

**Locking of a Domain Name Subject to UDRP Proceedings PDP WG
TRANSCRIPTION
Wednesday 21 February 2013 at 1500 UTC**

Note: The following is the output of transcribing from an audio recording of the Locking of a Domain Name Subject to UDRP Proceedings meeting on Wednesday 21 February 2013 at 1400 UTC . Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:
<http://audio.icann.org/gnso/gnso-locking-domain-name-20130221-en.mp3>
On page:<http://gnso.icann.org/calendar#feb>
(transcripts and recordings are found on the calendar page)

Attendees:

Hago Dafalla - NCUC
Lisa Garono - IPC
Alan Greenberg - ALAC (Vice Chair)
David Roache-Turner - WIPO
Matt Schneller - IPC
Laurie Anderson - RrSG
Faisal Shah - IPC
Michele Neylon - RrSG (Chair)
Luc Seufer - RrSG

Apologies :

David Maher - RySG
Celia Lerman - CBUC
Gabriela Szlak - CBUC
Volker Greimann - RrSG
Lisa Garono - IPC
Hago Dafalla - NCUC

ICANN staff:

Berry Cobb
Marika Konings
Nathalie Peregrine

Coordinator: Please go ahead.

Nathalie Peregrine: Thank you very much, (Barbara). Good morning, good afternoon, good evening. This is the UDRP Domain Name Lock Working Group on the 21 of February, 2013.

On the call today we have Alan Greenberg, Matt Schneller, Kristine Dorrain, Luc Seufer, Laurie Anderson, Michele Neylon and Faisal Shah. David Roach-Turner will be joining us shortly.

We have apologies from David Maher, Gabriella Szlak, Lisa Garono, Hago Dafalla and Celia Lerman. From staff we have Marika Konings, Berry Cobb and myself, Nathalie Peregrine.

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

Michele Neylon: Thanks. Good afternoon or good morning or good evening depending on which time zone that you're in. As per usual are there any updates to people's statements of interest or anything else that they want to raise at this juncture? Going once, going twice, okay grand.

We have a very poor turnout this afternoon which makes me sad, sad face. But that's okay. We have a couple of things that we need to kind of move forward with because, well we have to move forward. So we have the latest version of the Strawman which incorporates the comments and everything from last week I believe. Is that correct, Marika?

Marika Konings: Yeah, this is Marika. What is up indeed I went through the transcript and helpfully Berry provided me as well with some notes from last week's meeting. So I've updated the Strawman accordingly so there's still some red lines in there that reflects changes from last week's call.

And then there are some additional comments I added in listing two - or going through the transcript and also looking at some of the language some questions that came to my mind that we may want to discuss.

Michele Neylon: Okay. Thank you, Marika. Alright then now in terms of times and everything else we will be having a meeting in Beijing - and I probably actually should know the answer to this - on the provisional - there is a provisional schedule floating around somewhere I think that I saw something about.

When will the actual schedule be published for that, Marika? Or do we know roughly which day we are - I think the said something previously and I've forgotten what it was that you said.

Marika Konings: Yeah, this is Marika. We had a deadline of yesterday to put in our meeting request. So I've currently requested Thursday, 11th of April from 9:00 to 11:30 local time. But as there's still, you know, we still now need to look at all the requests that have come in and all of the main sessions where they fit in. So there may still be some movement to make sure that there, you know, as little conflict as possible. But in principle the time you've requested.

Michele Neylon: Okay. And just out of interest for those of you on this call, okay, I know what I will be there. Alan I assume will be there. Kristine, Laurie, Luc, will you be attending Beijing?

Kristine Dorrain: This is Kristine. I won't be there.

Michele Neylon: We will miss you.

Kristine Dorrain: Well thank you, I'll miss you too.

((Crosstalk))

Laurie Anderson: This is Laurie. I won't be there.

Luc Seufer: Oh, sorry.

Michele Neylon: Laurie, do they ever let you out of Arizona?

Laurie Anderson: No.

Michele Neylon: Oh okay. Do I need to raise this with James as a matter of urgency? Please let her out or do - or are you happy to be stuck in Arizona?

Laurie Anderson: You can talk to James about it if you wish.

Michele Neylon: Okay so we hear you're having snow in Arizona would dispose of a freak of nature or something. Monsieur Luc, will you be joining us in Beijing?

Luc Seufer: I don't have a visa.

