

**ICANN  
Transcription  
Locking of a Domain Name Subject to UDRP Proceedings  
Thursday 22 November 2012 at 15:00 UTC**

Note: The following is the output of transcribing from an audio recording of Locking of a Domain Name Subject to UDRP Proceedings on the Thursday 22 November 2012 at 15:00 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-20121122-en.mp3>

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

**Attendees:**

Michele Neylon – RrSG (Chair)  
Alan Greenberg - ALAC (Vice-Chair)  
Gabriela Szlak - CBUC  
Hago Dafalla - NCUC  
Kristine Dorrain - NAF  
Volker Greimann -RrSG  
Juan Manuel Rojas - At Large  
Luc Seufer – RrSG  
David Roache-Turner – Observer

**Apologies:**

Lisa Garono - IPC  
Laurie Anderson - RrSG  
Celia Lerman Friedman - CBUC  
Ken Stubbs - RySG  
David Maher – RySG

**ICANN staff:**

Marika Konings  
Berry Cobb  
Julia Charvolen

Coordinator: The conference is now being recorded, please go ahead.

Julia Charvolen: Thank you very much. Good morning, good afternoon, good evening this is the locking of a domain name subject UDRP proceedings on the Thursday, 22 November.

On the call today we have Alan Greenberg, Gabriella Szlak, Hago Dafalla, Kristine Dorrain, Volker Greimann, Juan Manuel Rojas and Michele Neylon. We have apologies from Celia Lerman, Lisa Garono, Ken Stubbs, David Maher and Laurie Anderson. We have Marie Konings and myself Julia Charvolen.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and over to you.

Michele Neylon: Thanks, okay then so based on the quite low turn out today - hello...

Man: We're still here there's just lots of noise.

Man: Julia, can you please look into that and use the line that causing the interference.

Michele Neylon: Okay, it's always entertaining when they get these things. Okay based on the low turn out today to it being national kill a turkey day in the U.S. plus whatever reasons people may have for not appearing.

We're going to have to postpone looking at the (Strawman) proposal document until the next meeting. However you have all been - okay, sorry it seems now there are people actually joined the called late.

Okay, hold on then let's - we might be actually able to do more. We're going to start by just trying to finish off the public comments once and for all. And

then if there are enough people on the call we will try to have a look at the (Strawman).

Marika you were saying there were a couple more people have joined the call. Okay, so we have our token Frenchman has arrived and David Roache-Turner, so I see he's in duplicate is he or is he all by himself today?

He's solo okay, well you never know there could have been two of you. Yes (Luke) you are token since you're the only French person we have. Okay then so in terms of the public comments from looking at the updated document here and correct me if I'm wrong.

We've got a couple towards the very end of the document and one or two in the middle and that's about it unless I'm completely blind or stupid or a combination of both.

So let's finish - go move into this logically, sorry my mouse is being really slow here. We have a couple of comments around comments 28, sorry 27. Yes 27 to 39 is what Marika's saying.

Okay so just looking at the question here, chart question three, the timeframe by which Registrar must lock a domain after UDRP has been filed should be standardized, which is something we all seem to agree on.

The 27 - (unintelligible) is not when a UDRP has been filed but when the Registrar has been notified, any comments on that or can we all just kind of go yes.

Alan Greenberg: Do we want to say notified by whom?

Michele Neylon: Okay, that's a good - good clarification thank you Alan. So notified by whom is obviously one of the things, I think that's in the (Strawman) as well isn't it?

Alan Greenberg: Yes.

Michele Neylon: Okay, so we say yes, the question being whom, another one from the Registrar survey, it should be standardized at this time we find discrepancies and/or demands from the complainants until we receive official notice from the UDRP Board of Dispute.

So that's pretty similar - not to similar. The - another from the Registrar survey, that should be maximum on minimum terms so I presume what they mean by that is the timeframe for when the lock is applied should be defined.

In other words the minimum time it takes and the maximum time, so a timeframe when it has to happen, any other comments on that? No, okay. Just another comment, within one to two business days from the part - the date of notification from the relevant party, any faults on that?

