

**ICANN
Transcription
IRTP Part D Working Group meeting
Monday 13 May 2013 at 15:00 UTC**

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 13 May 2013 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-irtp-d-20130513-en.mp3>

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

Attendees:

James Bladel – RrSG
Kristine Dorrain – NAF
Barbara Knight – RySG
Mikey O'Connor – ISPCP
Jill Titzer – RrSG
Graeme Bunton – RrSG
Bartlett Morgan – NCUC
Chris Chaplow - CBUC
Simonetta Batteiger - RrSG
Oliver Hope- RrSG
Volker Greimann - RrSG
Rob Golding – RrSG
Angie Graves – CBUC
Kevin Erdman - IPC

Apologies:

Avri Doria – NCSG
Holly Raiche - ALAC
Paul Diaz - RySG
Bob Mountain – RySG
Alan Greenberg - ALAC

ICANN staff:

Marika Konings
Lars Hoffman

Nathalie Peregrine

Coordinator: Please go ahead. This afternoon's conference is now being recorded.

Nathalie Peregrine: Thank you very much, (Tim). Good morning, good afternoon, good evening. This is the IRTP-D Working Group call on the 13th of May, 2013. On the call today we have Volker Greimann, Rob Golding, Bartlett Morgan, Mikey O'Connor, Graham Bunton, Chris Chaplow, Barbara Knight, Angie Graves, Jill Titzer, Oliver Hope, James Bladel and Simonetta Batteiger.

We have apologies from Holly Raiche, Alan Greenberg, Bob Mountain and Paul Diaz. From staff we have Lars Hoffman, Marika Konings will join us shortly and myself, Nathalie Peregrine.

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

James Bladel: Thank you, Nathalie and welcome, everyone, to the IRTP-D Policy Working Group call for I believe it's May 13. And per our standard procedures please raise your hand or interrupt me, if you are not in the Adobe room, if you have any updates to your statement of interest.

Seeing none we'll move on to comments or questions or suggestions regarding our proposed agenda, which is displayed in the right hand column of the Adobe room and was circulated to the email address earlier by Lars.

Okay so let's consider that agenda adopted and we'll dive right in. Of course last week we had so many apologies, I think due to a conflict with a community Webinar, that we had to postpone the meeting so we lost a day there. But in the interim I think we got some - we received some useful information and data regarding disputes and TDRP statistics.

So I'm trying to think of where the best way to approach that is. But kind of jumping ahead a little bit in our agenda but when we get to that point I think, Mikey, perhaps when we get to Item Number 3 we can turn that over to you and then we can also ask Lars maybe to gather the three or four response.

I know, Lars, you said something about putting together a master document of the statistics or combining or aggregating those statistics, did I understand you correctly?

Lars Hoffman: Yes, this is Lars. Yeah, (unintelligible) Marika to aggregate all the information we received starting with the compliance report and then (delivering) from anecdotal evidence from the various (registrars) and then the (update) from VeriSign and (DNXS) and the Asian provider as well so that we have - we have (unintelligible) document exactly - maybe even be able to link the various cases.

If we can that have moved from the first to the second level disputes (unintelligible) something that might be able to join also later that will feed into the initial report. But I'm working on something like that which will hopefully be ready for next week's meeting.

James Bladel: Okay thank you, Lars. And so that's a final call, I guess, to any registries or registrars participating in the working group that want to submit some data on this topic that have not already done so. Please get to that to the mailing list as soon as possible so that it can be included in that aggregated report.

So then continuing on with our review I think when we last left our heroes we were looking at the community input review tool. I don't know if staff has that handy or can upload that to the Adobe room while we're teeing it up here.

But I think we got through a couple of responses in our discussion specific to our charter questions. And I'm trying to see where it was we left off. Did we get through Comment Number 2, Lars?

Lars Hoffman: (Unintelligible) this is Lars. Yes, I think we moved on - we got to 2 and we should restart with 3.

James Bladel: Okay thank you. So looking now at Comment Number 3 - first off did anyone have any - I know it's been a couple of weeks here but I certainly didn't want to close the door on Comment Number 1 and Number 2, which were the only comments received on Charter Question A.

So if anyone has any last parting thoughts or closing statements on those we certainly can accept them at this time otherwise I suggest that we can move on to Comment Number 3. And of course nothing is final in ICANN; we can always go back - circle back if something new comes up. But I don't see any hands so let's just move on to Comment Number 3.