((Crosstalk))

Michele Neylon: Oh, sorry, somebody's posting something in Flemish about us and I can't read it. And so I have to send a link to Marika and go Marika, please translate quick.

Yeah, the visa thing I'm not sure - I gather from speaking to a few people that they've got them sorted out completely whereas other people are still stuck in whatever the seventh level of Hell trying to get it sorted out. I think it depends on which country you're in.

Anyway we will be hopefully presenting something tangible to the community in Beijing. And I believe that our timelines are quite compressed in terms of the document - of document deadlines. Marika, was there something about the documents deadline being updated or compressed for something for Beijing that you mentioned?

Marika Konings: Yeah, this is Marika. Fadi has asked internally people to try and get the documents ready by I think the 8th of March. But I think that's partly relating as well to documents that are within staff's control so really documents that we are writing and, you know, it's within our remit to get that done by the date or not.

I'm not really sure if it also applies to community documents because of course there are more people working on those. And in principle, you know, the official deadline for that is I think 15 business days before the start of an ICANN meeting which was adopted some time ago by the ICANN Board which would put us at the 15th of March.

So I think at this stage we're still working towards the 15th of March deadline but obviously if, you know, if we have things ready before that that would be great too.

And just to note as well that the session itself - because I know in the past we've had more face to face working group sessions. I think the idea of this session is really to actually present the report to the community and also allow for discussion or comments and questions and encourage people to respond to the public comment forum which we'll have open by that same time so to allow people to direct them in that regard.

Michele Neylon: Okay thanks, Marika. So ideally what we want to do is just, you know, lock down this document that we currently have. You know, it's - we're going to get people commenting on this saying that they like and we're going to get people commenting on it saying they absolutely hate it. Of course we could be met with deathly silence but I suspect that won't be the case.

So, you know, it's an initial report. You know, there'll be feedback and that's probably what we need. So what we need to do really is to try and push forward in terms of getting this done. So we're going to try and go through

some of the stuff today on this call. I might not be able to make the call next week because I will be somewhere weird in - I don't know, somewhere in Los Angeles or something.

But, I mean, you know, there is a mailing list, people. We can use that as well. And I know some of you have been doing this. Okay then so the Strawman, we have that there. That's been circulated to you all as well. There's lots and lots of comments and notes - excuse me - in the margin.

So, you know, if there's anything people have questions about, anything people want to provide extra input on, you know, please, you know, speak up. Now one of the areas that we - excuse me - I'm losing my voice, I don't know why, it's not - it's kind of odd.

Okay, one of the things on the agenda today, Item Number 3, definition of lock. In the Strawman proposal we defined lock in this context as preventing any changes of registrar and registrant.

So does more work need to be done - this different definition or should - or should we just create an additional recommendation that provides this definition? Marika, go ahead.

Marika Konings: Yeah, this is Marika. Maybe to remind everyone I think at the beginning of our work we actually started looking at some draft definitions that I think Kristine and other people and I think commented as well started preparing. But at some point I think we said okay, let's maybe leave that behind and first start working on this because maybe it will be self explanatory what we consider a lock in this context.

So the question here is indeed do we need to go back to that original definition, which I think was broader than just preventing changes of registrar and registrant. Or looking at the Strawman Proposal is our definition of a lock in this context indeed just preventing change to the registrar and registrant?

Then another question that we, I think, raised initially is that of course instead of saying, you know, preventing certain changes is it possible as well to associate that directly with current EPP statuses? I'm not, you know, expert on EPP statuses but I had a look at the descriptions and the only one I could specifically find is the one that prevents changes of registrar. I didn't see a lock that only prevents changes of registrant. So I'm not sure if that is even an option we can consider.

And at this stage we just need to leave it like that until the time there would be a specific lock that either (grants) both changes or one of them. So that's basically the question I think we still need to address or haven't spelled out in the draft recommendations or the initial report.

Michele Neylon: Okay. Thanks, Marika. Alan and then - oh, me. Go ahead, Alan.

Alan Greenberg: Thank you. I will remind the group that I did promise to come up with a list of all the Whois statuses and sort of a table of what you can do at which time and I have started doing that. It should be ready before next week.

Michele Neylon: All right. Thank you, Alan.

Alan Greenberg: It's not going to be all that helpful because most anything you can change at some point and, you know, as we've discussed on the change of registrant - blah - associated with privacy and proxy services, you know, most any of the critical fields can be changed, you know, if you believe you're changing it for the right reason.