Kristine Dorrain: Well I think we're - this is Kristine. I think we're still - sorry I didn't raise my hand. I think we're still debating and I maybe we'll go through it when we go through the (Strawman) about how many days and who calculates and that sort of thing.

So maybe we - you just note it, I don't know what we've been saying on this.

Michele Neylon: That's okay, that's okay. So note it - not that this is something we are discussing, I mean or words to that affect.

David Roache-Turner: Michele this David. Just as a point of information, at least at WIPO the way that the request is phrased currently with respect to question 29 is that the lock be maintained for the duration of the proceeding.

And the Registrar would typically receive notice of the conclusion either by way of notice of termination or by way of notice of decision.

Michele Neylon: Okay.

Kristine Dorrain: David this is Kristine, I was almost - I was actually, that was interesting that you interpreted the question to mean minimum and maximum duration for the lock.

I took the question to mean minimum and maximum time to respond. So because I know, I believe your notice says the same things ours does or something similar that says, please respond to this request within so much time.

And I took it that way so I'm wondering if it could be interpreted either way and maybe both need to be discussed.

David Roache-Turner: I think there is an ambiguity there in the point, I agree with that.

Man: Well my perception of it may be wrong there but the response already includes the notification of the provider that the domain lock has been placed. So usually when we get the inquiry we respond and lock the domain name at the same time.

So there might not be a difference between those two events, at least in our case there isn't and I assume in most cases that's the case.

Michele Neylon: Okay, and (Luke) agrees. Right sorry, the 32, it would be helpful - UDRP cases often take excuse for the days when you have a Registrar taking five to ten days to reply.

You can see that the - you can see that the provider and the parties are not the hold up. So I presume nobody disagrees with this? Alan go ahead.

Alan Greenberg: It's Alan, I'm not disagreeing but I note even in two consecutive answers here we vary from business days to days and...

Michele Neylon: Okay, good point.

Alan Greenberg: ...keep in mind that whatever we end up with has to be consistent and make sense. We could end up with conflict if we talk days in one place and business days somewhere else.

Michele Neylon: Very good point thank you Alan. Marika.

Marika Konings: That doesn't work out, I was just trying - did we cover 31 because I didn't have any notes on it yet? And just a question I know we're not, you know, going into the details but just to get a sense whether people think that's a reasonable timeframe, you know, are people looking at the same kind of ballpark or is this, you know, completely ridiculous what they're suggesting here.

Just to get a sense of what...

Michele Neylon: Marika, Marika I think for 31 what we said, was this is what we were discussing at present was the timeframe.

Marika Konings: Okay but people don't want to give an indication yet on whether this is a timeframe they think is reasonable or not?

Michele Neylon: No, but this is what we were discussing, what we're currently discussing as part of the (Strawman). I think Kristine mentioned something about that as well.

It's something we're currently discussing, so as in - if you want to put a response in there, note it the working group is deliberating on this - on the actual timeframes or, you know, words to that affect.

Marika Konings: Okay.

Michele Neylon: Sorry. Okay 32 - okay 33, that would probably help UDRP providers to comply with their obligations under UDRP. Provide for three days of the payment of or three days from the payment of the (unintelligible) notify the complainant of any administrative non-compliance of the complaint.

If the complaint is administratively compliant the provider should commence the proceedings, notify the respondents of the proceedings within the same timeframe.

It would be advisable to have the domain name locked before the proceeding is announced so respondents of the cyber flight is prevented. Okay, so just my own personal observations, it's not - it's more of a question to WIPO and (NIF).

Is that three days in the UDRP or is that three days specific to a dispute provider or could somebody please clarify that?

Kristine Dorrain: Yes, this is Kristine. The three days are within the UDRP, after the complaint has been - after the complaint has been received and I think maybe providers may interpret that a little differently as far as whether that's from payment or from whatever.

Then the because the provider does what's called administrative compliance check or deficiency check and then after the complaint is compliant or once it becomes compliant then the provider notifies the parties of the dispute.

That's known as commencement and I think the point of this particular number 33 is it is talking about the - is having to do with the issue of whether the respondent get notice of the dispute, which I know is - I read through the (Strawman) and I notice it's in there as far as because the UDRP requires the complainant to serve the respondent when it serves the provider.