And I'll read this out. "Additional provisions should be included multiple transfers in the transfer dispute resolution policy, TDRP, that set out how to handle disputes when multiple transfers have occurred as they could help clarify the process and facilitate the handling of the disputes. Multiple transfers are used in domain name hijack situations and also since the aftermarket has developed since the policy was written a third party can easily purchase a hijacked domain in good faith."

This comment is coming from the Business Constituency. And I think just for clarity what we're discussing here is the situation - I think some have called it 'registrar hopping' some have called it 'domain name laundering' but it's the process by which a domain name is hijacked or stolen and then transferred through multiple registrars in a very short period of time so as to confuse the origin and history of a domain name and so that the ultimate final purchaser is unaware that the domain name, for lack of a better term, is stolen property.

I know we don't like to use the word 'property' with domain names but they're not aware of the circumstances under which the seller acquired the domain

name. And also to thwart any attempts to recover the domain name for the original registrant because of course the gaining and losing registrars are now part of a chain of events as opposed to just two parties.

So I think that what we're seeing here from the Business Constituency is that they accurately captured the - or described the problem in their comment. I don't see them necessarily offering any specific policy recommendations except to note that it is a problem and that there should be provisions developed to address this.

So one thing I would point out is that - for those who are maybe less familiar with the transfer policy is that there is a provision that allows a registrar to reject a transfer request if it's within 60 days of a previous transfer request. However, as we've discussed in previous working groups that is optional; that's not a mandatory requirement.

And I think we want to - well, we don't want to go back and revisit some of those arguments as well necessarily. But wanted to point out that that is something that was examined in a previous IRTP working group, I think it was maybe B or C, and that ultimately that working group did not recommend that that optional requirement become mandatory.

So with that I'll take a queue if anyone has any comments or anything to offer on this particular comment, Item Number 3. Quiet group today. Maybe we should have passed out coffee, Mikey. Oh Chris Chaplow, you're up first.

Chris Chaplow: Hello there. Can you hear me?

James Bladel: Yes.

Chris Chaplow: Yeah, good. Yeah, just a - really a comment when we say additional provisions that - if it isn't necessarily in the form of mechanical process it might be in the form of education and guidance. And you're right in noting

that the BC is stating a problem and not really offering a solution because frankly I, for one, wouldn't - not quite sure where to turn if a domain had gone through all these multiple transfers.

So it's - that's where the feeling for this comes from. And, you know, you've got different people saying well I bought it in good faith and so on recognizing that the aftermarket exists now; it wasn't when the rules were created.

So maybe the registrars who have got experience with this sort of problem, and hopefully it isn't too frequent, but there are times, you know, how they begin to - if (unintelligible) how they begin to sort this one out. Thank you, yeah.

James Bladel: Thank you, Chris. I can tell you that a lot of the major registrars have adopted the optional - or will not accept transfers on a - transfer requests on a name that is 60 days from a previous transfer.

That's not a requirement, of course, and the hijackers, unfortunately, are very smart and crafty people who know exactly which registrars are not following that process and of course will use them as part of this chain of hops to, you know, to include in multiple transfers.

I think it does present a problem and I don't necessarily fault the BC in their comment for not really offering a specific or a concrete solution because - and I'm just putting on my registrar hat here - it does represent a bit of a boundary problem because if you say well, you know, you have to allow folks to go back in time X number of days or Y number of transfers to resolve a TDRP well then, you know, what about those cases where there is a domain name that is legitimate and has been mobily and correctly changed hands.

Then, you know, I think the term for this - the aftermarket term for this is claw-back, you know, where someone three or four transactions ago now wants to

exercise rights against the current registrant. So it does become kind of a sticky problem to solve. Rob Golding, you're up next.

Rob Golding: You already have the rule that says you can't transfer a domain that's 30 days or less from a previous transfer. And we have in our policies actually to extend that to 60 days which we make our registrants aware of when they bring one in in the first place; they can't take it away again for two months.

It's even more provisions beyond the current 30-day requirement that's put there by ICANN and a registrar being able to extend that through their terms and conditions really actually necessary?

James Bladel: Thanks, Rob. And as we were discussing, it unfortunately is an option that is available to registrars to reject a transfer. But there are some registrars who opt not to enforce that and those are the registrars that are used in this process.

