

**UDRP Domain Name Lock Working Group
TRANSCRIPTION
Thursday 27 September 2012 at 1400 UTC**

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<http://audio.icann.org/gnso/gnso-locking-domain-name-20120927-en.mp3>

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

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Attendees:

Alan Greenberg, ALAC (Vice-Chair)

Laurie Anderson, RrSG

Matt Schneller - IPC

Celia Lerman Friedman, CBUC

Lisa Garono, IPC

Kristine Dorrain, NAF

Faisal Shah, individual

Jonathan D. Tenenbaum, RrSG

Michele Neylon, RrSG (Chair)c

Luc Seufer, RrSG

Randy Ferguson – IPC

Volker Greimann – RrSG

David Roache- Turner - WIPO

Apologies:

Hago Dafalla, NCUC

Gabriela Szlak, CBUC

Staff Support:

Marika Konings

Berry Cobb

Nathalie Peregrine

Coordinator: Thank you. The recording has started. Please go ahead.

Nathalie Peregrine: Thank you very much Sam. Good morning, good afternoon, good evening. This is the Locking of Domain Name call on the 27th of September 2012.

On the call today we have Alan Greenberg, Michele Neylon, Matt Schneller, Volker Greimann, (Basil Shaw), Randy Ferguson, Celia Lerman and Jonathan Tennebaum.

We have an apology from Hago Dafalla.

And from staff we have Marika Konings, Berry Cobb and myself, Nathalie Peregrine.

I'd like to remind all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you.

Man: Thank you. I believe we also have apologies from (Gabriella). Did you mention that or am I going deaf?

Nathalie Peregrine: No, I didn't. I'll note it now, thank you.

Man: Thanks. Good afternoon, everybody, and apologies for not having been available for the last couple of weeks. And thank you, Alan, for doing a wonderful job. My spies tell me you did a fantastic job in my absence.

As per usual, has anybody changed their allegiances? Do they have any changes to their (SOI)s or anything? Going once, going twice. No, okay.

Before we move on to the main agenda, there's a couple of things that have kind of come up that we need to address. There's three items I have on my list.

First of all, we are meant to be meeting -- albeit quite briefly -- with the ccNSO in Toronto. I'm just wondering, is anybody else interested in joining on coming along or just kind of say a few words to the ccNSO? Or should I fly solo?

Alan Greenberg: It's Alan. I'll be there assuming I don't have a conflict. But I don't really think I should be the speaker, but I will try to be here...

Man: Okay.

Alan Greenberg: ...to the extent (unintelligible).

Man: All right. Thank you, Alan. Anybody else?

Celia Lerman: This is Celia. I can join you for the meeting.

Man: Okay, perfect.

One we have a bit more details on the times and everything else, I'll try and circulate that back to the rest of the list.

Basically with the ccNSO -- as we discussed previously -- you know, they have lots of experience, they've all dealt with a lot of these things, etc., etc., etc. So it's just an opportunity to give them a very brief overview of what we're doing and if any of them have any input for us to try and collect that maybe directly there or they can follow up with us afterwards or whatever.

Okay? That all clear for everybody?

Oh, I'm sorry. Marika's just saying the meeting with ccNSO is tentatively scheduled for Wednesday between 10:20 am and 10:45 am. So I think that may be the case of kind of moving to wherever the ccNSO is saying, "Hi."

And give them a quick overview. They might ask one or two questions, but at least they'll know what's going on anyway.

Now the next item on the agenda. The face-to-face meeting - yes, the face-to-face meeting in Toronto - sorry, my brain's a bit (rambled). I keep forgetting which city I'm going to.

Marika sent a link. I presume that's to the - it is, right.

So that's on Thursday between 9:00 am 10:30 am.

Now Marika and I discussed this briefly this morning. And first of all, myself, Alan, Marika, (Filiz) is having a face-to-face meeting is a good thing. The last one was very good, apart from (Luke)'s presentation, it was very bad. No comment from (Luke), okay.

Has anybody any particular ideas or any suggestions on what they would like us to cover there? I mean, the idea being to make this as an interactive session as possible.

Alan, (unintelligible), thank you.

Alan Greenberg: To what extent do we think we're going to have good registrar attendance? I mean, I'm talking in relation to overlaps and things like that.

Because I think one of the real questions is there's a very limited number of service providers, not a limited number of registrars. And it would be really good to get more feedback, you know, from people because people don't always fill out questionnaires and they're not fully descriptive of what the real problems are, what they would like to see changed.