And so I feel like this provider's suggestion may have been addressing that issue because the rest of it doesn't seem very relevant to the lock process. I don't know maybe David has a different opinion.

Michele Neylon: Okay Kristine just to clarify then. If this - you have the three days then, would that mean that the lock would have to happen before those three days are up?

Kristine Dorrain: Yes, well the way the forum does it actually is we receive a complaint, the case coordinator will look through it to make sure it's not like a fraud, you know, that there's actually argument and that it looks like a real complaint.

You know, most of the time they're filed by the same people over and over anyway so if somebody (unintelligible) whatever. As soon as we realize that the complaint isn't a total fraud we immediately contact the Registrar.

So usually we receive it - if we receive it at 9 o'clock in the morning the e-register is going to get an email at 9:30 our time, so it doesn't take long. And so that's when we request the lock on the domain name.

At that point once we get the lock then we start with a compliance check. And the reason we do it in that order, I don't know how WIPO does it but the reason we do it in that order is because during that lock process the Whois information - it's possible the Whois information will change.

And one of the compliance requirements is to make sure that the respondent is correctly named. So if there is cyber flight or if the Whois information does change or something, you know, kind of tricky happens in the process we can't - we have to have the domain name locked out and we have to know who the respondent is before we can carry on.

So that's how we - that's the order in which we do things. So the compliance check is done after the lock so I think the point here is the - like I said is because the notice of the respondent.

I think this provider is saying we should not - we shouldn't notify - nobody should notify the respondent until after all that is done.

Michele Neylon: Okay, thank you. Alan you had your hand up?

Alan Greenberg: Yes I may have a question but I'm going to ask for clarification first. What is the relationship between the provider being notified of the UDRP from the complainant and payment?

Are those synchronized, are they two independent events?

Kristine Dorrain: This is Kristine again. The - in 2012 it's pretty synchronized, I would say that over half of our parties play via credit card instantaneously when they file. We still have a few people in the dark ages who like to send a check.

And so I think that yes, so if you're waiting for a check then you may have to wait a couple of days for the check to arrive. And again if you've got somebody who has been filing with you for many years, you know, you sort of know the check is coming and it's going to be there tomorrow or whenever so you kind of carry out because, you know, you have a long history with that.

I would say in 2012 the payment is much less of an issue. Eight years ago we used to wait all the time for payments.

Alan Greenberg: Yes because this one seems to be synchronized on payment, the other one seems to be synchronized on notification. And again when we draft whatever we draft in the end we want to make sure that we're using the same reference points for the various delays.

David Roache-Turner: This is David from WIPO, I think it's probably not helpful to consider using the payment point as the relevant trigger for a range of reasons, some of which I think Kristine just explained.

You know, there can be a lot of variables in individual disputes as to the time at which the relevant payment is received. Whereas the issuance of a lock request by the provider is typically a list for us, it's a highly predictable event.

It will happen in all cases for which we receive a complaint, typically in most instances as with I think the (NIF), we will receive payment of the relevant filing fee simultaneously with the filing of the complaint usually by credit card.

But there are some cases where there can be a delay in receipt of that payment. A check is a good example, anyway I think it would be undesirable to have a request issued by a provider for lock confirmation and to not have that lock implemented until the provider had then gone through the additional step of confirming to the Registrar receipt of the relevant payment.

I don't need to send anything to the Registrar anyway but for those reasons I would suggest that we focus that discussion on the issue and send the notice by the provider rather than payment question.

Alan Greenberg: Yes, I assume the original words there because in a day before, everything being done by - or many things being done credit card the UDRP drafters didn't want to force the provider to provide subsidive services before the payment had arrived.

And what I'm hearing now is that's not as much of an issue now and maybe we synchronize everything around the notification and not the payment.

Michele Neylon: Yes, I think that's right exactly or not, I think there's also an element Alan of, you know, confirming there is safe assignment, you know, prior to any notification of the complaint as well, you know, just to ensure that the compliance has been notified and not (unintelligible) in using the payment or the money as a partial indicator of that.

Man: Okay, so guys what is going - what is the working group response going to be to this comment?