Mikey.

Mikey O'Connor: Hi, James. It's Mikey. Another thing that sort of folds into this is this piece that came out of the last IRTP which is the new distinction between change of registrant and change of registrar, which may bear on this.

You know, when this rule was written there was no acknowledgement of that change of registrant idea. And I don't know how that bears on this one but I thought I'd throw that into the conversational mix.

James Bladel: Okay, that's a good point. And maybe that's possibly what maybe what Rob was alluding to as well because I don't remember if in the recommendations for IRTP-C if we included a moratorium on when the change of registrant occurs that there is a lock for change of registrar. I'll have to go back and revisit that but that's a good point, Mikey.

And for those that are just joining us and were not participating in IRTP-C it's worth pointing out that we did make a distinction between change of registrar and change of registrant as two different types or flavors of transfers. But it's worth noting that those policy changes have not yet been implemented by ICANN; they have only been approved so they're still - we're still operating kind of in a little bit of a gray area where we've approved these policy changes but they haven't been adopted yet.

Volker, you're up next.

Volker Greimann: Yeah, I think the comment there also mentions one point which makes me very careful in adding additional provisions for such cases and that is the mention of the good faith purchaser who also should be protected in a way. Because he may have made substantial investment in the domain name if he bought it on an auction platform or paid top dollar for a good domain name.

Which may have been hijacked four years ago and then ripened by the hijacker or had been transferred a lot of times between different registrants and different portfolios. And simply we do not know at which point the hijacks stops and which point the legitimate ownership of the next owner starts. And as a registrar I don't want to make that decision at any point.

James Bladel: Thank you, Volker. And I agree, registrars are very reluctant to insert themselves into a position of adjudicating those kind of disputes. Mikey, you're up next.

Mikey O'Connor: Yeah, this is Mikey. I'm just responding to Volker. I think that's part of the reason and role for this process. I think the TDRP isn't for the normal course of events; I think it's for the complicated ones. And, Volker, I think you're describing one of the complicated use cases.

And so, you know, I think it's okay to leave that use case in scope for this discussion because I think this discussion is not for the routine stuff.

James Bladel: ...to the new button. Thank you, Mikey. So I see that the queue is clear. Graham, you posted something in the Chat. I don't know if you wanted to raise that or can you elaborate on your question or comment? I hate to put you on the spot but.

Graham Bunton: Oh it - sorry, this is Graham Bunton speaking. It's just that if we, you know, those scenarios happen. If we, you know, move on without addressing where domains have been moved more than once are we, you know, leaving ourselves open for another round of looking at transfer and dispute resolutions because there's a whole bunch of people dissatisfied with what we've done?

James Bladel: Thanks, Graham. I agree, it sounds like - certainly don't want to leave this incomplete. And it certainly seems like the status quo, while it's not necessarily common, the harms are fairly significant when it does occur. Simonetta.

Simonetta Batteiger: I'm wondering what would actually have to change and what people leave as additional provisions. Because if it's as simple as, let's say, the current policy says you have to contact the losing registrar or the gaining registrar.

And it could be - it could be something like you may contact any registrar who had been in the chain in the last, I don't know, six months or something like that where you say that contact anybody if you need help and that might already solve some of the things that would need to be addressed (unintelligible) people are included and/or include something that says -I think one of the issues really is that if the (jumps) many (unintelligible) will keep transferring and nothing locks the domain down until the transfer - the dispute has been resolved.

And if there would be just something like if one of the registrars in the chain who had possession of this name in the last six months is notified of this case

and has reason to believe that this is not just a joke then they can notify the registry to prohibit that the name keep jumping until this situation has been resolved. If it's as simple as that then maybe that gets at the core of the issue here.

James Bladel: Okay, thank you, Simonetta. And if I'm understanding you correctly you're saying that if this - if we are under the impression that something like this has occurred where there have been multiple transfers in a short period of time I think multiple and short probably need some specific definition.

But in general that the registrar - any registrar that was part of that chain of events - could be contacted to initiate this TDRP but the registry, since it would have visibility to the entire sequence of transfers, whereas the registrar might only say, yeah, it came to me legitimately and it left me legitimately and anything that happened before or since is kind of out of my hands.

And I think that's where we're kind of looking to the registry to provide that perspective of the entire chain of events. Am I capturing your statement correctly or...

