is the complainant may or may not pay some sort of fee to the registrar to have the domain name be basically made reactive simply for the purposes of the UDRP.

So - and the Whois information is supposed to sort of be updated to say at that point, like, this domain - like, subject to UDRP - or there's some - it says right in the rules what the Whois is supposed to say and then what happens is the domain name is not allowed to be deleted during the course of the UDRP.

And then after the decision is issued, then the panel can, you know, transfer the domain name or if the panel transfers the domain name to the complainant, then the registrar will do that. If the respondent should win, then the domain name gets bumped back into the status that it was originally.

So if it is about to be deleted, then it goes back into about to be deleted or whatever it is. It goes back and then if the registrant previous to the UDRP being filed, was in a position to renew that domain name, you know, maybe it was in sort of the redemption status or something, then the registrant would also, you know, they wouldn't forfeit that opportunity to renew the domain name or, you know, as the case may be.

So that is how the EDDP applies to the UDRP. But that doesn't address what happens in those, like, in the few days or weeks immediately prior to the filing of a UDRP. And we do get a lot of verifications back that say, well, we're going to lock these three domain names. We can't lock that one because the client requested that to be deleted a few days or a few weeks ago. We're in the process of deleting it.

You know, complainants will write back and say, "Well, it's still active. Why can't we proceed?" And I say, "Well, we're waiting for deletion."

Well, then the domain name tends to stay active for some period of time after that so then the complainants are upset. So there's just a little bit of ambiguity there so I guess the question is - oh, and some registrars will actually lock the domain name and prevent it from deleting at that point and some will just say, "Well, it's going to delete on such-and-such a date. We're not going to stop it."

So the question I, you know, was posing here is do we want to specifically address a recommendation with respect to the lock? And is that within our power? I mean, I'm not aware of how all the other contracts work. There may be - we may not have power to say, well, you have to prevent deletion or transfer or something like that.

Michele Neylon: Okay, thank you Kristine Dorrain. Would anybody like to follow up on this, share their thoughts? Please don't tell me that none of you have any thoughts because I don't believe it.

Alan Greenberg It's Alan. I have a thought.

Michele Neylon: Go ahead Alan.

Alan Greenberg A change such as that, if we wanted to make it is really somewhat out of our scope. On the other hand, if we presented it to council saying we found - along the way we found that this change, which is not directly related to locking but, you know, it's sort of who's eligible to be locked and therefore, pretty close is a change that we really think would streamline the process and fix potential problems.

I would certainly be prepared to present that to council. It's just marginally out of scope and they may choose to refuse it or not. We all

obviously could go back to council and ask permission or simply include it in the recommendations which they may choose to pass on or not.

So it's a slight question mark in my mind. But it's close enough that I wouldn't feel guilty in suggesting that we address it if we find it's something that would help. Thank you.

Michele Neylon: Okay, thank you. I have (Celia Lerman), then I have (Matt), then I have Laurie. And I'm going to put (Luke) or Volker in the queue if they don't put themselves in the queue. Call me an awkward chair. (Celia Lerman), go ahead please.

(Celia Lerman): Yes, this is (Celia Lerman). I'm just wondering if this definition should be linked to the question three of the charter, which is the timeframe. Can we answer these questions without answering the timeframe first? Do we have to keep this in mind before - for the definitions? That's my question.

Michele Neylon: Okay, thank you. (Matt). (Matt), are you on mute?

(Matt): Hey, sorry about that. Yes, I was just going to say I'm not sure that I have strong opinions one way or the other about whether unmasking should fit or should not fit. Maybe one alternative way to get at this problem is to say that if there is a privacy or proxy service that is going to unmask its registrants, it just has to do so at the point when the lock is opposed or for.

And once the lock is imposed, I think at that point it's too late. At that point you're not dictating policy about what the privacy or proxy service

could or should do. But you're simply saying if you're going to do this, you need to do it before the lock is imposed.

Michele Neylon: Okay. Laurie, go ahead.

Laurie Anderson: Hi, it's Laurie. The truth is the privacy service has no interest in what the registrant's doing with the name. Their only focus is on Whois protection. But it's not so (taxing) the registrant from cyber squatting or doing anything else they shouldn't be doing. With respect to the expiring name, if the name is active, we'll lock it. But if it's not active, we don't lock it. So that's just our policy though.

