

**ICANN
Transcription
Locking of a Domain Name Subject to UDRP Proceedings
Policy Development Process Working Group
Thursday 29 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 29 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-20121129-en.mp3>

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

Attendees:

Laurie Anderson – RrSG
Kristine Dorrain - NAF
Randy Ferguson – IPC
Lisa Garono - IPC
Alan Greenberg - ALAC (Vice-Chair)
Volker Greimann – RrSG
Celia Lerman - CBUC
Michele Neylon – RrSG
David Roache-Turner - WIPO
Juan Manuel Rojas – ALAC
Luc Seufer – RrSG
Matt Schneller - IPC
Faisal Shah - Individual

Apologies:

Gabriela Szlak - CBUC
David Maher - RySG

Staff:

Marika Konings
Berry Cobb
Julia Charvolen

Julia Charvolen: Good morning, good afternoon, good evening. This is the Locking of a Domain Name Subject to UDRP Proceedings PDP Working Group call on Thursday 29th of November.

On the call today we have Laurie Anderson, Kristine Dorrain, Lisa Garono, Alan Greenberg, Volker Greimann, Celia Lerman, Michele Neylon, Juan Manuel Rojas, Matt Schneller, Faisal Shah and we also have David Roache-Turner.

We have apologies from David Maher and Gabriela Szlak. From Staff we have Marika Konings, Berry Cobb 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: Okay thank you. Good afternoon everybody or good morning or I don't know, what other times all the people are working afternoons and mornings. The meeting today - we're going to try and fit and kill off the last couple of public comments.

There's only one or two left and then after that we're going to move on hopefully to having a look at the straw man proposal that Marika has circulated.

And of course before I forget because I'm likely to does anybody have any updates to the Statement of Interest or Expressions of Interest or whatever that thing is called?

Sorry, acronym's not working too well. Going once. Going twice. No. Fine. Okay. Right then. Marika thanks. You updated this. So I'm trying to - everybody can scroll as I assume so which number did we have? The first one's 36 and the first missing one, is that correct?

Marika Konings: Yes that's correct.

Michele Neylon: Okay. So 36 is the first one and I'm just zooming in there so I can read the damn thing. IHG - who's that?

Marika Konings: This is Marika. I think it's International Hotel Group or something like that.

Michele Neylon: Okay.

Marika Konings: I think it's - I'm not sure of the acronym - if I have the acronym right but I think it's a group that's representing different hotel chains if I'm not mistaken.

Michele Neylon: Okay. Do you want from me? Right. "It's highly - their comment - it's highly important that the UDRP system require that upon filing of the UDRP complaint, the Registrar must proceed to immediately lock down the domains in question, preventing any change to the domains until the UDRP proceeding has been completed.

This locking should occur whenever a Registrar is first notified that a complaint has been filed, whether by a complainant, a UDRP service provider or otherwise."

And I think our comments should be left on that will be, "Thanks for the comment. This is what we are looking at." I mean, it's very similar to some of the other ones we've already had.

Any other comments on that? Oh, InterContinental Hotel Groups. That's the corporate entity that owns InterContinental Hotels, is that right Marika?

Marika Konings: Yes that's correct. I see on the Web site that InterContinental Crown Plaza, Holiday Inn, et cetera.

Michele Neylon: Okay cool. Cool. I think I'm a member of their frequent stay scheme. Anyway anybody have any other comments on 36?

Alan Greenberg: Michele it's Alan. I'm not on my computer right now.

Michele Neylon: Okay.

Alan Greenberg: Did that say that - they're saying Registrars should lock it as soon as they get notification from anyone?

Michele Neylon: Yes.

Alan Greenberg: That is not what we're working on I thought. We're...

Michele Neylon: But what we're working on was deciding which pool are deciding whether this was true or not.

Alan Greenberg: Yes but I thought we had pretty well decided that we can't put upon Registrars the requirement to check whether it's reasonable enough to do it, and that we were simply - I thought we were talking about not letting the Registrant know until the provider had had a chance to tell the Registrar.

Michele Neylon: Okay.

Alan Greenberg: What they're suggesting is not quite what we're looking at. The net effect may be the same but it's not the same. But it's a different order I think.

Michele Neylon: No, no, no. You're right. I don't disagree. Sorry. And thank you for helping to wake me up even though it is 3 o'clock in the afternoon Irish time. I'm having my post-lunch slump.

Now - so okay, based on what Alan says then we do not agree with this. We have - we want to follow the process that we have been working on. Okay. Number 37. I'm...

Alan Greenberg: We understand the intent and plan to cover it. Yes.