Simonetta Batteiger: Yes but I'm also wondering what it is that people meant when they said additional provisions because maybe it is just a little wording thing that needs changed and would address both a situation where only two registrars are involved as well as a situation where multiple registrars are involved if the domain name has jumped multiple times.

And I guess you are right on we should define what is multiple times and timeframe because obviously a very old name could have changed hands three times over the course of six years and that's not what we mean here. We mean something where a name goes between three or four registrars in a relatively short amount of time.

James Bladel: Correct. So maybe one of these additional provisions could be to - I'm noting that there is a PDP that's just concluding on UDRP locking practices so that when a UDRP is filed against a domain name they wanted some uniform practices to lock those names against transfer.

So perhaps the TDRP needs to mirror those practices so that when a TDRP is filed against a domain name it certainly doesn't - it doesn't go any further and then we can set some rules against - something that makes sense for, let's say, three or more transfers in a, you know, 30-day period or something - something like that that doesn't catch - doesn't cast such a wide net that it catches legitimate transactions but only zeroes in on those incidences that are - that are, you know, this actual practice of hopping.

Of course whatever we publish the bad guys are just going to read that and then add one day to it and then, you know, proceed accordingly so we have to keep that in mind as well.

I think - I see that - okay, Simonetta, go ahead.

((Crosstalk))

Simonetta Batteiger: I think what the - if you make this a reasonable amount of time the issue with the multiple hop is that it happens so quickly that you have no time to react. So if you force someone that they (make) for 30 or 60 days until they would go around a rule like this - and the rule only really says that you may contact anyone who is in a chain and that contact should result in the domain name being locked until the dispute has been resolved, which may then take much longer than you don't really have that problem anymore.

James Bladel: Okay thank you, Simonetta. And hopefully we've got folks who are capturing this for our response but I think that's a good point. So the queue is now clear...

Mikey O'Connor: This is Mikey. I'm taking notes.

((Crosstalk))

James Bladel: Oh you are. Okay thanks, Mikey. I wasn't sure. Okay so let's move on to Number 4 on the same topic but now submitted from the Registry Stakeholder Group. And again this was part of their response to the preliminary issues report.

"Under the TDRP a dispute must be filed within six months of the violation. Consistent application of the 60-day restriction on inter registrar transfers after a transfer should help to reduce the instances of multiple transfers. The Registry Stakeholder Group would support consideration of a modification to the TDRP to clarify the impact of a fraudulent transfer on subsequent transfers."

So looking at the first sentence I think there is where we're saying that there is a six month - oh I'm going to butcher this here - term of (ours), but let's say a six month statute of limitations. So if you're disputing a transfer that occurred more than six months ago I think the TDRP is not for you.

"Consistent application of the 60-day restriction would help." I agree with that statement however, as we mentioned in the outset that was something that we looked at making mandatory in a previous working group and that was not supported.

So perhaps the right course of action here is a strong recommendation for a best practice and further education not just of registrants but also registrars that they should want to support this wherever possible.

Aftermarket registrars may have a different view on this. But, you know, hopefully it would also have different practices involving transfers to prevent this problem.

And then the final sentence here. "The Registry Stakeholder Group would support consideration of modification of TDRP to clarify the impact of fraudulent transfers on subsequent transfers." And I think what I'm understanding here is similar to what Simonetta was saying which is that a TDRP should lock a domain name against further transfers until the dispute is resolved.

But would otherwise - I'm seeing here the consideration of a modification to clarify. I'm wondering if we have any of our Registry reps on the call today that would like to weigh in on helping us understand the meaning here. Barbara, thank you for rescuing me.

Barbara Knight: No worries, James. This is Barbara. So I think the intent here was, you know, to the extent that, you know, that we could come up with some sort of I guess process or just, you know, when we're referring to clarification here I think we were referring to the fact that (unintelligible) really say how, you know, registry operators or the second level dispute providers really should handle cases where there are multiple hops.

And so I think that if there's, you know, a way to, you know, and some of the suggestions I think that were put forward were actually kind of, you know, good ideas, you know, where you do, you know, more proactively engage the registrars that were involved throughout the course of the transfer dispute, if you will.

You know, obviously what's being disputed is going to be the one that started the process which is, you know, the transfer that was alleged in violation of the policy.