But registrants will not be able to change them unilaterally so I think that's a lot of the issue not so much they can't be changed but who can't change them. Anyway I'm going to try to have something for the group. Thank you.

Michele Neylon: Thanks, Alan. Just with respect to EPP as far as I'm aware - okay locking a domain to prevent transfer between registrars, that's fine; that's not really an issue. I mean, there's multiple EPP locks that one can apply, depending on what you want to do, which can block a domain from transferring.

But as far as I'm aware there isn't much - there isn't anything really in EPP to stop a change of registrant because in DotCom and DotNet as they're thin it's the registrar that holds the Whois data; it's got nothing really to do with EPP. I mean, sure, you might transmit it via EPP but it's not as if VeriSign ever actually gets that. Somebody might want to correct me.

Oh, good afternoon, Faisal Shah. How art thou?

The - somebody could correct me on that. But that's my understanding of it. So unless there was something new within EPP I don't think we can actually use that for that purpose. Kristine, go ahead.

Kristine Dorrain: Hi. I just wanted to - this is Kristine from NAF. I just wanted to make two - actually two comments. One was just anecdotally I notice that when we currently request a lock we just ask the registrar to prevent, you know, changes and to lock the domain name.

And then the registrar - I don't know what you've talked about in the past two weeks - but - and I know we've talked about maybe defining it not in terms of what the EPP status is or the code is but in terms of what the function is so that the registrars can do their own thing.

And maybe someone can jump in and tell me that you've passed this and a lot more in two weeks. But so it might be more functional to just say what can and can't happen versus what the actual code is.

And my second comment is just - and I know we're on that - specifically Comment Number 4. But I wanted to just go back up and say the blue box -

the second blue box on the left still says one business day even though I think you've changed most of the recommendations to say two business days.

And I think that was in deference - Volker and Luc were concerned about not having - or at least Volker was - not having time to - or to reveal the proxy or privacy service. And so we had talked about changing it to two business days but the box on the left still says one. So I just didn't know if that was a discrepancy or if there was something that I missed there as well. So those are just two comments that I had.

Michele Neylon: Thanks, Kristine. And Marika notes in the chat it was just a discrepancy. Anything else further on this? I mean, okay what do people want to do? I mean, do we want to go down the route of talking about what the lock should do? I mean, how this - and as Berry points out actually the term lock itself could be misleading as EPP codes do not label it as a lock. True, there's client hold and various other things.

Marika, go ahead.

Marika Konings: Yeah, this is Marika. And maybe just as an explanation because we do talk about lock. And I think it has been, you know, it is used as well - what Kristine was saying - that that's what they request as well registrars to lock. So maybe if in this context we just clarify that in the context of this document and this report lock means preventing changes of registrant and registrar.

And then it basically is up to the registrar to decide to define how they do that, which, you know, EPP codes they apply or what other, you know, locks they may use. But I think for the discussion now or at least that's what we currently have in Recommendation 2 that the - what needs to be prevented by the registrar is changes of registrar and registrant.

And if indeed that is the agreement maybe we should just leave it at that.
And, again, it's an issue we can - or we can come back to or ask for further
input on as part of the initial report.

Michele Neylon: Okay. Kristine, I assume that's an old hand? And...

Kristine Dorrain: Yes, I'm sorry, it is a vestigial hand of lore.

Michele Neylon: That's okay. It's okay. Alan, go ahead.

Alan Greenberg: Thank you. As long as the term lock is only used in a single meaning then my
inclination would be to keep the word and perhaps note to the next UDRP
group that does the overall review that perhaps they should come up with
another term.

But, you know, if it's very, very - if we feel there's a strong reason for not
using lock or we have conflicting uses of the same word then maybe we need
to change it but otherwise my inclination would be to not change it, you know,
unless there's some compelling reason.

Kristine Dorrain: Yeah, I agree, Alan. This is Kristine. And I think that Marika's suggestion of
defining the term early on so we all know that means is great. And I just
wanted to just interrupt briefly to say that in my recollection - and I am home
so I don't have the UDRP open in front of me like I normally do - but I do not
believe that the UDRP says the word "lock" anywhere.

Alan Greenberg: Oh.

Kristine Dorrain: It just says prevention of transfer.

Alan Greenberg: Okay, in that case we're perhaps free to use - to define a word if we choose
to.

Kristine Dorrain: Right.

Alan Greenberg: Lock tends to be a binary thing of, you know, open or closed so my inclination is not to use lock if we have a choice of words. But that's just me.