Michele Neylon: Oh yes, totally. Totally.

Alan Greenberg: Okay.

Michele Neylon: I don't disagree. My God Alan, you and I actually agree on things. Please don't tell anybody. INTA. "A lock should be implemented upon the Registrar's receipt of a complaint, rather than upon notification of commencement of the proceeding from the UDRP dispute resolution service provider."

And our comment then would be that we don't agree with this. Is that correct?

Alan Greenberg: Sorry Michele. You cut out for a second. Our response would be...

Michele Neylon: We don't agree with this or we do agree with this?

Alan Greenberg: The same response as the previous one.

Michele Neylon: Okay. David I think you wanted to say something. I heard a voice. No? Okay.

David Roache-Turner: Well thanks Michele. Yes, I just wanted to mention that I think there are three timeframes that we've been looking at as possible options. The first is on the first filing of the complaint with the provider.

The second is on the Registrar's receipt of notification from the provider in the form of a Registrar verification request. And the third option is on the formal commencement of the UDRP proceedings, which is what happens when the respondent's formally notified of the complaint.

I don't have a comment on the merit of Comments Number 37 and 38, but I read both of these comments as being supportive of the introduction of a lock as from the first filing of the complaint with the UDRP provider.

Michele Neylon: Okay. Okay I'll - let's have a quick look at 38 because I think it's probably going to be linked. Thirty-eight. "The maximum amount of time that a Registrar has to lock a domain after receipt of a complaint should be

standardized and must not exceed 24 hours after receipt of notice with assurances.”

Okay. “Such notice with assurances would consist of the receipt of complaint where the complainant pursuant to the requirements of a UDRP action sends a single email address to the Registrant’s email address as listed in WHOIS at the time of filing the complaint, the provider’s UDRP related email address and the Registrar’s email address as provided at the InterNIC’s Registrar list or as clearly and prominently identified on the Registrar’s Web site.”

I actually see a huge problem with that already but doing it okay. “Attaches a copy of the complaint...” oh my God. “Attach the copy of the complaint and any annexes as an attachment or attachments each in either Word or PDF formats to the single email.

Attaches some proof of payment of the provider’s UDRP fees to the single email, provided however the financial data like credit card numbers may be obscured.

This requirement shall be deemed met if the complainant attaches a filing receipt from the provider’s online filing system. Such a single communication to the Registrant, provider and Registrar and the inclusion of the complaint, any annexes and proof of payment, notice with assurances, provides the Registrar with reasonable assurances that a legitimate complaint has been filed without burdening the Registrar with further authentication determinations.

Implementation of a domain lock upon receipt of a complaint would be required, but only if the complainant meets the notice with assurances requirements in order to minimize the risk of fake complaints.”

And Marika informs us that Luc has joined the call. I'm going to put myself in the queue but I want - has anybody else got any comments on this? Anybody got any other - any comments on this?

Alan Greenberg: It's Alan. I may but I'll let you speak first.

Michele Neylon: Okay. Michele speaking as a Registrar, not as the Chair, I absolutely hate this for one very simple reason that as a Registrar there's several email addresses published on our Web site, and there is absolutely no way on earth that I would want those email addresses to be used for anything anywhere close to being this important with a contractual obligation tied to them, nor would I want them to be in receipt of potentially hundreds of megabytes of attachments.

There is absolutely zero way of knowing that the email sent to an address - an email address published on a Registrar's Web site is going to get - be routed - the email's going to be routed to anybody who will either understand what they're receiving or be in a position to act on it.

So for those reasons, while I appreciate what INTA is trying to do and the concept of their assurances, they may have some merit, the operational aspects of this are completely unacceptable from a Registrar perspective. Thanks. Go ahead David and then Alan.

David Roache-Turner: Thanks Michele. I just have one observation which is that they - the process which is described in this comment is of course essentially what a provider does when it initially receives a complaint as a prelude to sending to the Registrar the request to lock the domain name.

So I suppose in theory it would certainly be from our perspective fine if the Registrar would want to take on that role in this respect, but there might be some elements of duplication that may result from it.

So in that sense if this would be a recommendation that the group would consider adopting, I think it makes sense to make it a recommendation that is quite specific and quite precise and makes it easy for the Registrar to understand what is being asked of it if this is the direction in which the group would go.

Michele Neylon: Okay thanks David. Alan?

Alan Greenberg: Speaking not as a Registrar I think this is ridiculous. I think it places an unreasonable burden on a Registrar and - which most Registrars are not capable of necessarily doing with the level of confidence that our - that the providers can and the 24 hour - 24, you know, clock hours is an unreasonable burden.