Michele Neylon: Okay, just a couple of things that (Matt) put in the chat which I'll read for the transcript - he thinks it's just a risk from the way the privacy service is set up. If the privacy proxy services signed eat every private - oh, I lost it. I'm going to have to read this again so it makes more sense.

If the privacy proxy services signed every privacy service user a unique identifier that applied to every domain that that registrant owns or holds, it would avoid the broad brush problem. I don't think any privacy service currently does that though, maybe because we allow for semi effective (risk) who is again making this sort of privacy service less attractive to mass squatters. Okay, and Kristine Dorrain suggests that some registrars do set up a privacy service-domain name as each registrant, making each entry unique.

I'm actually - I've actually asked one of my staff to find a domain that's on our accreditation that has privacy. I should give you an example of

how we do it since I'm all in favor of - what I will actually do is I will paste you a link so you can see what ours looks like.

We do a kind of care of thing. One second. I'll come back to you on that in a minute. But of course, nothing is working for me here. (Matt), are you - is that an old hand or a new hand? That's an old hand I take it. I'm going to get to an example. Volker or (Luke), do you have any input on this? No?

Volker Greimann: Well, actually directly, we've just recently set up our own privacy services so we don't have that much experience yet. But for ease of handling, we've decided to go with one unique handle but individual email addresses for each domain registration. Having a unique handle for all the contact data might lead to a lot of unnecessary data points that would have to be managed at some point in the system.

Maybe it's just a handling thing but from our perspective, having one overall data set with one data point that's different for each domain name is easier than having everything different for each domain name. I think it's also a question of whether you're offering a privacy or a proxy service because each of those has different styles of handling I guess.

Michele Neylon: Okay, thank you Volker. And (Luke) is just saying that they don't actually offer it. I'm just going to give you - ours is done based on the owner - the contact ID in our database is - they're all market private but we replace the registrant information in - like, just have a look at the link I just put out on the Adobe chat there.

(Gabriella) is also looking for a link that somebody can give that would explain the differences between privacy and proxy. Volker, I assume that's your old hand. (Jonathan), go ahead.

(Jonathan): Yes, hi. This is (Jonathan). Yes, and I think what (Matt) just said in the chat, I'm not sure, you know, this seems to be a bit of a tangent as we're talking about the mechanics of the privacy proxy, you know, with respect to the locking of the domain, but I guess what I'm trying to understand is the, you know, the unique identifier for the domain utilizing, you know, when a proxy - and not to get into the differences between proxy and privacy. I'm just going to use the two interchangeably just for the purpose of my comment here.

But the, you know, the use of the proxy service, with the unique identifier, I mean, all the proxy service, you know, they all serve that purpose for the individual domain names, right. So when you're talking about trying to get a unique identifier, you know, I mean I get some of the benefit. I just don't know if I'm really understanding the true importance of why that would be such a big deal when, at the end of the day, the proxy service is there for the reasons that it's there.

And the domain names themselves, you know, are the identifier. And when we go into the UDRP process, I mean, the registrant is identified, right? I mean, is that not the case? So you know, the issue with the article about all of (Enom)'s proxy customers being looped in into one big group and, you know, identified.

I don't know if it was the NAF or WIPO, you know, as a serial si- I mean, that just seems kind of silly to me. I mean, you know, I think anybody who has any understanding as to how this space works, and

you know, and I haven't been doing it for that long but the - you know, I think, you know, but we get it that the proxy service itself is not the registrant. But the registrant's identified in the UDRP which then allows that process to do what it does.

So the unique identifier would just be by domain name because if you did it by customer, then I think someone else made the comment that you'd undermine the whole purpose of the proxy service in the first place. If it was by a domain, then fine, but again, that makes the domain name itself pretty much the unique identifier.

And then the - because otherwise, if you had each individual registrant having a unique identifier, then again, that undermines the whole point of the proxy service. So just my two cents on this thing. But again, like (Matt) and I think (Luke), it looks like has also endorsed the comment as well that, you know, this is sort of - this entire conversation is a bit of an aside anyway. But just wanted to throw that out there.

Michele Neylon: Okay, thank you. I have Volker and then I have Alan.

Volker Greimann: Yes, just to go into the question of (Gabriella) about the difference between a privacy service and the proxy service, the way I've always understood the two terms was that a privacy service provides some level of privacy where usually the name would be still visible but the address and telephone number would be replaced by the service.

Whereas, the proxy service actually takes the place of the registrant in the Whois, i.e., all the data is of the proxy service. None of the data is of the registrant.