Marika Konings: This is Marika, what I've noted that this is also an issue that is being discussed and noting that, you know, the timeframes, the discussion we just had, you know, maybe the payments should be (unintelligible) for the notifications as there are variations in payment.

And I guess the main point being that we're looking into this in further detail.

Michele Neylon: Okay but just coming back to a couple of comments other people said, what does payment really have to do with anything else? I mean that's an issue for the dispute provider really.

Alan Greenberg: It's only an issue if dispute providers are reluctant to do things until payment is received. If that is the case as the UDRP originally implied then we need to consider it.

If it's no longer an issue then we should not be synchronizing things off of it.

David Roache-Turner: I agree with Alan on that and I think as well it's worth noting that, you know, if you would have a case where a lock request is issued by the provider and, you know, it would transpire that payment has not been received by - within the specified timeframe and the complainant has 10 days under the rules to make that payment.

The proceeding is going to be discontinued and the Registrar and the parties would be then be notified of that discontinuation, which would be an appropriate point I think, you know, to unlock the domain.

Michele Neylon: Hold on a second, hold on one second, slow down. But I thought that you wouldn't have notified anybody until you acknowledged receipt of the payment. So how would the process have started or did I miss something?

David Roache-Turner: Well because the relevance of the filing of the complaint with the provider, is that that's my point at which the proceeding becomes pending. So the Registrant of the domain name from that point onwards arguably is going to be in breach with paragraph 8A or 8B of the UDRP if they would move the registration of their domain name to a different Registrant or a different Registrar from that point onward.

Michele Neylon: Okay, so the complaint then comes into the provider, they - the complainant has an obligation to pay the relevant fee and the provider is under an obligation to notify the complainant within three days of the receipt of that fee from the complainant provided that the complaint is administratively compliant with the rules.

And the full (unintelligible) notification of that complaint to the parties in the dispute triggers the 20-day period in which the respondent then has to submit any response.

If the complainant has been deficient and is never formally notified then it's withdrawn and the proceedings are discontinued and the domain typically then would be, you know, would be unlocked.

If the payment is never made by the complainant, if they filed their complaint and then the provider, you know, we're safe to ask the Registrar to lock the domain. The Registrar confirms that that lock is in place, the proceedings are pending at this point.

But then after 10 days the complainant has still not paid their fee then the proceeding is going to be withdrawn and the Registrar and the parties, at least the WIPO will then be advised that the proceeding has ended and the domain then can be unlocked at that point.

But I mean the payment essentially is really an issue for the provider to manage with the relevant parties and if there are any relevant developments that affect the status of the proceedings that arise from that then the provider needs to inform, you know, the parties and the Registrar what that result would be.

And it's either going to be the formal notification of the proceeding and the commencement of the response period or it's going to be discontinuation.

Alan Greenberg: So in other words payment triggers the provider putting subsidive effort work into it but is not connected with the various notifications.

Michele Neylon: It is connected with the notification to the parties but it's not necessarily connected to the notification to the Registrar. So where the complaint comes in, you know, as Kristine described typically the provider's going to have a quick look at the complaint to make sure that it is a genuine and legitimate complaint.

This is a quick eyeball check essentially with a few other particulars, grade filing and a few other details and if it looks kosher in effect the provider will then go out to the Registrar and say, look hey we received this complaint, can you give us the information about the Registrant.

In the interim can you take the domain name locked pending the conclusion of this proceeding? That information then comes back from the Registrar including the confirmation of the lock request. The provider then goes through that information, looks at it, compares it to the complaint in detail and the relevant provisions of the rules.

And if the complaint meets all of the relevant procedural requirements of the rules the provider is then satisfied that the complaint is compliant with the rules and proceeds to formally notify the parties of the commencement of the UDRP proceedings.

And from this point the 20-day response period for the respondent runs.

Alan Greenberg: And all this happens regardless of whether you've been feed already?

David Roache-Turner: Well, we at least at WIPO we would need to have received the money before we would formally notify the parties...

Alan Greenberg: Okay.

David Roache-Turner: ...of the response period running and the proceedings having been commenced. We would not always have received payment by the time we issue the request to the relevant Registrar to confirm lock status and to confirm the Registrant particulars, you know, of the domain.