Michele Neylon: Yeah, I'm actually - I'm frantically searching my mail to see if I can find a notification from either WIPO or NAF. Of course this is typical, my inbox I can find plenty of references to WIPO but none of the ones that are of any use to me. So the question is what is the word - what is the wording that is used on the - in the notification email that gets sent to registrars because of course I can't find one now that I want to find one.

Kristine Dorrain: If you just look for the word verification we call it verification.

Michele Neylon: Okay let me just - I'll try that. It's just the amount of email I have is - oh, God, sorry I just did verification, that was not a good choice. Bear with me one second. I'm just trying to find an example of the actual wording because I'm trying to understand where the term lock is used and why this is causing us problems I suppose. Okay ignore me; I'll come back to that.

Okay so Alan is suggesting that maybe we just leave it as it is and look at changing the wording further one. But, Alan, obviously you want the practical usage of it to be defined.

Alan Greenberg: I think so. And hopefully the table I provide, as modified by the group, will, you know, give us that ability.

Michele Neylon: Okay.

Alan Greenberg: Our end result may not be a table, it may be able to be summarized in very small number of words but I think the table will help us get to that path - get to that position.

Michele Neylon: Okay.

Kristine Dorrain: This is Kristine. I think the other sort of benefit of defining the term is that it'll help people make - it will help people understand that we're not going outside the scope of the UDRP. Because the UDRP sort of functionally describes a lock without using the word, you know, talking about what changes can't happen.

And so I think that many people who feel like maybe - they might be prevented from feeling like our recommendations go above and beyond. If our definition is really in line with the UDRP I think it'll actually help get buy-in as well.

Michele Neylon: Okay. All right actually I think - there's a couple of emails from you, Kristine. I'm just going to bring up one of them here from a while back with lock definition from the - from earlier this year. Let's see, hold on a second. Where is the - hold on a second.

Okay there's one from Matt which goes into statements like the following, "Registrar may not permit changes to," etcetera, etcetera. And there's some feedback from you. So maybe working from that - what is Marika saying to me?

Okay then so other comments on the Strawman? Okay which one were we up to now? I'm lost - lost where I am in this.

Marika Konings: Yeah, this is Marika. I think we've actually gone to Item 4 in the agenda but Item 3 I was just trying to point out that maybe when we're done with the definition discussion we can actually go back to Item 3 and look at some of the comments that are still in the Strawman. Sorry, I didn't mean to distract you.

Michele Neylon: Sorry, just a bit - the problem is for those of you who aren't aware there's about - I've got about 25 members of my staff all IM-ing me separate things simultaneously kind of going, you know, we're being sued? What? Okay. So that just is the usual kind of distractions, things coming in to me from various different places. And Marika kind of sending me IMs about certain things which confuses me even further.

Okay on the definition side what I - just my own personal thoughts on this would be if we collect together the working definitions that were submitted to the list and that we - I've discussed in previous meetings and just put them all into one document and just say something like, you know, here is a bunch of - okay, can't say here's a bunch; it doesn't sound right.

More formally, the working group in its deliberations discussed possible definitions for the term lock and some of the - some of the possible definitions provided were as follows, or something like that. Marika, you have a hand up, go ahead.

Marika Konings: Yeah, this is Marika. Because actually those definition discussions date back from I think September last year. And those actually went, I think, much further than what we currently have in the Strawman.

Because, for example, as the document up here where we started was basically saying the registrar shall restrict all changes to the registrant data including the data displayed in the publicly available Whois database and including transfer and deletion of domain names as well as name servers on which the name is hosted.

While I think where if you look at the actual Strawman what we're saying is the only changes we're requiring to be prevented are changes of registrar and registrant which will be a very straightforward definition.

So I'm not really sure bringing back those older definitions whether that will basically mean we need to revise the Strawman because we're saying something different there.

So I don't know if - at this stage we can go for the more straightforward definition that we actually have in the Strawman or whether - and maybe it's something to put out on the mailing list so people can actually think about it whether more needs to be added beyond what we currently say needs to be prevented in the Strawman Proposal.

Michele Neylon: Okay. Anybody have any strong feelings about this? Any thoughts? Have I managed to make something more complicated than necessary? Is Marika's suggestion simpler and better? Anybody?

Okay then let's - working on the basis that silence equals assent, I'm going to suggest then that we go with Marika's suggestion; we totally ignore mine and that we classify me as an idiot for the purposes of this afternoon. And I do apologize.