But, you know, if it's, you know, three registrars, you know, down the road now to, you know, more actively involve at least, you know, at a minimum the last registrar, the current registrar that currently has the name to, you know,

see what their take is on it and come up with I guess some, you know, standard processes or procedures for how to deal with that in instances where it does happen. So kind of the thought that we had (unintelligible).

James Bladel: Okay thanks, Barbara. I put myself in the queue to offer an idea here. And I wanted to take the chair hat and put on a registrar hat if I could for a minute. And of course, Mikey, I'm looking to you to keep me in line and smack me if I ever forget to qualify that statement.

But one thought might be that the TDRP would be - in the event that we detected that this practice was occurring - and again this is back to Simonetta's point that a certain number of transfers within a certain timeframe - that all registrars would be required to participate and provide documentation, not just the initial registrar that reported the fraudulent transfer or the registrar where the domain name landed when the transfer - the hijack was detected.

But all the registrars in the chain would now be on the hook for providing documentation, FOAs, and log files and everything else that they believe would have been relevant so that the TDRP provider can keep together the sequence of events.

I think that might help in ensuring that there are no gaps in the understanding of how the transfer occurred but also it might encourage registrars who are currently allowing transfers within short periods of time of previous transfers, maybe they would rethink that practice and adopt this best practice of, you know, of taking a little bit more care in that regard.

So, Barbara, your hand is up; I'll turn it over to you. I'm hoping that you're going to explain that that's already required.

Barbara Knight: Thanks, James. It is (unintelligible) we do not require that today. The concern that I would have with that is the same concern that I the with just, you know,

transfer disputes overall is, you know, making certain that anybody who may have information relative to that transfer is actually providing it.

I know from our perspective, you know, a lot of times a transfer dispute will be filed and of course the non-filing registrar has seven days to respond to that and provide their side of the story.

Many times there is absolutely no response received from the other registrar in the case. And in looking at that information that came in from Kristine it looked like, you know, in some cases they also don't get any response from the other party to the case. So I think it's an excellent idea. How you get people to participate and provide the data I think is going to be the biggest challenge.

James Bladel: Sorry, mute button. Yeah, that's an excellent point, how to compel them to respond when they really don't have anything on the line anymore, the domain name has already entered and left their management. But maybe something to consider - and I noticed that Simonetta, in the chat, posted the statement that she likes the suggestion to make registrars in the chain obligated to cooperate.

Simonetta, your hand is up; you want to elaborate?

Simonetta Batteiger: I'm wondering if sometimes maybe you don't respond because you don't have information. But I think it would still be okay to ask that registrar to at least say yes I received your request, I'm really sorry I don't have anything I can tell you which is a response and might be all they can do.

Or they tell you, okay, I've informed whoever they need to inform about something, something and set them a deadline and just give a status because, I mean, maybe that is also all it takes at that point. Because if that registrar truly deals with a fraudulent party they will likely not get a response from them or they'll only have vague information.

James Bladel: Thanks. Good point. Even responding with, "I have no information," would be a response in this case. But hopefully they at least have an incoming and an outgoing FOA as per the policy. I think that would be the minimum response we would expect.

I think Barbara was first but I will always refer to co-chair Mikey.

Mikey O'Connor: No, no, let Barbara go.

James Bladel: Okay. Thanks, Mikey. Barbara, you're up.

Barbara Knight: Thank you, Mikey and James. This is Barbara. So I think that, you know, James, you're right, I mean, and that was what I was going to say is, you know, at a minimum there should be FOAs involved and there should also be, you know, some logs that show, you know, the Whois data as far as who the registrant was at the time the transfer occurred.

There should be, you know, some data that could be provided to at least I guess just some idea that (unintelligible) transfers were - I guess were legitimate, if you will.

So, you know, I think that no information is really not an option here because under the policy, you know, all registrars are to maintain at minimum at least the FOAs.

James Bladel: Good point. Okay thanks, Barbara. Mikey.

Mikey O'Connor: This is Mikey. The other thing to - this is another throw-in, another one of our policies. I haven't really thought this through but maybe the TEAC process that we came up with in IRTP-B, I think, could be a model for this as well where we sort of place an obligation on registrars to at least respond.

And I do like the idea that at least respond with what should be available data, FOA, Whois record, stuff like that, logs, whatever. And so anyway it's just another - mostly I want to get it on the record so I can type it into the notes because it seems like that might be a model that we could take a look at.