We don't necessarily always have the for example, the check in our hand. So the rules require that the complainant for example, states that they have made payments and to certify that payment has been made.

But if they make payment for example by check it may be, you know, a number of days before that check makes its way from, you know, Omaha, Nebraska to Geneva, Switzerland.

So we don't wait for the arrival of that paper check to issue our request to the Registrar.

Alan Greenberg: Okay, so you may have a subsequent amount of time between the time the Registrar actually puts on the lock and the time you notify the owner of the domain that a proceeding has started?

What I'm getting at is in our current rules the complaint - the person who - the Registrant is notified early in the game right now and that's problematic because it generates the possibility for cyber flight.

What we're suggesting now is you are going to request the lock very soon after you get the complaint. If there is a week delay before you get the payment, the notification that the proceedings are started and telling the Registrant that this is happening, there may be a significant amount of time where their domain is locked and they haven't been told why.

Michele Neylon: No, I don't think there'd be a significant amount of time. I think there may be a brief time and...

Alan Greenberg: What if it takes nine days for the check to come in, let's take that scenario.

Michele Neylon: ...well then that would be nine days during which period the domain name would be locked and in that period under the current arrangement the respondent would have received a copy of the complaint from the complainant when they filed the complaint with the provider.

And they probably would have received an acknowledgement of receipt from the provider at the filing of that complaint. But what they wouldn't have received at this point is formal notice of the commencement of the UDRP proceeding and the 20-day response period that the respondent has to submit a response.

So in practical terms the respondent gets notice of the existence and the pendency of the dispute or they should get that notice from the time that the complainant first submits their complaint.

Alan Greenberg: No, I understand that's the situation today but we're contemplating not having the Registrant notified at this time and I'm looking at what the implications are of that.

Michele Neylon: Yes in that case one of the implications of that would - could be that there may be a period of time and it may be some days between the filing of the

complaint and the Registrant of the domain name receiving notice that the domain name had been locked.

Alan Greenberg: Yes and that was the concern, the red flag I'm raising that we need to think about...

Michele Neylon: Yes, I agree we need to think about it, I think that's right Alan. Okay, Marika you had you hand up.

Marika Konings: Yes, Michele I actually took it down because I actually was going to make (Luke)'s point but I saw he had his hand raised himself so I'm hoping that he will speak to his comment in the chat.

(Luke): Yes, the comment I want to make is that we already face this situation where we had to lock domain name and then to be informed later on that complainant never paid the fee to the UDRP provider.

So we bereaved our customer from its rights under the domain name for ten days or more than 10 days I can't remember and it's just not acceptable for us.

Michele Neylon: I think that that's a very valid concern (Luke). I think it also reflects a bit the comment that Alan made previously but I can stay that statistically at least at WIPO the number of cases in which complainants file but then do not make payment for the filed complaint is very, very, very small.

I think we do need to be aware of it but it's statistically a very, very small number of cases, at least for us. Okay, Volker then Alan.

Volker Greimann: Yes, I wanted to chime in on the same tune that (Luke) was saying that basically cyber flight is only cyber flight where there is actually a proceeding going on.

If there is not a proceeding going on it's a transfer and the Registrant has the right to transfer the domain unless there is a proceeding going on. So nothing before the proceeding is actually commenced is taking away rights of the customer and is actually not in compliance with ICANN policy.  
So I would really be very careful about changing that policy.

Michele Neylon: I think we also need to continue to bear in mind and I mentioned this a bit before but the prohibition under the UDRP at the moment is on a Registrant transferring domain - their domain name to another Registrant or to another Registrar during dependency of a UDRP proceeding.

That prohibition doesn't come into effect from the formal commencement of the UDRP proceeding in the sense that the respondent receives full (unintelligible) of the complaint and the opportunity to respond.

It comes into effect from dependency and dependency is typically the period at which the complaint is filed. And so what I think we're trying to do is to look at that difficult period between the filing of the complaint by the complainant and the period at which we are going to put in place a clear obligation on the Registrar to give effect to that lock obligation.

How we do that and I think that if we would link that only to the formal commencement of the proceedings there would be a question of consistency of the existing prohibition on the Registrant under paragraph 8 of the UDRP.

Okay, thank you. I have Volker and then Alan.