Okay then - okay going back over to the notes - dear God, I wish people would stop IM-ing me. The - going back to the notes on here there's a couple of queries I think. Okay so for example on Page 1 - okay, go ahead, Marika.

Marika Konings: Yeah, this is Marika. Basically in reviewing the transcript in line also with the comments that were discussed last week and looking at some of the language there's some questions that came to my mind. So the first one is Comment 1 on Page 1 in relation to Draft Recommendation Number 2.

So my question is there is do we actually need to specifically include that the registrar may or must notify the registrant as soon as possible following the application of the lock?

I think there was a comment that - that we from staff made in saying that there may be a time gap between the registrar locking the domain name, confirming that with the UDRP provider and the UDRP provider then notifying the registrant.

It may be a situation then where the registrant sees that their domain name is locked but they don't know why or what for. So do we need to specifically call out here that at the moment that the domain name is actually locked, the registrar may or must tell the registrant that it has been locked for the reason that a UDRP has been filed or is pending.

Michele Neylon: Okay. Alan, go ahead.

Alan Greenberg: Yeah, my inclination is to say "may". It's a matter of customer relations whether the registrar wants to or not. You know, having an unhappy customer is the registrar problem. All we're saying is they must not tell them until - I can't see a reason for saying the registrar must.

You're not going to be able to use that notification going back and, you know, using it in a court to prove that they were notified at a certain date, I don't think. That's up to the provider. So I wouldn't put a must there unless there's some compelling reason to do it.

Michele Neylon: This is Michele speaking as a registrar. I would be very - I would be supportive of what Alan just said. I think we should have the ability to do things without having to inform the registrant at certain times. So, I mean, in some cases obviously we want to inform them; in other cases we may not want to inform them.

I mean, one example I can think of is where we might be aware of pending legal actions or potential legal actions involving a domain name or domain names and we might wish to lock the domains against changes but don't

want to inform the registrant immediately. Of course some may hate me for doing that I'm sure other registrars probably do similar-enough things.

Okay, any other comments on this?

Alan Greenberg: It's Alan. The other reason - and it's not a formal comment - is, again, if you're aware that this is a registrant with some suspicious goings-on or whatever, you know, there's no - you have no need - no real desire to have them involved in the process until they are absolutely, you know, have to be.

So again I just wouldn't - I see no reason to force a registrar to do this and then have to set deadlines under which they must do it because immediately is not a really defined term. So I think it's cleaner just to leave it as it is.

Michele Neylon: Alan, are you being nice to registrars?

Alan Greenberg: I'm starting to channel for registrars, haven't you noticed?

Michele Neylon: Yeah, I'm actually getting quite worried about this. You might lose your ALAC badge if you're not careful.

Alan Greenberg: I've already lost that from the perception of some people.

Michele Neylon: Oh...

((Crosstalk))

Alan Greenberg: I hate to invoke the past but I did this a lot on the PDNR group, you guys just didn't - you weren't listening.

Michele Neylon: Oh please don't mention PDNR, my poor head.

Alan Greenberg: You realize...

Michele Neylon: I bear the scars.

Alan Greenberg: It's still not implemented.

Michele Neylon: I know. That's a conversation we can have offline.

((Crosstalk))

Michele Neylon: Don't go there.

Alan Greenberg: I think the deadline passed yesterday for giving the comments on it, which I didn't.

Michele Neylon: The Registrar Stakeholder Group will be passing comments on to ICANN staff. Marika, go ahead.

Marika Konings: Yeah, this is Marika. I think that maybe, you know, hearing the comments maybe as a clarification we can just add to that sentence basically saying may contact the registrant after changes have been prevented to at least clarify that, you know, as soon as they have done it they can communicate with the registrant or explain if there are questions or if they come back and say, you know, why is there a lock on my domain name.

Then maybe looking ahead at the next comment, which is Comment 2 in relation to Draft Recommendation 4. This is following a change that was discussed at the last meeting to clarify or further define which verification means as a - is also a term which I believe is not (unintelligible) UDRP or the UDRP rules.

So what I've done is basically craft a footnote trying to explain this. I found some language I think on the WIPO Website that indicates what kind of information is requested. So there's a specific question I think to Kristine and

as well David when he joins whether this language indeed accurately reflects what is being asked.

And I don't know if it would be of interest as well and having a - maybe as part of the annex of the report include an example of how such a verification request looks like.