I think that's going to be the major benefit to us, you know, of having a face-to-face meeting if we can get some, you know, first person stories of the horror stories that they need us to fix in relation to this whole process.

Man: Okay. Marika?

Marika Konings: Yes, this is Marika. And maybe we can ask some of the registrars on the call, you know, to promote the session on the registrar (manning) this.

But I also happened to see that there's actually a session just proceeding ours on privacy and proxy accreditation that goes from 8:00 to 9:00. So maybe if some people are attending that meeting they can, you know, put in a pitch, you know, if people are interested in that topic, it might also be interesting to talk about.

The topic that we have on the discussion is also some clear links between - or perhaps some questions dealing with, you know, what to do with privacy and proxy registration. So maybe there are, you know, two avenues we can explore to get people to our session and have hopefully an interesting discussion.

Man: Yes.

Marika Konings: And if I can maybe make another suggestion. Because one of the things going through the comments and being that there are some concrete proposals in there, one avenue in the working group I want to explore is to put, you know, kind of (unintelligible) and propose our different options out and have a kind of, you know, lively debate around that and saying, "Well, one option would be for us recommend, you know, locking upon notification of a complaint." What do people feel about that?

You know, the other option is, you know, locking upon a verification request. So have a kind of a sense of the room and maybe have other people speak

up about, you know, pros and cons of those different approaches, which then might help the working group, you know, look further at these different options that were suggested as part of the public comment and are, you know, likely to - the proposals to working group we'll be looking at as well going forward.

Alan Greenberg: Yes. I agree. It dawned on me as you were talking that the IPC is another group we may want to try to target. I mean, those are the people that are filing the requests then. You know, if we have, you know, people running away as soon as the notification comes out and they're not able to pursue properly or whatever, the issue is if they have any input, that's another group that I think we want input from.

Man: Very true. Celia, go ahead.

Alan Greenberg: Maybe people running away is good for them, because then they get default decisions. But nevertheless...

Celia Lerman: Yes. One question is if we got - this is Celia. One question is if we got the input from the (SO)s, maybe that would a good time to remind them.

I think we only got the response from the ALAC. Is that correct?

Alan Greenberg: You didn't get any ALAC response, I don't think.

Marika Konings: This is Marika. We did get a note from (Oliver) saying that ALAC wasn't going to make a statement at this stage. I mean, that is a response, although it's not a substantive response.

Alan Greenberg: You didn't get a substantive response.

Marika Konings: Right. We did reach out to all the (SO)s, (AC)s, as well as the GNSO Stakeholder Groups and constituencies, again, you know, to remind them of

the deadline. But as far as I'm aware, we haven't received any further statements.

I suspect -- and, you know, this is just me guessing and others might want to chime in -- is that most of them might wait until the initial report when the working group, you know, put some ideas on paper to actually formulate a response. Because I think at this stage - I guess as we have a lot of information what the issues are -- and we received several comments to that -- I'm suspecting that we get more substantive input from the different groups once we actually have something concrete for them to look at.

Man: I put myself in the queue. The certain (SO)s and (AC)s that generally will give comments -- as Marika says -- further down the road when there's something more - can I say meaty? Yes, I think meaty, I'll go with meaty, something meatier for them to comment on.

There's a couple of groups that generally don't think to provide comments. The Registrar Stakeholder Group, obviously there's quite a few of us involved in this working group. So I don't think we really felt that we needed to make a specific comment since we already had good representation here.

Okay then. So in terms of the face-to-face meeting, the action items on this side then would be if - okay, the registrars, we can try and talk to the rest of the Registrar Stakeholder Group and see if we can encourage them to come.

Marika, who's running the privacy proxy meeting? Is it physically close to where we're going to be located? Or is it on the other side of the building?

Marika Konings: To be honest, I haven't looked at the map yet. It's not in the same room, that's as far as I've gotten. But I can have a look at the map. But I see that (Margie) is involved in that session, so I'm sure she can put in a word for us as well when that meeting starts.

But I can have a look if it's nearby so we can even physically try to, you know, get people to go to our room. Because I think at the same time there are otherwise not many other sessions that seem to directly compete with, you know, the issues we're looking at. Because at the same time you have (EPC) community consultation, it's more about public participation. There's an (IBM) Variance Program update and there's an IANA Business (Accent) Workshop.

So from I think that perspective, you know, we hopefully have - we'll be able to track some people.