And I believe what we're talking about now of changing the sequence of notifications provides the exact same level of confidence or perhaps even more, since the respondent is not notified at all yet without adding that level of complexity in it and burden. Thank you.

Michele Neylon: Thanks Alan. Damn, I've lost my window here. Sorry. Laurie Anderson's just put into the chat, "Of all the complaints we received in the last six years, we've had one complaint that was fake.

We will lock - we" - and by we she means GoDaddy, "will lock based on a complaint filed with the provider that we are copied on. We do not wait for the verification or commencement."

Does anybody else have any other comments on this? Okay, so what is our response for this? I mean, we've got several responses. My view on this is pretty clear.

David has explained certain things and Alan has expressed his. Does - how would people want the Working Group to respond to this comment, to Number 38? Alan, go ahead.

Alan Greenberg: Yes I think the response is we understand the intent and hope to be able to address it. You know, our methodology may be different and I agree with Kristine that a Registrar should be allowed to do it, but it should not be required to do.

Michele Neylon: Okay. Kristine, go ahead.

Kristine Dorrain: Yes that was all I was going to say. Thank you.

Michele Neylon: Okay. All right, thank you. This is also a bit of a discussion here in the chat, which I think and which I'm going to kind of read into the record. David is asking Laurie how long it takes them to implement a lock.

Laurie was saying about 24 - within 24 hours and Luc points out that not all Registrars are equipped to do so. Laurie now is - has gone from her 24 hours saying that it's usually within 12.

So anyway, so I think Luc's point is that not all Registrars would be able to do so would still stand. Okay so 37. We've got - oh Celia. Please Celia, go ahead.

Celia Lerman: Yes this is Celia. Just one question and it was something that - to Luc's comment. Registrars are not equipped to respond within any 24-hour period or is it just in - under different consensus?

Michele Neylon: Luc, do you want to answer that or do you want me to mind read?

Luc Seufer: Oh sorry. I did not get the last part. But my understanding of the comment is that we or our team would have to review the comments to be sure that we

have beneficiary and assurance that the complainant is not fake and is valid and blah blah blah. So for me, no we are not equipped to do that within 24 hours.

Celia Lerman: Right. But under the circumstances they - any Registrar could potential - let's say it was, you know, under like in the straw man model we proposed, there are, you know, it's a common standard for if you - what you require is low, like if the provider notifies you instead of the complainant, any Registrar could do it within 24 hours.

Michele Neylon: Any Registrar could do what within 24 hours?

Celia Lerman: Lock the domain.

Michele Neylon: Okay I think - just trying to...

Celia Lerman: And that's serious.

Michele Neylon: Okay. The problem for something like this is that within 24 hours means you're talking about holidays, bank holidays, weekends, et cetera, et cetera. If you were to say within one working day it might - you would get a different response from Luc and from some of the other Registrars.

Now in the case of - I don't want to words into people's mouths, but I imagine for GoDaddy 24 hours may not be as big an issue as it would be for other Registrars. Volker has his hand up. Please go ahead.

Volker Greimann: Yes I agree completely with what Michele is doing - saying and many of the smaller Registrars have one person dealing with all that, and somebody taking care of the rest.

Twenty-four hours is just too undefined time space for actual work to be done. If we get it at - on Friday at 3 o'clock and there's no one to take a queue it might not be taken care of till Monday, and I think that's reasonable.

Michele Neylon: Okay do you want - is that okay, such help Celia?

Celia Lerman: Yes very helpful and I actually just was thinking about the straw man model that we're going to propose later, so thank you.

Michele Neylon: Okay. Well, I mean, the thing with the straw man is it's something that, you know, it's to be ripped apart so people are meant to poke holes in it and find issues with it.

You know, that's the idea behind it so obviously some parts of it will be acceptable. Other parts may not be.

Celia Lerman: Yes I agree.

Michele Neylon: Okay? All right then. I don't know - oh sorry. Somebody's trying to ring my extension so I'm just going to ignore that beeping in my ear. Okay so - and several people are saying on the chat that the one business day concept works a lot better for them, including both David and Kristine.

Now 39, comment from GoDaddy. "We believe domain names should be locked upon reasonable notification of a dispute to prevent cyber-flight a/k/a Registrar hopping, as well as to minimize the cost of tracking down or retrieving a - disputed names."

Anybody have anything to add to that or anything - any reaction to that?
Going once.

Alan Greenberg: It's Alan. Agreed.

Michele Neylon: Okay agreed. Thank you. Fine. Right. Moving on. Okay hold on a second. I have to do lots of scrolling here. Scroll, scroll, scroll, scroll, scroll and my mouse's heart is getting tired.