Michele Neylon: Marika, this is Michele here. Just as chair I would strongly urge the inclusion of an example notification either in the body or in the annex because I think it's something that until you get one you probably don't know what the hell it looks like so I'd be very supportive of that.

Marika Konings: Kristine, is that something you would be able to send me so I can include it in the annex?

Kristine Dorrain: Yes, this is Kristine. We absolutely would be able to do that. And I agree that I think that the more people see the letter and, you know, they get familiarity with it I think that would be great. And if David also wants to send something so people can see sort of the - how they're slightly different that would be fine too, I don't object to that at all. Although I note that our letters are really similar.

Michele Neylon: They're almost identical aren't they? I mean, is there much of a difference between the two?

Kristine Dorrain: You know, only - I think they're identical or close is only because it's functional. I don't know that I've ever actually seen their letter until I was at the meeting where I joined this working group and David presented his letter. So if they are similar it's purely coincidental actually.

Michele Neylon: Well he's not here to defend his honor so we better leave him alone. But I...

((Crosstalk))

Kristine Dorrain: They were providers first so we would be the ones guilty of copying them probably anyway if there were any copying.

Michele Neylon: Well it's - I think what it is, plagiarism is the best form of something, I can't remember what the expression is.

Kristine Dorrain: That's right. That's right.

Michele Neylon: Flattery. Thank you, Berry. I knew it was a word. I'm having problems with words and sentences and stuff. Okay then moving on, okay so we've agreed on that, putting it in.

I mean, on of the things just, you know, as a note, I mean, for - I think I said this already but, I mean, there's no kind of - a lot of this stuff is missing from the ICANN Website if you are a registrar. It's kind of - I don't know, it's assumed that people know these things but it's not - don't take it for granted.

Okay next bit here, Marika notes that our - oh, go ahead, Marika.

Marika Konings: Yeah, this is Marika. Just a note in relation to Draft Recommendation Number 5 which was discussed at the last meeting that there was I think agreement to change three calendar days to business days. But again I think this is one. I think then a second item (while) we'll be looking for a specific change to the UDRP rules. So I just wanted to call that out.

And I think in addition with the notification at the moment a UDRP starts this would be another item which would require change to the UDRP rules as I understand it.

Michele Neylon: Okay. Hold on a second. Slow down. If we clarify this is this going to cause a problem if we want this specifically stating business days? Is this going to cause a massive problem with scope?

Marika Konings: This is Marika. I think as we're saying it's a targeted change to clarify and indeed if there's no disagreement I don't think it goes against our scope. It's more a question of whether people would find, you know, would disagree with it and are of the opinion that no changes should be made to the rules.

But if I understand correctly I think on the last call that UDRP providers also agreed that this would be a helpful clarification, actually brings it in line with the other mentions of business days instead of calendar days.

Michele Neylon: Okay. Kristine has her hand up. Go ahead, Kristine and then we have Alan.

Kristine Dorrain: Hi, we're looking at Draft Recommendation 5, correct?

Marika Konings: Yes.

Michele Neylon: Yes.

Kristine Dorrain: Okay.

Michele Neylon: We're looking at the notes in the right hand column.

Kristine Dorrain: Correct, correct. So my - I guess my only comment is while I support changing the change to business days because that would make our life a lot easier, you know, we currently have been functioning for 12 years under calendar days and if that's going to cause heartburn by a lot of people - and I know because as I said hopefully I'm not reinventing the wheel from the past two weeks' of discussion.

But I am - that's not the hill I'm about to die on in this working group I guess is my point. So if we need to change it back to calendar days there's, you know, I'm just not prepared to fight that battle today. We've been doing three calendar days for 12 years.

Michele Neylon: Okay. So you've been doing three calendar days but you don't mind changing it to three business days?

Kristine Dorrain: Correct.

Michele Neylon: Okay, grand. And Mr. WIPO has joined the call so we have to stop saying nasty things about him. Alan, go ahead.

Alan Greenberg: Actually David - I don't know if David was here for that little part of the discussion. The rationale for changing it is if people right now are not able to meet the deadline or it is difficult or, you know, it's a tight squeeze or something like that then it's one of the things associated with making lock work and work according to the specification so it's reasonable to change.

If nobody is having it but we think it should be done to clean things up then it's questionable. But if there are any aspect of it which is not - where people are not making deadlines right now or it's difficult to implement then I think it wholly is within our scope. Thank you.