Man: Right. Oh, so privacy proxy accreditation one, I see. Sorry, I was looking at it now on the timetable.

Marika Konings: Right, just before our session, so...

Man: I'm just putting the link to that on the Adobe chat. Yes, I think there's a few registrars already involved in that group. Volker, do you know anything about that? Volker?

Okay, maybe he's put himself on mute. All right then.

Well what we can try and do is just try and get the word out there. Is there anybody on this call who's a member of the IPC?

Michele Neylon: (MarkMonitor) is a member of the IPC. This is Michele.

Man: Right. Could you try to pass the word along to them -- well, not to them. I mean, you are (Mark Monitor) so you're not going to pass along to yourself -- sorry, to the IPC about this session.

Alan Greenberg: A note to Steve Metalitz may be useful also.

Michele Neylon: Okay.

Man: Well I can ping Steve, but obviously if you guys are members, you know, you have access to their mailing list and everything else.

I'll follow up with Steve as well. Just taking notes before I forget.

Hopefully we can get a few people to turn up ICANN compliance so that people might be around. So you'll have various people with some kind of experience and input.

Anything else on the face-to-face meetings? Anybody else have any other thoughts or input?

Just by way of show of hands on the Adobe. How many of you will be in Toronto? If you could just raise your hand.

Alan, I presume you're going to be in Toronto.

Alan Greenberg: Yes. Sorry, I wasn't quite at my screen.

Man: That's okay.

Alan Greenberg: I'll raise my hand.

Man: Well I said raise. You could've put a green tick, but I just said raise because I was being lazy.

So Volker, you're going to be in Toronto, aren't you?

Volker Greimann: Yes, I am.

Man: Okay. And (Luke) is there because he told me he is.

So Jonathan, you're not going to be in Toronto? (Laurie), no. (Lisa) - is this (Lisa), I can't read things.

So about half of you are going to be there and the other half probably won't be.

If you can try and join the meeting remotely would be appreciated. Obviously if you can't due to work pressures, that's completely understandable.

The other extra agenda item had were with respect to the next meetings. Between now and Toronto -- according to the standards schedule -- there would be two meetings.

But realistically as the last one is the Thursday before ICANN and we - bearing in mind a lot of people will probably be either traveling or clearing their desks so they can travel and we want to cancel that meeting. So we would have a meeting next week and then after that, the next meeting would be the one in Toronto.

What was the dates you gave me, Marika, for the one after that again, based on our normal practice?

Marika Konings: I think that would be the 1st of November. It might be worth noting that I think it's a public holiday in certain parts of Europe. I don't know if that will affect participation.

Man: Okay. Any other thoughts on this? Anybody? No.

Does anybody have an overwhelming desire to have a meeting by themselves the Thursday before ICANN?

I'll take that as a no.

Alan Greenberg: Real comedian.

Man: Oh come on. I've had plenty of coffee. Give me a break, I'm trying my best here. And for God's sake, we're talking about locking domain subject to a UDRP.

Alan Greenberg: I'm not complaining about it.

Man: I mean, you know, how can you make UDRP exciting? No, that's not a challenge.

Alan Greenberg: (Right then).

Marika Konings: (Unintelligible).

Man: (Unintelligible), yes. I don't know if it's a holiday here in (Ireland), I don't think it is. Or is it? We'll have to check.

Anyway, okay moving on to the main part of the agenda.

Okay, we've already covered this with respect to the outreach and everything else. So ALAC has said that they're not going to make a comment and we haven't received any other ones.

The comment period is closed. The reply period is closed. There were a total of one, two, three - there were seven comments in total received that varied from the quite short through to the quite lengthy. And we will be reviewing all of those.

Excuse me. Oh, and Marika's just put on the chat there, if you are not going to be able to participate on the 1st of November for whatever reason, please do let ICANN staff know. Because if we discover that there's nobody going to be around, then we might have to cancel.

Marika, you have your hand up. Go ahead.

Marika Konings: Yes, this is Marika. I just wanted to note for the record that we actually had six submissions. One was a resubmission where an attachment didn't come through clearly.

Man: Okay. Right then.

So looking at the comments and everything else. Marika, you've updated this thing here with the comments that were received?

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

So what's in the Public Comment Review Tool that you have on the screen now is basically the comments that we received as part of the registrar in an UDRP service provider survey.

And I've also inserted now in each of the relevant parts that, you know, deducting from the comments received trying to assign them to the relevant charter questions those that were received as part of the public comment (forum).

Man: Okay, perfect. Thank you, Marika.