Man: That was (unintelligible) time sorry.

Alan Greenberg: I think we already had Volker. Two quick comments, number one Volker made a reference to we would be in violation of ICANN policy. We are in fact writing ICANN policy right now.

So, hold on I have someone at the door and a dog that's making a lot of noise. Just let me put - I'm trying to remember what my second point was. The second point is that - yes hold on.

Sorry, the second point was that we need to keep in mind if we want to link everything to the notifications and the things that follow after that. The question is will providers be willing to take this small risk of not waiting for payment, which may avoid having that 10-day situation where Registrants are deprived of rights, thank you.

Michele Neylon: Thank you Alan. And Volker's back again.

Volker Greimann: Okay, I just wanted to say I'm aware that we are changing policy but I am very careful about changing policy when there's not really a need to do that or when such policy actually changes rights of the Registrants.

If we want to change policy then we should have - we should be very careful about that and we should really first find a need and an actual problem. And I'm still not convinced that cyber flight is that much of a problem.

Michele Neylon: Okay, Alan and then Kristine.

Alan Greenberg: My hands still up I'm not at my computer right now, sorry.

Michele Neylon: That's okay, Alan go off and be with your dogs. Kristine.

Kristine Dorrain: I just have two quick points, my first one is that I know - I don't remember who just threw out the idea about the providers possibly...

Alan Greenberg: So we got water right now do you want hot or cold?

((Crosstalk))

Kristine Dorrain: ...are waiting a different amount of time for (unintelligible). I know that something that we've been discussing internally is whether or not we should be modernizing our, you know, policy on how long we're going to wait for payment.

So, I mean, you know, I can speak for (NAPAN) that we're certainly open for discussing sort of what a reasonable amount of time is to wait.

The said thing I would just like to say respectfully is, if we're debating whether or not cyber flights are real and serious problem then maybe we need to go back to the drawing board because I kind of thought that was already settled and kind of why most of were here. So my apologies if I misunderstood that.

Michele Neylon: Okay, thank you. I see some - okay some people are going to get confused by the transcript when they see all the references to hot dogs but and I'm desperately to keep a straight face.

Does anybody have anything further on 33 or can we move onto 34? Okay, moving onto 34, this comment is from (William Clark) and in the reasons of transparency and everything else he is the Black Knights External Legal Counsel.

So (William)'s comment, there should be a confirmed timeframe after UDRP has been made and received by the UDRP nominating body, I presume he means the resumption provider.

The (unintelligible) of the Registrar to allow for a domain lock down, the actual written complaint the Registrant receives with the claim, the UDRP bodies receives the claim.

Once received the domain name registration should be locked within 48 hours. Any comments on that? That's okay you can beat up on my lawyer if you want to, I don't mind.

So the main thing - go ahead.

Kristine Dorrain: Well I only - I guess - this is Kristine. I suggest that - I only suggest that maybe we and I don't know if we're getting, you know, if it's too crazy to talk about, you know, maybe the substance of each one but I know we're discussing some of these things.

I don't think anyone has disagreed with providing the actual written complaint to the Registrar or that the provider has received the complaint. I think Alan is still discussing and, you know, has brought a few times whether or not the Registrant should receive notice and we're in agreement with him on that.

And then, you know, I think the only last piece is, you know, how long does the Registrar have to lock. And I think it does come - I think we tie a little bit back around the number of days because the provider once a complaint is administratively complaint as we just discussed in 33, has to notify the parties of the dispute in three days.

And so the question really is where in this time, you know, where to build in and give the parties and the provider extra time. One of the problems we notice as a provider is, so we receive the complaint, we, you know, in 99.8% of cases we have the money.

So we immediately request the lock and then we have to sit and wait. And now our three days is up, we don't have any more (unintelligible) compliance check but we still have to do it.

And so really the UDRP hasn't built in any timeframe. So I think that's one of the things that's still open for discussion is how many days/hours. I'm not a fan of talking about hours because it doesn't take into account anybody's holidays or anybody's weekends.

But I am and I know I think Alan mentioned before, I think we want to (unintelligible) that and I understand we're talking about business days but that's just my personal thought.