Michele Neylon: Okay. Thanks, Alan. Mr. Turner - Roach-Turner, rather. Go ahead.

David Roach-Turner: Yeah, hi Michele and hello everybody and I'm very sorry for my extremely late arrival to...

((Crosstalk))

Michele Neylon: Oh don't worry, look, I was late as well and I'm chairing the call. Don't worry about it, you're grand.

David Roach-Turner: Great, we can share our guilt. Listen, I just wanted to add briefly on that discussion about the question of whether we have business or calendar days,

I'd just like to indicate, I mean, we, from WIPO's perspective, are quite happy with the days as they are enumerated currently.

And we, I suppose like NAF, have been doing this under the days as they are currently enumerated for some period of years and they work pretty well for us as we've indicated in some of the earlier calls.

There has been some discussion over the last couple of weeks about whether there could be certain changes made to certain aspects of the rules to accommodate preferences that have been expressed by some of the registrars to move from calendar to business days in certain key respects.

And to the extent that there would be modifications that would accommodate those express registrar needs. You know, we certainly would have no objection to some corresponding modifications made to some of the provider obligations in that light.

But I think it's important to be clear that from our perspective we're not seeking them. And I do think that there is some validity to the point that Kristine just made which is that if we do go and making modifications to key dates under the UDRP rules there is a risk of there being some resulting uncertainty from a user perspective in the way that the mechanism operates going forward. And that's something that we do need to be conscious of I think.

Michele Neylon: Okay thank you. Okay next note notes what we've been discussing.

Marika Konings: Yeah, this is Marika. Can I then just ask for a clarification? So do people feel that we leave business days in and just see in response to the initial report whether this is perceived an issue? And if it is we just go back to calendar days? Or do people feel that let's not even go there and just change it back to calendar days? What is the preference here?

Alan Greenberg: It's Alan. I would suggest that whether we keep it as calendar days and note somewhere that there has been discussion of changing it to business days or vice versa, we change it and say but it was business days, I think we note in our preliminary report that we would recommend, you know, if we want to do this, we would recommend going to everything in business days because then it's all consistent with each other but it is the registrar delays because of varied business practices around the world where the calendar day is more problematic than the business day.

So in other words, put it out for comment essentially asking for input in the preliminary report whether the community believes it's something we should change for uniformity or leave the two different ones because we're only changing the ones where we really have impact on the implementation of the lock procedure.

Michele Neylon: Okay thanks, Alan. Kristine.

Kristine Dorrain: Yes, this is Kristine from NAF. I just wanted to say I agree with Alan. And I would focus the comment or the explanation for why we were suggesting the change to business days on the suggestion - the point that when you're giving the registrars two business days to lock what you're essentially doing is you are possibly eating up all of the time that the - sorry, I got a fussing baby here - you're essentially eating up all of the time that the provider has to do the deficiency check.

And so changing it to three business days gives the provider that third business day to do their deficiency check. So I think, you know, if we offer that explanation right up front it won't seem like we're just trying to bring the UDRP in line with these business day practices or streamline things or make things more consistent but we're actually identifying the problem that we've, in essence, created.

So when we say we're locking - or the registrar has two business days to lock we all know that two business days could in some cases eat up the full three calendar days that the provider has. And so we're trying to make sure that the provider has time to do the deficiency check.

And so I understand that - Alan reminded me of that part as to why we would have wanted to make that change. So I think that if we clarify it to why we're making that suggestion people will be less likely to object or protest just on pure fundamental don't change the UDRP, you know, grounds.

Michele Neylon: Alan.

Alan Greenberg: That sounds like a compelling reason to me. I hadn't realized that aspect of it that the two timings were overlapped and were linked. But if potentially elongating the business days on the registrar starts giving a - the provider a tight time and, you know, in any given case you don't know what the - you may not know exactly what the business days of the provider are as - especially as we go to registrars and registries if that becomes relevant.

In places, you know, where you may not know what their national holidays are, that becomes more and more of an issue.

Michele Neylon: Okay. All right then let's go on to 6. Okay now Marika, would you walk us through this comment very quickly please?

Marika Konings: Yeah, this is Marika. This is actually something that was triggered as well by some - I think some of the comments that Luc made in relation to the Strawman. It also was discussed at the last meeting.

So my question here is that if both parties need to inform the - this is in case of a settlement - so if both parties need to inform the UDRP provider in any case once a settlement is reached would it actually make sense for the UDRP provider to confirm to the registrar that a settlement has been reached

instead of the registrar having to confirm with the two parties that the settlement has been made.