Okay then. So if you're actually - I presume everybody can scroll this thing on their screens. But you also have a copy of it in your inbox. And you'll see in red the new additions.

Okay then. So, let's see, logically speaking if we were to look at - I'm scrolling like mad here. Of course it's distracting me. Let's see, okay, scrolling back up.

Okay, so if you look down through there. We really haven't really looked at the proposed - whether the creation of an ICANN proposed procedure (complaint). I mean, those comments, we really haven't dealt with any of those so far or am I losing my mind?

Marika, go ahead.

Marika Konings: Yes, this is Marika. We basically started actually I think on (Charter) Questions 4A and B. As of that point we started looking at the draft definition that was circulated. So we actually started looking at those first.

So we've covered I think almost all of those. I think we got through to 4B. And you can see that on Page - let me see where that is. I think, yes, we got to Page 13. It think that's where you see a couple of new comments that were submitted in (IAC) as well, that on the (Charter) Question 4B we already covered a couple of those as part of our discussion, and I think we got to Comment 57 on Page 16.

So I guess the question is whether we just want to start from the top and work our way through, or first go back to 4A and B?

Man: Personally I don't mind one way or the other. Does anybody else have any feelings about this?

I mean, considering we've already done quite a bit on 4A and 4B, can see a reason for kind of continuing on with those ones.

Okay then. All right, we look at - okay, working our way down through 4A and 4B, as we were doing on Page 13 then. Comment - and for the record (William Clark) is (Black Knight)'s legal counsel. So he's submitting comments as himself as legal counsel. But for the purposes of disclosure, he is actually our legal counsel, for the record.

(William Clark) comment there. But the definition of a locked domain should be included. Clarity and simplicity is the key to this definition.

Once locked, no movement of the domain can take place by any party. The domain can remain offline for the specific period to allow a full review of the matter. So (William) would actually be in favor of taking the domain offline.

Comments, responses, thoughts? Nothing?

Alan?

Alan Greenberg: Somehow I think that's not - from his point of view I understand that. But taking a domain offline when the complaint hasn't proven to be correct and, you know, and no judgments made I think is an unreasonable thing from a registrant's point of view.

Man: Okay, thank you.

Alan Greenberg: Even the URS doesn't do anything to it, you know, until there's some evidence that it's valid.

And I think that's beyond our scope anyway, by the way.

Man: Okay, (unintelligible). Okay, so a comment from Alan. Taking the domain offline is out-of-scope and possibly -- how do I put this -- unreasonable. Would that be okay?

Alan Greenberg: I think so.

Man: Okay. Does anybody disagree with that? I'll take silence to mean agreement.

And the other bit's the definition of a locked domain should include clarity and simplicity. I assume we all agree with that.

Okay. All right, the next one is from -- I think my eyes are failing me -- F-I-C-P-I? Is that right, Marika?

Marika Konings: Yes, that's right. That's International Federation of Intellectual Property Attorneys.

Man: Okay. Sorry, I've never heard of them, so...

Okay then. So this comment, it should be made clear that the locking of disputed domain means that any requests for transfer of this domain name are denied.

Any comments on that? Reaction? So (simple) noted.

From (INTA) -- I do know who they are -- the locking (unintelligible) the UDRP complaints through conclusion of the ten-day waiting period following the issuance of a decision should be standardized.

At a minimum, the requirements that the registrar impose limitations associated with the registrar lock status or the EPP lock status should be formalized.

Prohibiting transfer of domain name, (private) and deletion of a domain name prohibiting modification of registrant information or contact details is in line with the practice of approximately $\frac{3}{4}$ of registrars that responded to the survey.

Standardization of the timing and the nature of a domain lock would codify existing best practice, minimize post filing complications resulting from (cyberflight) or other changes or transfer of ownership. Reduce the likelihood the third parties might purchase a domain for which a UDRP complaint has been filed. Provide registrars with a clear simple checklist for implementing

locks pursuant to UDRP action. Define minimum lock requirements in a way that reflects industry best practices and improve consumer confidence by providing predictability and efficacy.

(Kristine), go ahead.

(Kristine): Thanks. This is (Kristine) from (NAV).

I wanted to just -- I'm so sorry -- back up to Number 51 because it ties into the email that I think David Roache-Turner sent around right before this call started.

And when (unintelligible) says no transfers of the domain name, I mean, and then we sort of started talking about this last week. But we need to think about no meaning how does that play with - if there's a suspension or a stay and the parties want to transfer the domain name between them. I mean, no transfers could be easily perceived as no transfers at all, not even upon agreement.