James Bladel: Okay thanks, Mikey. I think, if I'm understanding you correctly, we could mirror any sort of requirement that compels a registrar to respond after the TEAC, which has a - I believe which has a four-hour window for a required response.

Maybe that - that might be a little too tight to gather up all the information required in this case. But I think it's something to jump off - it's a jumping off point for any sort of requirement here because it does say that, you know, not really concerned about the content of your response but silence is not an option.

So okay well I think - we've got a - the queue is clear. We're down to the last - this is the last comment - the second to last comment on Charter Question B.

I think the general tone, or the sentiment, and of course counting on Mikey's notes and staff's as well, but the general sentiment is that this is an issue and that the TDRP perhaps could be improved to close some of the gaps that allow - or loopholes that allow this to occur.

We could do so by compelling all registrars in the chain to participate in the investigation by providing the, at a minimum, the documentation that they're required to collect during the transfer process, at least two FOAs and any other information that they have in excess of that like log files or any other Whois or customer contact information.

That we would probably need to define how many transfers is too many and how short of a time period is too short. I think those are some fuzzy logic

problems that we'll probably have to discuss further. But - and then of course we could also make a recommendation that the practice of now allowing transfers within 60 days is not required but it is one best practice that could address this although it might not fit all business models.

So did I - and that the TEAC mechanism could be used to, you know, as a guide as well as the UDRP lock and PDP could be used as a model for anything that comes out of this group.

So did I - did that capture? I'm doing it sort of from memory and notes here. Hopefully that captures what we were - where we were landing with this group.

Mikey O'Connor: This is Mikey. I'm just going to barge in. Yeah, that's pretty close to what I've got in my notes a well.

James Bladel: Okay excellent. Thanks, Mikey. Okay so then if there are no other comments we can move on to the comments received for Charter Question C. Should dispute options for registrants be developed and implemented as part of the IRTP?

And I think that the gist of this is essentially that registrars initiate a TDRP typically on behalf of their customer, the registrant, but they're not required or obligated to do so. So I see Rob has his hand raised before we dive in to the two comments received and then Rob's hand went down, okay.

So - oh I'm sorry, Mikey, there was one other thing that we missed in the previous one which was that we discussed the interplay of the new IRTP-C change of registrant policy and how that might affect this issue. So I didn't capture that; I just remembered it and we might want to make sure that's part of our notes as well. I'm sure you probably caught it but I missed it.

So, Rob, go ahead.

Rob Golding: Before we move off of the TDRP comments VeriSign sent out an email to the list about TDRPs. And one of the lines sort of struck a cord with me which is that the administrative contact authorized the transfer without the knowledge of the registered name holder, eight cases. Now that was something I know we touched on in IRTP-D is who really should be authorizing transfers and who should we be accepting FOAs from and who really has the ultimate say for the domain.

Our own policy has always been that the registrant is the final authority on things because it's their domain name. That's partly codified by our own opinions and that's also because historically we've been involved with DotUK a lot more than DotCom and Net. And that's the policy within DotUK, in fact, to the point now where they don't really have administrative contacts or technical contacts on DotUKs anymore; there's just the registrant.

So we would always take the registrant's wishes as the final decision on whether or not to move the domain. But it's quite clear from the stuff VeriSign sent out that there are cases where the admin contact moves them and the registered name holder doesn't know anything about it.

We see this regularly, we have designers moving around to whoever is cheapest this week. And then when the customer actually rings us up and says, "I'd like to change the name servers of my domain." We go, "You moved it six months ago." And they go, "Uh, no we didn't." And we go, "Yeah you did." It's an issue.

So should we - and if we're also discussing the TDRP as part of IRTP - also be trying to set actual rules or best practices on who should be authorizing domain transfers?

James Bladel: Thanks, Rob. And I hate to complicate things or make things even messier or cloud the waters but the situation you described was exactly part of our

charter for one of the other IRTPs, one of the very early ones. And I'm stretching my memory here if it was IRTP-A or IRTP-B but now we're going back to 2010, 2011.

And that the charter question was twofold which was what to do in those situations where the transfer was authorized by the administrative contact but later was opposed by the registered name holder.

I think one of the challenges we discovered was that, particularly in thin registries but I think it applies to others as well, is that the registrar - registered name holder's email address was not always available to registrars to initiate a transfer so that the administrative contact was used in that regard.