I guess my point is of those comments is I don't know that we're ready to say definitively how many days is the right number. So we do need to take into account, you know, basically the constraint within the UDRP.

And if we're going to make a recommendation outside of what's, you know, (unintelligible) that's built into the UDRP I think we just need to know that that's there.

Michele Neylon: Okay and so your - just to clarify your preference again is business days?

Kristine Dorrain: Yes, personally it's my preference because then the, you know, if the Registrar's on a holiday or whatever, you know, then it does (unintelligible).

Michele Neylon: Business days okay, just as a very, very quick straw poll, totally on scientific, totally non-binding. Could some people who are on Adobe, excluding Alan who's already told us that he likes business days I think.

Do you all like the reference business days? Okay everybody seems to like it. Okay now (Gabby) don't be asking me awkward questions like which country, we can argue about that afterwards.

I think the key thing that people are having an issue with is that Saturday's and Sunday's are going to be problematic for most Registrars. I don't think there are many who would work both Saturday and Sunday, well not all of their legal teams and people like that would be around, reachable in the case of an emergency I'm sure.

Is there anybody who absolutely hates the term business days? And David says business days of the calculation using UDRP Section 4K, which I assume means he doesn't hate them.

Okay, so business - everybody seems to be happier, not saying all delights, it's not binding but just generally speaking business days as a term would seem to be preferred by most people, yes, no, perhaps?

Okay, (Gabby)'s not 100% sure but she's not saying violently no. So, we'll work on the basis, she's not opposing us at the moment. David has his hand up, go ahead David.

David Roache-Turner: I don't have strong views on the day issue but I just wanted to note that the description by (William Clark) in question 34. I think pretty succinctly describes what happens in the vast majority of cases currently.

Michele Neylon: Okay thanks. (Gabby)'s comment is that the Internet is 24/7, Kristine agrees with David with respect to the process thing. Okay, we've got ten minutes left and (Gabby) admits that she is a workaholic.

And that's okay, some of us are, some of us aren't. David are you - is that a new hand or an old hand.

David Roache-Turner: An old hand sorry.

Michele Neylon: Volker suggests that humans are 9 to 5 and I'm wondering about - the obvious question is 9 to 5 where. Okay moving on, okay next one 35. It is important that the UDRP provider promptly makes the initial formal request for Registrar verification or the locking of the disputed domain is done at the same time, any comments - comments?

Kristine Dorrain: This is Kristine, I would say agree, I don't know that we - I don't know that anybody here disagreed with any of that. We all may disagree of about

(unintelligible) still be discussing some of the formalities of what that exactly means but I don't think anybody disagrees with the sentiments behind (unintelligible).

Michele Neylon: I'm going to take my hat - my chair hat off for a second so that I can disagree. It's impossible for it to happen at the same time. It's operationally impossible. The UDRP provider can make a formal request for the Registrar verification but it's absolutely impossible for the verification and the lock to happen at exactly the same time.

Kristine Dorrain: That's sort of what I meant Michele, was I think our definition of the same time, is that instantaneously, is that within five hours or 24 hours or that sort of thing?

Michele Neylon: It would have to be sequential though wouldn't it?

Kristine Dorrain: Yes, I think so.

Gabriella Schitteck: May I, I have a question.

Michele Neylon: Sure, sure please, please it's great to hear your voice, ask a question.

Gabriella Schitteck: This is (Gabby) so my question would be what about the implementation of something else about the same, like implementation of the locking and the notification of the respondent in just one step, with technology helping us, I don't know how.

But some kind of way which a Registrar may be able to open at the same time that would trigger something that would send the respondent the complaint and at the same moment (unintelligible) with technology helping us, something like that, maybe I'm crazy sorry.

I'm not sure if this is something that makes sense or not from the point of view of providers and registrars.

Michele Neylon: Okay, would somebody like to respond to that? I could respond and I'll try to do so diplomatically. While technically that might be possible, it is also possible for a lot of things to happen but it doesn't mean that it would be - I'm trying to be diplomatic here.

Gabriella Schitteck: Okay, no worries don't answer it if it's so crazy don't answer it.