And what the hell are we going to? Scroll, scroll, scroll, scroll, scroll. Give me one second. There's a few - there's a couple of comments at the very end.

Okay 81. "Should a locking during the UDRP proceeding be accepted under certain concept - circumstances? FICPI points out the importance of the possibility to temporarily or for limited purposes unlock a disputed domain name during the UDRP proceeding, namely in the case where the parties agree to a transfer." Does anybody have any comments on that?

Alan Greenberg: It's Alan. I thought that we had said - I thought that for at least one of the providers -- I don't remember which -- that they handle that by the parties coming back to the dispute provider, and the dispute provider rules that a transfer has been agreed to and therefore requests the transfer or orders the transfer.

I'm not sure if that's something that will be acceptable to all providers, but it certainly addresses the issue without us trying to craft words, which tell a Registrar under what conditions to believe the parties that, you know, and that kind of stuff.

Michele Neylon: Yes. Okay. Now I've got a massive queue that suddenly appeared from nowhere. So going in order of how we're going to deal with them, we have Marika, Volker, Kristine and then Laurie. Marika you have the floor or the phone.

Marika Konings: Yes this is Marika. This is Marika. Maybe just to remind people because I think this is a discussion we had a couple of ICANN meetings ago where I think the group asked the question whether - that the fact that we have to

deal with locking, does it also mean that we can make recommendations on unlocking anything?

The Council responded that, "Yes, we understand that if you lock something you should also be able to make recommendations to unlock." So just a note that I think this is something that is within the remit of the Working Group to consider and make recommendations on that should you decide so.

Michele Neylon: Okay thank you. Volker, Kristine then Laurie.

Volker Greimann: Yes, just in response to the previous point we haven't seen that yet where the - a case yet where the provider makes that decision. We've seen a lot of cases with WIPO where the case is suspended, and then we require as the Registrar to - both parties to come to us and mutually agree to a transfer, and we will then process that transfer because as the proceedings are suspended at that time, i.e. not running, we believe and have received confirmation from WIPO that an unlocking and a transfer at that point can be performed as long as certain provisions are made, which is that the transfer from the respondent to the complainant takes place and we broker that as a Registrar.

Michele Neylon: Just for clarification Volker you're saying then that assuming that the dispute provider suspends the dispute, is that - then you would work with the two parties for the transfer. Is that correct?

Volker Greimann: That's correct. Most of the cases that the respondent answers that he wants to transfer but can't, we point him to the - to contact the complainant and WIPO and WIPO then informs the complainant that there has been a communication from the respondent that a transfer is intended.

The complainant then has to request a suspension, which we then receive a confirmation of from the provider. Once we receive that suspension notice, we inform both the respondent and the complainant about the conditions under which the domain name can be unlocked and transferred.

We do not allow the respondent to transfer the domain. We do that for him and once the domain is transferred the complainant is usually the party that instructs the provider that the proceeding can be finally terminated.

Or if I remember correctly the proceedings are automatically terminated if no further communication is received. Otherwise the complainant has to put in that their suspension be removed and the proceedings be continued.

Michele Neylon: Okay thank you. Kristine and then Laurie.

Kristine Dorrain: Yes, I just wanted to mention - this is Kristine - that the reason that this is even an issue is not because the Registrars that understand how to allow a suspension to allow the parties to settle.

It's for the Registrars. Again, you know, there's a group of Registrars that know what they're doing. They know how to lock and unlock a domain name and when to do so.

They know when there's a suspension. They know when there's a stay. They know when the parties are trying to negotiate a settlement, and they know how to broker that settlement as Volker said to make sure that only the right party gets the transfer.

The problem is the reason I think we're all here is for the - for those Registrars that don't know. And, you know, Volker mentioned yes we've learned from WIPO that this is acceptable.

It's the same thing. I don't know, you know, what David can say about it but I can tell you that not a small portion of my, you know, month is spent helping Registrars figure out, "Oh this is what a suspension means.

Yes you can unlock to allow the parties to transfer between themselves.” And so I think for - what I’m thinking is the purpose of maybe part of this is to say, you know, here’s how the - you the providers’ supplemental rules work because I think WIPOs and us work the same.

So really it’s a matter of making sure that the Registrars that don’t already know what they’re doing, you know, have the tools in place to know what it is they’re supposed to do or what it is they’re allowed to do if the parties want to settle.

And I guess that’s the point I thought I would make there because, you know, there are Registrars clearly like Volker and GoDaddy and others who know exactly what they’re doing in this situation.

Michele Neylon: Okay thank you. Laurie.