And I think that was perhaps more, as I said, more of an issue for thin registries than thick registries. And so the two questions that we discussed were how to resolve those situations where the registered name holder and the administrative contact don't agree and how registrars would have access to the email address of the registered name holder.

I'm going to have to punt now to staff to maybe help us dig up the conclusions that we came to in examining those questions because I think they're relevant to the question that Rob is posing here about those. And then I think that they do perhaps have bearing on Charter Question B. Mikey, can you clarify or crystallize our memory on this one?

Mikey O'Connor: Two things. This is Mikey. Yes, we certainly did spend a lot of time on this and did not arrive at a consensus as to what to do. And a lot of that was because of the challenges posed by a thin registry. And so one of the things that I wanted to throw in to the conversation is that we do have a thick Whois PDP that's going on right now that I'm reluctant to characterize how it's going to turn out until it turns out.

But if we eliminated the thin Whois model that might bear on this topic. And I'm not exactly sure how we'd reopen a topic that's been addressed in a prior PDP but we might want to put that on a list of things that we want to revisit toward the end of this PDP because the timing of the thick Whois PDP is that the initial report, at least, is going to be done by Durban so we'll have an answer - a preliminary answer anyway - within six or eight weeks.

And that might bear on the conclusion we came to back - I think it was IRTP-B but I'll leave that to Marika. She's smarter about stuff like that than me.

James Bladel: Okay thanks, Mikey. And, you know, I have some thoughts on this but I'll just go to Marika first and then I'll put myself in the queue. Marika, go ahead.

Marika Konings: Yeah, this is Marika. I think what we did do under IRTP Part B - and I think that is currently in force that there is a requirement to send the - a copy of the FOA to the losing registrant - to the registrant as an additional mechanism to make sure that if there is a case where the admin contact has requested the transfer and the registrant is actually not aware of it that that can serve as a trigger point.

So I think that is one of the measures that came out of that working group but I think, yeah, we also - one of those recommendations additionally coming out of that working group was indeed the consideration that thick Whois would actually solve a lot of those issues and a suggestion that a PDP would be initiated on that topic which is currently underway but hasn't completed yet or concluded yet. So I think that's, at least my recollection of the discussion.

James Bladel: Okay thank you, Marika. And I see Mikey has his hand up. Mikey, before I let you go can I - can you clarify I think aren't you the chair or co-chair of that thick Whois working group?

Mikey O'Connor: I am indeed the chair of that one. And just...

James Bladel: So you can help be an effective liaison?

Mikey O'Connor: Yeah, I could certainly do that. I think the key is that thick Whois is a link in this chain. Once that link of the chain has been completed then I think IRTP needs to be looked at given that the changes have been made.

So we've got sort of this chicken and egg problem that we may have to go back to Council or somebody to either change - slightly change the charter of this PDP to be able to revisit that or, much as I dread to say it, we might need one more instance of IRTP in order to resolve this one.

James Bladel: So thanks, Mikey. And I'll put my comment on that last statement in the chat box. So this is James just speaking now in my personal - just as a personal participant of the working group. I think that we had a couple of issues here.

Going back to our predecessors and ancestors, some of whom maybe on this call and some of whom may be are in other areas of ICANN or have graduated to councils and boards or maybe have left the industry entirely.

But when they originally set up this series of working groups I think they may have anticipated or perhaps it had not occurred - factored into their decision. But one of the issues that could have come up was this idea that the inter dependency between some of these issues, the charter questions, that topics would come up later on after they had already been either discussed or resolved.

I think in order to enforce the greater good, which is that this group be the last - be the caboose in that IRTP chain of PDPs we might want to grant ourselves a little bit of latitude in revisiting issues that might have been discussed and kind of meaning air quotes over here - closed in previous sessions.

What I mean is that if in the discussion of our Charter Question B or C we determine that we really need to put a charter question from IRTP A back under a microscope I think we should, you know, without overturning things that we've already done we should at least allow ourselves the ability to discuss those things just because it's more of a recognition of the inter dependencies of these working groups and just as we've identified an inter dependency with the thick Whois working group.

So, you know, I just wanted to put that out on the table. We shouldn't necessarily close the door to those discussions. If we - if we feel it can help - and we certainly don't want to allow a second and third and fourth bite at an Apple - but if we think it can help us achieve our goal we should do so just so that we don't spill over into any other future iterations of this series.