So I don't know if we want to address that, but I just thought I'd throw that out there because I know we sort of spent a little time muddling about in that last week.

Man: Okay, thank you. Marika?

Marika Konings: Yes, this is Marika. I'm just constantly looking at the comments. Because if you actually go to Comment 80, the FICPI and it's (follow) another comment where they specifically talk about that issue. Because they already say, "Should unlocking during the UDRP proceeding be accepted under certain circumstances. And FICPI points out the importance or the possibility to temporarily or for limited purposes unlock a disputed domain name during the UDRP proceeding, namely in the case when the parties agree to a transfer."

So I think they're foreseeing that, you know, that would be allowed, but basically at that stage you would lift or unlock the domain name. So I think that may be useful in response to what Kristine is referring to.

Kristine Dorrain: Oh thanks for bringing that up Marika, I hadn't noticed that - I'm glad they addressed that, thank you.

Alan Greenberg: It's Alan, that should mean that our comment has changed, noted with the understanding there are exceptions, you know, see their own comment Number 80 or whatever the number is.

(McKalee): Yes, perfect, perfect - anything else on the FIC - I can't say that, I'm really not capable - FICPI comment on 51? No, okay (IMITA) is one of 52, any immediate reactions to this? No, (Poker)?

(Poker): Yes I wouldn't agree with the language in there but that's because all the requests are demands that (are in there) have exceptions that are not listed there so we are - for example, the deletion of a domain name is possible during the (VIP) transfer as we just discussed is possible under certain circumstances. So if these circumstances would have to be noted if we (docket) that.

(McKalee): Thank you, Alan go ahead.

Alan Greenberg: Yes, we're still fighting with 52 correct?

(McKalee): Well as you say - unless you want to talk about 51.

Alan Greenberg: No, no, no, no, I just wanted to make sure, I'm double timing here and I just wanted to make sure I didn't miss something.

(McKalee): Are you talking on two calls Alan?

Alan Greenberg: No I'm not on two calls, but I'm trying to get (unintelligible) also at the same time I was listening. The (lead often) is however is saying that we should formalize exactly how the registrars do it, which we've tended to not want to do that. As we said different registrars have different ways of doing it and we haven't had a lot of support for saying there must be a specific EPP status that all registrars use which is what - which is the lead in - from this comment.

So I just want to make sure that if we're saying we support it, that's a decision that we haven't made yet and I haven't heard the strong feeling that we should be making that decision, although I may of read that wrong, so I'm just noting that, thank you.

(McKalee): Okay just before I left (Matt) go, I believe the - in one of the - in the last call that was held, though I wasn't there for, people were talking about the possibility of specific EPP status for UDRP or what's that effect and Marika did a little bit of research on that and the general consensus to paraphrase was introducing a new EPP status would involve a lot of work. So the general (list) is a very, very, very strong reason for doing this, you're better off using the existing locks - Marika and them (Matt).

Marika Konings: Yes this is Marika, just to add to that, (indeed) the feedback I got was I maybe first look at the locks that are occurring there and maybe if you want to go down the road on standardizing all the locks that need to be applied to see if the current locks would do or a combination of locks would do what the working group would like it to do before going down the road of creating a new EPP lock which would require I think going to the IETF to, you know, revise or add on a new RFC, I don't know exactly how they work.

But as I understand it's quite a lengthy process, so just a caution there but of course it's, you know, not an impossibility either.

(McKalee): All right, (Matt) go ahead.

(Matt): Hey this is (Matt), I think the comment we're trying to get out with the associated with language - associated with the registrar lock or EPP lock status was exactly that sort of flexibility, so long as whatever the registrar's doing has the same end result as the formal registrar lock or EPP lock status, that's all we think makes sense and not a very specific implementation of any particular status, so long as whatever happens ends up functioning in the same way in connection with the UDRP.

Also I don't think that there's any problems noting in the comment that limited exceptions for unlocking for mutually agreed upon transferred deletion is completely non-problematic, I think that's totally fine in that too.

(McKalee): Okay thank you, anything further on 52? No, okay 53 - EI Institute supports the (trepidation) and definition of the term lock and its implications, I assume nobody has an issue with this and we will say, you know, thank you noted and then move on. The rest we've done and now we're onto 57 - the domains registrant information should not be allowed to change, this is from the registrar survey - any thoughts on this? Alan go ahead.