Laurie Anderson: We used to unlock the domains years ago and let the parties handle it between themselves, but we ran into issues with the respondent not following through so now we handle it.

So - but we would never unlock the domain and let the parties sort of sort it out between themselves until - we don’t unlock it completely and give the winner of the dispute control of it until we have a final decision.

So even after there’s a suspension and they - we have agreement on both sides so we move the domain name to the complaining party, and then we don’t unlock until we have a termination in the case.

Michele Neylon: Okay thank you. So what do we put in as the response then? We put in - there is already best - there’s already - this is already possible under the current UDRP and we will make a note of this in our report or something like this.

Kristine Dorrain: Yes Michele, this is Kristine. Yes, I think maybe mentioning that the providers have mechanisms in place in their supplemental rules was that we're considering maybe adding a best practice.

Michele Neylon: Okay.

Kristine Dorrain: If that - if everyone agrees that we would consider adding a best practice.

Michele Neylon: I'm seeing various comments, which are kind of supportive of that concept in the chat. Alan has his hand up again. Laurie I'm assuming that's an old hand and I'm ignoring it. Alan, go ahead.

Alan Greenberg: Yes I don't think we can say providers have a methodology in their roots because a new supplier could come along that doesn't. We could say suppliers must have or should have or something like that. We can't just presume it's there, just precaution on wording.

Michele Neylon: That's a very good point. Maybe we should - maybe then let's try to say that maybe the existing providers WIPO and - sorry, I always get it wrong. Kristine, no offense - have procedures in place to handle this and the working group would urge any new providers to do likewise and to concept of best practice or something, I don't know. If anybody have any suggestions on that please share them. At Oaks. Sorry, Marika. You weren't waving at me. Of course, you can't wave on ADOBE so...

Marika Konings: This is Marika. I think one suggestion and I think that probably will come into play as well when we look at the Straw Man because eventually the idea will be there's a step by step process which the registrars need to follow and presumably this would be one of the elements that could be built in here and there basically with the rep and saying look, this is already an option currently under the rules so this is what happens or what you need to do or can consider to do depending on where it sits. But I think in the end that would

hopefully be one of the outcomes whether there's (unintelligible) step by step that clarifies what happens in the different steps of the UDRP proceeding.

Michele Neylon: Okay, thank you Marika, moving onto AC2 again from the intercontinental hotel group. (Unintelligible) between the data which the UDRP is filed in which the service provider commences proceeding, domain name can be transferred before the proceedings begin in (erratus), a threat to ISG and every encounter and every UDRP complainant files. I'm tempted to just say noted because they're not specifying in my -- unless I'm misreading this - they're not specifying anything that it's kind of actionable for us.

Alan Greenberg: Well it would be actionable if we make a recommendation that the complainant no longer has to notify the respondent and that nullification comes later in the process. We will be addressing it so noted is fine I think.

Alan Greenberg: Okay. Volker has his hand up. Go ahead Volker.

Volker Greimann: I might have the terms backwards but the commencement of the proceedings is after the main has been already has confirmed it's locked, correct? So actually I don't think the entire comment is correct because the domain name is locked before the commencement because the commencement only occurs when (whiffling) that data from the registrar will confirm the domain is locked already.

Michele Neylon: Okay. David is saying it's the gap between the dates in which the complaint is filed and confirmed as locked but matter it's not commencement and he's agreeing with Volker. Okay. And Christina is with David which means she also agrees with Volker. Okay. So - yes, I think we covered it. We're noting it. We're dealing with - it's being dealt with and also there's a bit of confusion possibly with respected timing in that comment.

AC3, again from NTIA. Current locked processes, registrar could lock only upon receipt of a notice of commencement from the UDRP service provider

rather than on the receipt of the file complaint from the complainant, leave a considerable window of time between the time when the registrant is notified of the complaint to the time which the registrar applies the lock. A number of problems arise if pre-commencement changes to registrant data occur. The portions of the complaint that refer to the registrant's activities may no longer be active and the complaint may need to be revised at the expense of the complainant.

A change of registrant information may impact the ability of the complaint group multiple domain names of the single UDRP proceeding or cause for complainant to incur additional cost to prepare and submit arguments and fees for applicable under provider supplemental rules to argue the domain name is a facture of common owner. A change of registrar may impact jurisdiction for appeal, a change of registrant may impact complainant ability to improve registration of UCG3 over other domain names which would require UDRP decisions. The change is also likely to require the complainant or additional reverse search for a third party vendor for each new registrant, incurring additional cost to do so.

Michele Neylon: Okay. Volker, go for it man. Go for it.