Michele Neylon: I'll put it this way, technically it might be possible, it wouldn't be feasible at present and I think coordinating this would be incredibly complicated. I think Alan was talking about something not dissimilar to this some time ago.

It's - and could somebody please unmute Alan now that he's dealt with his dogs or has cooked the more or whatever it is that he was doing. I don't know, does anybody else have any thoughts on that?

No, okay David is - that's an old hand, which I'm ignoring. Alan has his hand up.

Alan Greenberg: Can you hear me now?

Michele Neylon: Yes, we can.

Alan Greenberg: Good, yes I was just going to raise the - what you just made reference to. That the provider dealing directly with the Registry or with a Registrar conceivably but electronically effectively turning on the lock addresses that problem, it does generate another set of problems.

But that's the only way to synchronize those is to take the Registrar out of the loop, which I would think Registrar's would be happy to be taken out of that loop but it does mean we have to build something new to do that.

Michele Neylon: Thanks Alan and just for the record, it's not - and speaking as - my chair hat on but as a Registrar I don't disagree with the concept, I just know that the operational implications of trying to do something like that would - the more I think about it I'm likely to actually have a spontaneous nosebleed or something else.

Alan Greenberg: But Michele remember we're also talking about standardizing the lock in which case it may well fit better with whatever we standardize on. If we standardize on Registrars doing random things to affect the endpoint, it clearly doesn't work.  
If we standardize on their being a new EPP lock created to do just the right combination of things then it may fit better.

Michele Neylon: Alan, I will give you one small rebuttal before I go back to Volker. You unfortunately are overlooking a minor yet huge issue within Whois, which has gotten nothing to do with EPP.

Alan Greenberg: I understand.

Michele Neylon: So (Mywho) is server can spit out whatever the hell it wants irrespective of any status that might exist at the EPP level. So...

Alan Greenberg: Presumably not if you're compliant with some rule that we write but I'm not really trying to push it, I'm just pointing...

Michele Neylon: ...no, no, no, no it's just technically speaking it's a kind of - it's a bit of a problem, Volker go.

Alan Greenberg: If we take long enough we may not have to worry about what's in Whois.

Volker Greimann: I - actually you just took the words out of my mouth Michele because if the lock is implemented at the Registry side and the Registrar is taken out of the

loop entirely then changes would be made normally to the Whois because that is not locked into Registry side but then who has Registries.

That's a nice idea but I don't think it would work unless the (unintelligible) working group that I'm also on comes out with a result that would match that.

Michele Neylon: Okay, let's okay any further on this? I like this David has made an interesting suggestion. Volker how about locked when (unintelligible) provider request excluding weekends and since weekends may be more objective in a way than business days, which may vary across countries.

Volker Greimann: Yes but then you also have to work on holidays, I don't really like that idea. For instance holiday's is three - three holidays here and then there's New Years so that's - there's a lot of holiday seasons where business days and real days diverge of - from only taking out the weekends.

So I think business days makes more sense in allowing the Registrar to keep some part of his operation under control unless you want to propose 24/7 Registrars around the world, which would favor the big ones and kind of shut out the smaller Registrars of the business.

Michele Neylon: Okay, thank you. We have two minutes left so I think I'm going to say thank you to everybody and I shall speak to you all next week. I don't think there's nothing strange happening next week is there or that I should be aware of?

Most people should be around I would hope. Please review the (Strawman) document that Marika has prepared. We will try to finish off the last couple of these comments next week and move onto the dealing with the (Strawman) proposal.

Kristine Dorrain: Michele this is Kristine.

Michele Neylon: Yes, Kristine.

Kristine Dorrain: I loved Marika's suggestion, maybe it was before they turned the recording on but that maybe we send out an email telling people that we're moving past the public comments and moving onto the (Strawman).

Maybe it will get a bigger turn out next week if we remind people that we're sort of moving on. I really liked that suggestion, I don't know if that's possible or not.

Michele Neylon: All right thank you, that's a good suggestion thank you. Anything else from anybody?

Man: Just for you Michele, (unintelligible) in five minutes?

Michele Neylon: Yes, sure no problem, bye. Thank you all.

Kristine Dorrain: Thank you everybody.

Man: Thank you.

Man: Bye.

Woman: Bye-bye thank you.

END