Alan Greenberg: Just that if we were to do that, it requires some, you know, a lot of decision, discussion on how do we handle the issue of privacy and proxy services, where right now the general feeling is they must change.

(McKalee): I kind of put myself in the queue as well, what if the - what happens if the registrant detail - the registrant data is out-of-date? I mean...

Alan Greenberg: That too.

(McKalee): ...you know, you can't - the registrant listed goes, hold on a second, no that's wrong or I, you know, I sold that domain, I gave it away to somebody else, it's obviously they never got around to updating the details, what do you do then? Any other input on this? Kristine go ahead.

Kristine Dorrain: Kristine from National Arbitration Forum, what we would do is - I mean and this isn't really dealing with the registrar but for the UDRP specifically, if we get notice from either the registrar or the registrant and they say, hey I sold this so this is from what I thought I sold it to or whatever. Or the registrant says, hey we found out that we sent you the wrong information, we then will forward the complaint on to the new address as well, you know, as sort of like, you know, all this could belong to you we were not sure, just so you know, there's this other - someone saying that you own this domain name.

So we would still forward the information on, now I think that solves the problem of having bad Whois data until the end of the UDRP proceeding, but I would - I mean (David) can weigh in, but I would suspect that a provider's going to notify that the, you know, service information that they had is incorrect would take some steps to try to serve the correct party.

(McKalee): Okay thank you, so (it's) getting a little noise here - somebody seems to think that this place - outside our office is a good place to play with his motorbike - Celia go ahead.

Celia Lerman: This is Celia, I had a question in the registrar agreement in the registration agreement, do registrants generally have an obligation to have their updated information? Because if that is true, well it might seem that they sort of would seek (a meeting) at least to freeze that information and just keep that person, even if he sold it anyway liable until he shows a new one. I'm not sure if I'm being clear, but if they do have an obligation generally it makes sense to keep it frozen and leave the current registrars liable until we have a new one for sure.

(McKalee): Any folks on this - Volker I see your hand going up, I just want - is that reacting to Celia?

Volker Greimann: Yes basically, well I operate on the (German lawn) in that case we would just assume if the domain has not - if another change supposedly had occurred before, we would assume that whether it's a contract obligation to transfer ownership, the actual change of ownership has not taken place yet until the Whois updated, that's at least the way we operate here.

Celia Lerman: Thank you.

(McKalee): Alan you're next.

Alan Greenberg: Yes I was going to comment, I think we discussed this at some previous meeting I forgot which, but there's no (proposition) that says a registrant can't move or change their phone number, it's - just because the UDRP process is in process. You know, there are valid reasons for keeping the information up-to-date, you know, they are completely above board and have nothing to do with, you know, with transferring the domain or trying to get out of being liable.

You know, there are real situations where the information changes and I'm not sure we want rules saying you cannot change it without having some backup way of, you know, we're now saying the registrant has to be in violation of their agreement and ICANN is blessing not keeping information current, so somehow we have to resolve those. I mean we can fix the not following the agreement by having a rule saying you're not allowed to change it, but on the other hand we have valid reasons for changing it even if a UDRP is in process.

(McKalee): Okay.

Alan Greenberg: Or maybe it needs to go through the (dispute) provider or something to do that, but there needs to be a way of fixing it.

(McKalee): Laurie and then Kristine.

Laurie Anderson: Hi it's Laurie, does it work the same way the suspensions and do both parties agree that there's a new registrant and the registrant agrees to be bound by the decision of the arbitration form?

(McKalee): (Alan) are you going to answer this?

Alan Greenberg: It's Alan, I'll say yes that's a valid process to handle that particular case.

Laurie Anderson: Because as long as the new registrant agrees to be bound by the decision then it's really irrelevant to the registrant as long as it's accurate.

Kristine Dorrain: Yes this is Kristine, Laurie's taking that right out of the UDRP, I mean it says that right in there under Paragraph 8, as long as the parties agree that the tran- that there can be a transfer I've not - I don't have it in front of me, but it's similar - the parties agree to be bound then I guess the transfer can take place

(McKalee): Okay (masters) posted in the words in (transfers) the domain name - let's try it again, transference of a domain name to a new holder, you may not transfer your domain name registration to another holder during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of 15 business day after such proceeding is concluded or during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees in writing to be bound by the decision of the court or arbitrator.

We reserve the right to cancel any transfer of the domain name registration to another holder that is made in violation of the subparagraph, so (Matt) who's the we in this paragraph?