Volker Greimann: That's my old one, sorry.

Michele Neylon: Ah Volker, don't be a wuss. Come on, you know you can say something on this. Go on. You know you want to.

Volker Greimann: I was only half listening so the (unintelligible).

Michele Neylon: Okay, that's fine. We'll let you off the hook. Kristine then Alan.

Kristine Dorrain: This is Kristine. I would just like to say that I think maybe comments 82 and 83 stem from maybe an older understanding of the rule. I started here eight years ago and when I started there was no compliance team back in that day

to enforce the UDRP. And so what I would - I can staff it back at that time was when my complainants would call them about cyber flight, they would say well, the domain name really doesn't have to be prevented from transfer until after the response notified by the provider after this commencement. Now that's shifted and changed in the past eight years and ICANN is now enforcing the fact it's the filing of the complainant as David had pointed in the written comments in the check.

And so I think that perhaps some of those comments are written with an old understanding of how things work because we are typically getting better support from ICANN with respect to the lacking to the domain name before commencement although I think there are some registrars as we found out from the survey who are in fact not locking until commencement.

So I think this is one of the problems where maybe the exact problem that this entire working group has designed to address and I think it brings up a good point because it's a problem but we know it's a problem. That's why we're here.

Michele Neylon: Okay, thank you. Alan?

Alan Greenberg: As I blurted before you gave a chance for anyone to speak noted I think is the right answer. I don't think they're saying anything new that we haven't already talked about that isn't already in our work plan.

Michele Neylon: Okay, ladies and gentlemen, boys and girls, and special category for Luke, congratulations everybody. We have finished dealing with the public comments and I have managed to offend Luke again but that's okay. We are now finally able to move on to something slightly meatier. I'm not too sure what the vegetarian equivalent of that is so apologies. We're now moving on top of - we're going to now pull up - excuse me?

Alan Greenberg: Hard tofu. It's going to be meatier.

Michele Neylon: Chewier, I'm not too sure about the way it works but meatier seems to work for me cementedly. Don't say silky David. You're going to make me think about silky smooth. I was watching Don't Mess with the Zohan the other night as part of my stupid film weekend. We're now going to start looking at the Straw Man. And yes folk, that doesn't involve lots of hummus. Okay, so the Straw Man - now Marika, I think this is your baby in some respects so I'm going to hand this over to you.

Marika Konings: Yes, thanks (unintelligible). So this is Marika. So basically the Straw Man proposal, they seem to rise from the discussions we've had today in a kind of attempt to try to - the basic steps at the top level of how I think the working group see at the moment how such a process should go.

I think I should start out by saying as well this is just something I drafted up with some input with some colleagues within ICANN. That is not an official proposal or ICANN position or any attempt in trying to determine what you need to say or decide. This is just a step which I hope will help stimulate a discussion and now we will get us towards a concrete recommendations on how we would like to move forward on this.

As I said before, this is kind of a high level approach so there's still a lot of details that will need to be worked out. I think based on the discussions we've had today and last week, I think that some items are obvious that I think we need to change or at least address. But having said that, let me just try to take you through the Straw Man proposal as it currently stands.

So basically the first step will be that the UDRP complaint is filed with the UDRP provider by the complainant. I think that we've discussed and as I stand there, it's some kind of agreement to getting around the concept of maybe considering eliminating the existing requirement of having the complainant also notify the respondent at the same time of filing the complaint if that would be the concept.

Next that would be for the UDRP provider to review the complaint for administered compliance with the policy and the rules. This is also as it currently is in the UDRP rules. So then it will be applying for step two, the UDRP provider forwards the complaint to the registrar and notifies the registrar of the commencement amidst the proceedings within three calendar days, calendar days (unintelligible) of the fees to be paid by the complainant.

Again this is what is currently in the UDRP rules but I think some things that we need to distinguish here and this is what we have discussed as well I think at the last meeting. The concept currently exists and I wasn't completely aware of when writing this there are actually two points of communication currently between the UDRP provider and the registrar, the first one being one of the things they do, a quick check to make sure that it's not a bogus complaint, request for an application for the registrar and also request a lock.

And then following that, they do the complete administrative check and inform the registrar of commencement. I think we need to probably have a further discussion on how those two processes are timed and also possibly whether - if there will be a requirement and need to change or the notification to the respondent would change if this would maybe eliminate the need for an initial request to lock the domain name prior to having completed administrative proceedings.