Michele Neylon: Okay, thank you Volker. If anybody has a link to the definition of the two things, it might be helpful. Alan, go ahead please.

Alan Greenberg Yes, I was going to give an alternate definition, but I think a link - and I believe the Whois review team define them and I'll quickly try to pull it up. The comment I was going to make is the last speaker - I think it was (Matt) - you know, implied this is the way it is but as was pointed out earlier, the UDRP and the way the UDRP is worded predates common use of privacy and proxy services and therefore, we really can't rely on this is the way it is. We're supposed to be looking at this is the way it should be. Thank you. But I will try to pull up the formal definitions if I can find them.

Michele Neylon: All right, thank you Alan. (Jonathan), go ahead please.

(Jonathan): Yes, this is (Jonathan) again and Alan, I think it was my comment that you were referring to and I wasn't necessarily saying it like, you know, this is how it is and it can't change to be improved. And I understand, too, that, you know, it appears that the - that there is a lot of dialogue going on about sort of how to manage and deal with the unique issues that are presented by the privacy or proxy services.

But my point I think was just to the idea of the unique identifier, which was, you know, someone had made the point that that might be - there may be some benefit to that and there was some discussion that started about that. And I was just saying I don't know if I see the, you know, the real benefits to that piece being that, again, the - if we're going to have proxy services, then they need to be able to serve as a benefit.

And if you do have the, you know, a unique identifier per registrant versus per domain name, then in a lot of ways you'd undermine the service and I think - and then, you know, which was to my point, you know, then the domain name itself becomes the unique identifier because if the idea that the proxy services, the registrant, you know, I mean, and that's not the case anyways. It's just to say - so I don't know if that was to my comment.

I said something that kind of implied the position that, hey, it is what it is. It's not really what I was saying and I do agree. I think that, you know, there are a lot of, you know, issues and nuances involved with the proxy services that, you know, can be improved and worked on. I think that's why, you know, in a lot of ways why we're all in these workgroups. So anyway, just to make that point.

Michele Neylon: Okay, thank you. It is by my judgment about four minutes or so to the top of the hour so I don't think it's a good idea for us to try to tackle anything else at this juncture, but I will go over to Alan. Go ahead Alan.

Alan Greenberg Sorry, that's an old hand but I did find the definition and will post it in the chat.

Michele Neylon: See. See, that was useful. Go ahead Marika.

Marika Konings: Yes, this is Marika. Before we end the call, I just wanted to briefly explain the document that was sent together with the agenda. As we're starting to look at the different charter questions and I think the discussions were very helpful and I presume that folks may be on the charter question 4A. I've also put together the start of a public comment review tool where I tried to put in the comments that were

received as part of the registrar and UDRP provider survey because we also asked them to provide input on the different charter questions.

So people might want to have a look at that in preparation for the next call because I'm hoping that might help, you know, frame the discussion and try to get the group looking at the different charter questions and come to, you know, some kind of - hopefully a conclusion or recommendations. But just so you have a look at that and to make sure that I didn't leave anything out and especially on the registrar's side, I grouped some of the answers together and did include every single one as many of the answers were just yeses or nos, so I just included those ones in there. So that might be something you want to look at ahead of next week's call.

Michele Neylon: Okay, thank you Marika. Okay then, I think I will give you back a couple of minutes and now as we're - now we're in September, as previously agreed, we are moving towards weekly meetings which means that we will meet once a week. So I look forward to speaking to you all next week. Enjoy the rest of you week.

Woman: Thank you. Bye-bye.

Man: Michele Neylon, I thought next week we are off but after that we are on. We have - (a potential) PEDNR one.

Michele Neylon: Oh right. Yes. Sorry. Yes, sorry. You're right. Are you right?

Man: Yes, my note says the first one we're starting on weekly is the 13th.

Michele Neylon: Oh yes. Okay. Sorry. We can email people to make sure we're all happy, that's what we're doing. Marika, please (flagulate) me or whatever the work is. Beat me up. Beat me up.

Man: We don't need to hear that Michele Neylon. What you do in private with Marika is your own...

Michele Neylon: Okay, let's go ahead and stop the recording. Thank you.

Woman: Well, we'll clarify on the mailing list that the meeting is in two weeks' time.

Michele Neylon: Okay, thank you very much. Have - enjoy the rest of your week. I'm going to go off and cry in a corner now. Thank you. Bye-bye.

Woman: Bye-bye.

Woman: Bye.

Woman: Bye.

Woman: Thanks...

END