(Matt): That's registrar.

(McKalee): Is this from - where is this - is this from your registrar agreement or is this from something else?

(Matt): Yes this is just from the UDRP - (incorporated) by virtue of the registrar agreement that...

(McKalee): Oh okay, okay so just the "we" threw me a little bit, don't forget I'm not a lawyer, I'm not a lawyer, I'm innocent - Laurie any other thoughts on this? Kristine?

Kristine Dorrain: Okay thanks Kristine for (Matt), I just wanted to address - I don't remember who brought it up, maybe Alan and then I think (David) sort of addressed it on the chat as well, but the point isn't really updating Whois data with the, you know, somebody who's moved or changed their phone number.

Because once the provider has received the registrant information and I mean I guess I don't know how WIPO does it, but once we receive the registrant information from the registrar and we've taken the Whois screen shot and we serve the parties, we don't go back and continually look at the Whois to see if stuff is updated. The UDRP says that the parties are responsible then once the case has commenced for notifying provider of updated contract information.

So if a party has moved and they send us an email and say, gosh I have a new phone number, a new fax, a new address, whatever, we will absolutely update our internal records and all further case communication will go to that updated information, which doesn't address the Whois problem but at least from a forms perspective we sort of don't care. If it's the same registrant and they just change their phone number or their address, it is irrelevant.

I mean we're not going to go back and keep looking at the Whois information for, you know, any reason at all. So as (David) pointed out in the dialog, the chat really the problem is preventing a transfer to a new owner or registrant

or a new registrar not to prevent someone from updating their own contact information.

Alan Greenberg: Yes it's Alan, I was the one who said it and in response I wasn't really worried about the dispute provider having the right information or what they were doing, I was looking at the suggested rule saying, thou must not change Whois under any circumstances and try to understand the implications of that.

(McKalee): Thanks Al, Marie anything - is that an old hand or a new hand?

Marie McCann: That's an old hand.

(McKalee): Okay, okay moving on to 58, okay now this is slightly different - it's a slightly different take on this, changing any type of registrant information should not be allowed during the UDRP proceeding except getting the domain as a privacy registration - any thoughts on this, reactions?

Alan Greenberg: The same things apply, the other exceptions I talked about, you know, apply in respect to that comment also.

(McKalee): Okay, 59 yes the registrar should take control of the domain, so what was the question - what what was the question here? (Unintelligible) may be changed - whether once - changed or modify, yes the registrar should take control of the domain - oh, I think what this is saying is the domain's details should be changed to that of the registrar, is that a correct reading of this? I'm a bit confused by that, Kristine go ahead.

Kristine Dorrain: Thanks Kristine for (Matt), some registrars actually do when notified of a UDRP sort of hold the domain inside their own account and basically all, you know, prevent the registrar from using it. It's pretty rare, but I'm a little afraid that that's the suggestion.

(McKalee): Now Kristine just to clarify this, do you mean they change the Whois information as well or are we talking about just, you know, isolating it in terms of usage?

Kristine Dorrain: Both, we need to actually change the Whois information and pull it into an account called, you know, registrar UDRP account or something or contested account or disputed account. And then the Whois information will change or go blank which is actually a worse situation for us, because now there will be no Whois information in that situation. And people are trying to be like overzealous about, you know, protection but it's actually a more of a problem.

(McKalee): Okay blank Whois?

Kristine Dorrain: Yes it...

(McKalee): Okay I would of thought that was not allowed but okay, putting my registrar hat on, I'll say ouch and that is probably a better way of wording that, that's strange. I don't know if anybody else has any comments on this - any of the other registrars on this call have any comments on this? In locking the domain I can understand, isolating it I can understand, but change the Whois to be the registrar seems a bit strange. Okay no other comments, okay...

Alan Greenberg: It's Alan, one can imagine changing, you know, what is it - the administrative contact or something that the registrar is saying the registrar is taking custody of it, but not the owner.

(McKalee): Okay thanks Alan.

Alan Greenberg: You know, I can imagine something like that, but that's about as far as I could go.

(McKalee): When we are speaking for (Blacknight) as a registrar I mean we have some way - I don't know how the hell they do this, but it's something that they run in

the background that would basically mean there's no changes to the domain would be possible. So it might look like - it would look as normal but you wouldn't make any changes - you (could send up a fire control panel) until the cows come home, but it wouldn't ever have any impact.