I think this is one of the areas where we probably need to have some further discussion and determine how exactly that aligns. So basically the next step would be immediately - and there again this is a discussion we need to have - but I think that from some of the discussions I think it's clear that we're - it's more likely looking at business days. So I think again that's an area that the working group will need to discuss further whether it's 1, 2, 3 or however many business days and how to factor in holidays, weekends and response times.

So then again upon receiving verification or upon verification as I said before, I think we need to determine there which of the two triggers, the actual locking and again maybe there needs to be a discussion as well -- if at the end with any change in notification requirement whether there will be only one communication from the UDRP provider or whether it would still maintain - would remain a two step process. And again we need to decide which of those triggers actual requirement to lock within a certain timeframe.

As I noted here as well, I think we use lock very freely but I think as part of this exercise it's really important as well that we actually define the term lock. What does that actually mean? Maybe we need to even move away from the term lock but provide a description that provides what it actually means and also clarify which changes are not allowed but also which changes are allowed. I think in that context we discussed that.

For example, change to name servers should be allowed. I think that was a kind of agreement. So that is one area we also need to further define. The next step would be once a registrar has taken measures to prevent any changes already from a registrant transfer, of the domain registration a registrar confirms with the UDRP provider and informs the registrant and forwards the complaint to the registrant.

So again this is the concept we've discussed before to basically wait until the domain name is actually locked before the registrant or the respondent is informed. And I think this is something that also follows the proposed approach in the URF.

As you see here in the notes as well, been playing as well we've been discussing as well what needs to happen in the case of the private proxy services, changes to Whois, but following discussions here internally I think our view is that it's difficult to address here as part of any kind of recommendations here because if you would make it a kind of recommendation that would say proxy private services have the right to

change information might be an option if you have a (unintelligible) program and you actually know who those accredited privacy proxy services are.

In the current environment I think it's not possible to assess which are legitimate proxy and private service legitimate providers and which aren't so I think the suggestion here is to follow existing practice and I think that's what several of you have described, that that is actually something that would be handled between the proxy privacy servers and the UDRP panel.

So that would be one recommendation there. I think something else to mention here -- and it is also something that I perceived internally back on is that I know we discussed completely locking down Whois and not allowing any kind of changes but I think something we need to consider something there is something would completely contradict the current Whois accuracy policy. So the suggestion would be the registrant name might be locked but any contact information probably would need to be allowed to be updated as otherwise it would contradict another policy or something that would be furthered considered because we do want to make sure that we don't create a policy or recommendation that directly contradicts other recommendations.

And again saying here one way around that - because I know what UDRP providers would say (unintelligible) continue to monitor any changes of Whois, for example a recommendation or requirement might be there that if there are any changes to contact information in Whois, there is also a requirement to inform the UDRP provider to make sure that they have the latest contact information and they don't have the need to constantly go back and forth to Whois to actually see whether they have any updates or changes.

Alan Greenberg: Marika, it's Alan. I think we want to be careful in the wording there. we may not want to say can change the contact information but correct or something like that. There should be a tone there saying you're doing it to fix a problem,

not just to change it arbitrarily. We can't necessarily enforce that. The wording should be in that direction I think.

Marika Konings: Okay. I'll make that update so then the next step would be that upon the UDRP proceeding, the registrar must unlock the domain name as soon as possible following ten business days. Here and I know I said as well that as part of what we need to provide in the final flow chart as registrar actions are different depending on the outcome of the proceedings. So again I think that might be an area where we can hopefully mutually clarify what are the required steps that a registrar needs to take depending on with what happens.

As I noted here and I think that's something that's been pointed out before on the main list that may need to be a further consideration of the current discrepancy that exists between the ten and 15 waiting days on whether the complainant or respondent prevails. But again, I think these are elements that we may need to consider whether or not that requires changes to the UDRP or whether that's a - because those (unintelligible) currently and that might require further changes.

Then there's another initial requirement and again that goes back to what we discussed before as kind of a provision or recommendation in relation to what should happen when a settlement has been received so basically set (unintelligible) to both parties. A concept settlement during the course of the proceeding which would involve a transfer cancellation, a registrar must remove any lock preventing a transfer or cancellation within 48 hours of notification by the UDRP provider. Again I put hours here. I know we spoke on business days before.

So this is again a suggestion based on the discussions we had. I think based on the discussion today, I think there's already some sort of detail that I think we can build in here to follow the current practices as well as the requirements on the UDRP. I think one other point I would like to make before

opening up for comments and suggestions is that the idea here is that hopefully we first can come to where we broadly agree on the different steps and approaches to each of the steps in this process.