It was just a question whether that is something - or I don't know if that's even contradicting what the rules currently say or the UDRP itself. But I know there were some questions of how should the registrar get involved and how can the registrar make sure that, you know, they get the correct information. So that was just a suggestion and a question for the group.

Michele Neylon: Okay. Kristine, you still have your hand up so I'm going to suggest that you give us some input on this.

Kristine Dorrain: Yeah, actually that was a new hand specifically for this comment. The way NAF suspension process or stay process works is the parties notify us that they want to start to discuss settlements. So they request a stay and they both have to request it and sign the request.

And then our stay order is worded such that it allows them to just carry on and do their thing. And the case is not going to be reinstated. In fact at the end of the stay period the case is dismissed because we assume that the parties have reached settlement.

The non-assumed position is that if the parties did not reach settlement then they will affirmatively contact us to reinstate the case and it'll go forward. So we don't actually know if there has been a settlement or not. We assume there has been if we don't hear from the parties.

But once they - once we suspend the case we notify the registrar. We say, hey, the parties are contemplating settlement so you may hear from them and if you do go ahead and allow them to transfer between them. But that's really the only involvement we have. And if we never hear from the parties again we assume they've settled. But we don't require them to affirmatively notify us of settlement. I don't know if WIPO does things differently.

But so for us, you know, we don't know if there's a settlement so we wouldn't be able to notify the registrar if there in fact was a settlement or not. And I would be a little bit hesitant to insinuate ourselves into that discussion because we have, in the past, had a few parties think that our job is to sort of manage the settlement or to enforce it or to make sure that the, you know, terms of the settlement are followed.

And I would not want to make sure that - I would not want to have to be put in a position of having the parties think that we're somehow responsible for overseeing the settlement in any way.

Michele Neylon: Okay thank you, Kristine. Now we've got five minutes so let's see, we've got - next comment here - oh, sorry, David, go ahead.

David Roach-Turner: Thanks, Michele. I won't go through what Kristine just described again other than just to note that there were some discussion I think it was in last week or the week before's working group session where we described WIPO's practice on this. And we also put some text into the chat on the mechanism that we use to notify registrars.

I'll just briefly confirm, as I think Kristine just did, that at least at present we do not confirm the question of whether or not there's been a settlement directly between the parties. Our view, generally speaking, is that the registrar is the one best qualified to confirm, among other things, the identity of the appropriate registrant and to confirm those arrangements where they exist.

We don't step into the shoes of the panel de facto in authorizing transfer in the absence of a decision but rather we simply facilitate a process settlement where the parties appear to be looking to reaching one. Thanks.

Michele Neylon: Okay. Thank you. Actually now I'm looking at the clock now we really are ticking down. In terms of timelines - okay then, we've gone through the

various comments on the Strawman so what Marika will be doing in the next day or so is sending on a final version to us. And we're going to have a couple of business days.

Marika, how many business days do you think is reasonable? You want to go with two, three?

Marika Konings: This is Marika...

Michele Neylon: Or are they going to be calendar days?

Marika Konings: Maybe what we can do is give everyone until coming Wednesday to send in their final comments on the Strawman. So if there are any further additions or changes we can then discuss them on Thursday. And if not then I can go ahead and actually pull this into the initial report.

And there may be some other updates I will - may need to make to some of the other sections to reflect some of the changes we made here. And then we have Thursday basically to start looking at, you know, the latest draft of the initial report in view of trying to finalize that in time for the deadline.

Michele Neylon: Okay. Is that okay for everybody or does somebody have a massive problem with that? Okay, again working on the basis that if you're silent you agree. And I'm assuming, David, that that's an old hand?

David Roach-Turner: That's a so-called vestigial. Sorry.

Michele Neylon: Did you say vestigial? Oh my God.

David Roach-Turner: Isn't that the current parlance of favor on that one?

Michele Neylon: You said parlance. Help. Okay, I'm going to blame the Swiss air and the chocolates or something. Okay then, yes, vestigial. Righty-oh, it is one minute

to the hour. Thank you everybody for your time. Apologies for the delay in arriving on the call. Thank you to Alan for looking after us even though he was eating peanut butter.

And while I may not speak to you all next week I will be interacting with you via emails and everything else. Enjoy your week. Thank you.

Alan Greenberg: Thank you, Michele.

Marika Konings: Bye.

END