Okay so that's a strange one, but okay next one 60, a registrant should only be allowed to change during a UDRP proceeding if the new registrant agrees in writing to be bound by decision in the pending case and that's directly from the UDRP policy as posted earlier - do we have any other comments on this?

Alan Greenberg: The comment is that we were planning to change that.

(McKalee): We weren't planning to change that or we were planning to change that?

Alan Greenberg: We were not.

(McKalee): Okay, thank you.

Alan Greenberg: They suggested something which is already policy as far as I understand that.

(McKalee): Okay 61, the registrant information should not be changed, ICANN characters - ICANN characterized the registrant data, the Whois to be the registrant. Changed data indicated a change in ownership or transfer and this is treated by (pilot) as cyberflight. Redefining a transfer maybe beyond the scope of this working group - okay redefining a transfer maybe beyond the scope of this working group, I'd agree with that sentiment. I'm not sure about the rest of it, does anybody have any thoughts?

Kristine Dorrain: (McKalee) this was actually our comment and I think it's a very short version of sort of what I sort of said all along and that is he is just making sure that we lock down the registrar to the point of commencement so we can get the case served. And, you know, from there it wasn't really intended to - I wasn't

intending to imply that, you know, update of Whois information for, you know, reasonable relevant reasons wouldn't be, you know, permissible and that sort of thing.

And panels do often characterize change of Whois data even from a privacy service to the underlying registrant, panels do often characterize that as cyberflight, so I just wanted to throw that out there too. But other than that, that was our comment.

(McKalee): Okay thank you, anybody else have any other comments on this one? No okay moving on, 62 again for the UDRP providers, it should be noted that the change of registrants teachers after lockage is rarely a practical problem, usually the change is made in case - in cases where the domain was originally registered in the name of a privacy proxy registration service.

And as soon as the registrar is notified other proceedings, the prosecutors removed and the Whois data are changed to those to the registrant then the providers do not usually check the Whois data regularly during the proceedings so to change the provider and the panel is not likely to find out. Therefore it will be better if there was a rule that the change after the locking of the domain name is not allowed as there would be no risk of any change or notice by the panel.

Okay so that's echoing pretty much Kristine, excuse me, what Kristine has been saying - any comments, reactions? Okay we'll put that down as noted and we now have a comment from FICPI and we're running a little close on time here so this will be the last one, Whois record modifications after filing but before commencement of action lead to unnecessary deficiencies in amendments in the context of the UDRP process.

This is particularly usual when third party privacy proxy teachers contain Whois, in those instances the current rules are not clear as to who the correct respondent is, what the correct - the proper jurisdiction for such cases is. As

a result, the registrant information should not be changed or modified once the domain is locked. So unless I'm misinterpreting that, that sounds very similar to what Kristine was saying the UDRP provider survey - anybody have any reaction, thoughts? Kristine, go ahead.

Kristine Dorrain: Thanks, I just wanted to note that the one thing that (Zigbe) added here was the - and then there's a little bit of chat going on the left side or there was a few minutes ago, but about mutual jurisdiction and they talked a little bit about the problem.

One of the reasons this sort of transfer in Whois data right at the beginning of the case is so problematic is because the complainant has to agree to a mutual jurisdiction to be bound by the court, they need a location of the registrar and a location of the registrant and the complainant has to elect one or the other at that time.

Well if they have elected the location of the registrant because the registrant says Whois privacy located in, you know, Utah, then the Whois privacy shield lists and says, oh the registrant's located in Beijing, China, you know, now they have a re-think well do I want to be bound by the location of the registrar or the registrant.

So it's actually - it has an effect because it's not just about where the provider's serving the complaint, but it's about where the complainant is opening themselves up to be sued, so that's part of the reason it's a problem and that's - I just wanted to point out that (Zigbe) did, you know, it's hidden in there but they did call that out as a concern.

(McKalee): Okay thank you, any other comments on this. I see quite a bit of chatter on the chat and we have about five minutes left, so I don't think we want to tackle another comment because we'll run out of time.

Okay the other things that we've been working on are of course the UDRG registrar lock definition, there's also been some email on that and if anybody has any input on any of these or any of these points and if you have a chance to maybe review the document that Marika circulated prior to this meeting with the inclusion of the new comments before the meeting next week and I will speak to you all next week, thank you.

Alan Greenberg: Thank you (McKalee).

Kristine Dorrain: Thanks (McKalee), thanks everyone.

(McKalee): Bye.

Woman: Thank you very much.

Coordinator: And we will now stop the recording, bye-bye.

END