And then the next step would be after that is okay, so how are we going to go about those? Are those best practices recommendations? Are those requirements? Are these just clarifications? And some of the feedback that I've received as well and something we may want to look at is thinking for those areas where it's merely a clarification or interpretation of the UDRP or the UDRP rules, we could consider recommending an advisory. And as I understand, I think an advisory is something that ICANN can enforce and would be a requirement.

However, if there are any recommendations that differ from the actual language of the UDRP or the UDRP rules or marked significant changes or deletions or anything else I think we need to consider further how to go about those because that's required specific changes and I think someone suggested for example possible change in notification of the respondent and it might be under consideration. And that is a specific requirement on the UDRP rules so it could be a right target of change.

But again I think it's - it might be recommended that the working group first looks at the overall process and come to some kind of agreement where there is common ground. And then the next step, determine how we can actually go about making sure that those recommendations are enforced or they're recommended as best practices depending on the discussions of the working group. Michele?

Michele Neylon: Okay, thanks Marika. Two things, first off with respect to the lock thing I put on the (unintelligible), my humble suggestion is the term freeze. I'm not sure if anybody else has issues with that or other suggestions but I'll throw that out there as a suggestion. The other thing is one of the issues that we've run into

is that when - your red complainants seem to - registrars have magical capabilities to move domain names to other registrars as if by magic.

With a wave of my magic wand domains are my accreditation are suddenly going to appear on (unintelligible) accreditation. So I think some kind of thing - explanation or process as to how possibilities of how registrars can enact a decision like what we're capable of doing wouldn't be such a bad idea. I know there's different ways of doing this but there's no way I can magically make domains appear in key systems accreditation or code that is accreditation. Kristine, go ahead.

Kristine Dorrain: I just wanted to point out that I think Marika you mentioned this early on when you started presenting the Straw Man proposal. But really I think what in the chat what was really the proposal we were talking about is that the lock happens between steps one and two. So at step one when the complaint is filed, that's when the quick look compliance check is done. By quick look it takes five minutes or less and then we request a lock at that point and that's really where the lock happens.

And then once we get the lock is when we can do the compliance check because that's when we take that Whois information --- hopefully been ascertained at that point and compare it to the complaint. At that point we know who the respondents are. I've gotten information from the registrar as far as when the domain name is about to expire, we know if there's any other problems with the domain name. So after we've gotten the information from the registrar and the locking process, that's when we're able to do the compliance check. So I just wanted to point that out as sort of the order of events.

Michele Neylon: Thank you Kristine. I'll take one last person and then we're going to close it off because we've got about three minutes left. Matt is asking about processes around the GNSO. Matt, I think you - okay. You've got several questions about how the VDPs are voted on, proposals and everything else.

It's quite a complex system. It might not be a bad idea for you to actually raise this with Marika directly. She'd probably be the best person to explain this to you, Marika and then Alan.

Marika Konings: This is Marika. I think just to note the idea is that the GSNO council is the manager of the process. So in an ideal world, what they would do if recommendations come from a PDP working group that our consensus recommendations, ideally they would just rather send them because basically it's the consent of the working group, the working group as well as several steps in there whether it's opportunities for public comment, for input from the different stakeholder groups and constituencies so that ideally would be the office so the consensus recommendations that the council (unintelligible) stands.

I would have to say that as well that doesn't always happen although lately they've been really good about it. And as far as I recall, I think most of the recommendations that have come lately to the council have basically been those that are consensus recommendations have been adopted as is by the GSO council so there is no requirement to do so.

So there is a possibility and I think what we've been recommending as in the current PDP, if there are concerns by the council or if they feel recommendations should be changed, instead of changing them themselves they should send them back to the working group. The working group has developed those recommendations and they should be tasked with addressing concerns that may be raised at the council level. So I think that's the short answer.

Michele Neylon: Okay, thank you Marika. Alan, you have the final word and please make it brief.

Alan Greenberg: I'll add a little bit to the short answer. What Marika said is generally true. Council could change things. They haven't in general. They have however on

a semi regular basis broken recommendations apart and implemented some but not necessary others. And certainly one other and perhaps more than one other PDP have included in their recommendations the fact that they should be treated or must be treated as a unit and the council cannot pick and choose which ones to implement. And if we feel that's important, we could do that as well, thank you.

Michele Neylon: Thank you Alan. That's it folks. Speak to you all next week. With regard to the Straw Man proposal, it would be helpful people to have a look at this. If you have thoughts on this, if you think where some things are good, some things that are bad there's this wonderful thing called email and we have mailing lists. Please use them. Speak to you all next week.

Alan Greenberg: Thanks Michele. Good meeting.

Michele Neylon: Thanks Alan.

Man: (Unintelligible). Good evening and good morning and...

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