And then to address Mikey's other question I think that the challenge then becomes, if we treat this as a discrete problem, the challenge is that we solve, in this working group, we solve for the thick registry problem and then let the thick Whois working group proceed on its own course and without presuming the outcome we assume that if thin registries become thick then they will inherit whatever solutions we come up here.

So I'll stop there and I'll turn it over to Mikey. Go ahead, Mikey.

Mikey O'Connor: Not much to disagree with there. I just wanted to slightly hone that. I like your notion that we are the last and thus have some sort of extraordinary rights to look back into the prior set of IRTP PDPs.

I think we might want to run that idea past Council in some way. And, Volker, I think you're our Council liaison. So it might be that Marika, Volker, Mikey, James, want to huddle and figure out the right way to communicate that back to the Council so that we let - at least let them know and let them object.

But, you know, I wholeheartedly agree with your yikes comment in the chat. I really don't want to have another one of these. It's just that looking back over all the prior decisions, opening that up, is a bit of a change to the scope of what we're doing. And we might want to refine that and write that up and let the Council know.

James Bladel: I agree, Mikey. And maybe that's just something that we can visit with with Volker. And perhaps the bar should be very, very high. You know, for example if IRTP-D wants to revisit an issue that was part of a charter question in IRTP-A that, you know, it must be a unanimous decision or something like that.

You can't just go based on, you know, well a couple people spoke out about this on this one call and so we're going to reopen, you know, TEAC or something like, you know, I'm being dramatic here for effect. But I think that you're right, we want to make - we want to put that under scrutiny if part of the function of this working group is going to be to take a look at the whole series.

But I think that - I think Council would also agree that, you know, the sentiment that we don't want there to be an IRTP-E, that we don't want things to spill over, that this should be the last link in the chain. And in order to do that we probably need some latitude in that area but the bar should be fairly high.

So, Volker, did you - yes, yes I see your chat. Yes, we would write something up and take that back to Council. And I think we probably just missed the document cutoff, did we not, Volker? So we're probably shooting for the June Council meeting?

Volker Greimann: We can still discuss it. Even if we're not meeting we also have the possibility to discuss it on the call after the next meeting. So I think we would be able to

discuss it on the list and then I can get a feel of the room, the temperature of the room and the Council even if we don't have a decision on that yet.

James Bladel: Okay.

((Crosstalk))

James Bladel: Thanks, Volker. And if you can keep your toe in the door, keep that wedged open just a little bit longer we will endeavor to get something to you quickly.

Volker Greimann: Sure thing.

James Bladel: Okay. Thanks, everyone. And it's a good point and probably something that we didn't consider as part of our, you know, kind of a (meta) question we didn't really discuss but excellent discussion.

I see we have five minutes left and I wanted to tee up the next question here - Charter Question C where we have two comments as well. But this is really about who has the ability to initiate a TDRP. Currently that is a registrar function. But certainly they're not doing this on their own accord; they're doing this in response to a request from a registrant, registered name holder.

But what about those situations where a registered name holder believes that they want to initiate a TDRP and the registrar does not cooperate. So I think we certainly need to examine that question when we resume.

So - but we have a few minutes left. Turn it over to Mikey to see if he has anything he wants to add or discuss in closing here today?

Mikey O'Connor: No, I agree, this is good. I think we're making great strides and it seems like we're headed to some really interesting and useful solutions.

James Bladel: I think so too, Mikey, although silver bullets are few and far between in ICANN world especially about transfers. I think it's always good to make progress and to feel when you're making, you know, to feel like you've had an hour well spent and I think that's definitely the case today.

So next week we will continue here at the bottom of Page 3 which Charter Question C. Please contribute to the list. We'll look for a aggregated TDRP data set from staff as well as a response - or at least an update on our posing of the issue we just discussed over to Council from Volker. And we will go from there.

So, anyone, if you have - if you are a registry or a registrar and you want to submit some TDRP specifics and you have not already done so please get those to the list as soon as possible. Otherwise if there are no further comments we'll close the call for today and say thanks everyone and see you next week.

Mikey O'Connor: Thanks, James.

Simonetta Batteiger: Thank you, James.

((Crosstalk))

Rob Golding: Thanks, James.

Nathalie Peregrine: Thank you very much, (Tim), you may now stop the recordings.

James Bladel: Take care.

Nathalie Peregrine: Thank you very much, (Tim), you may now stop the.

END