

**Locking of a Domain Name Subject to UDRP Proceedings PDP WG
TRANSCRIPTION
Thursday 30 May 2013 at 1400 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 Thursday 30 May 2013 at 1400 UTC
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<http://audio.icann.org/gnso/gnso-locking-domain-name-20130530-en.mp3>
On page:<http://gnso.icann.org/calendar#may>
(transcripts and recordings are found on the calendar page)

Attendees:

Kristine Dorrain – NAF
Alan Greenberg - ALAC (Vice Chair)
Matt Schneller - IPC
Faisal Shah – Individual
David Maher – RySG
Michele Neylon - RrSG (Chair)
Volker Greimann – RrSG
David Roache-Turner – WIPO
Gabriella Szlak – CBUC

Apologies :

Laurie Anderson - RrSG
Hago Dafalla – NCUC

ICANN staff:

Marika Konings
Lars Hoffman
Berry Cobb
Nathalie Peregrine

Nathalie Peregrine: Thank you very much (Tonya).

Good morning, good afternoon, good evening. This is the UDRP Domain Name Lock Working Group Call on the 30 May, 2013.

On the call today we have Alan Greenberg, Michele Neylon, Kristine Dorrain, David Maher, (unintelligible), we have apologies from Hago Dafalla and Laurie Anderson. From staff we have Marika Konings, (Lawrence Hoffman), Berry Cobb and myself Nathalie Peregrine.

I'd like to remind all participants to please state their names before speaking for transcription purposes.

Thank you very much and over to you Michele.

Michele Neylon: Thank you. Good afternoon girls and boys and Alan who I've decided I've got to put into his own little category.

Okay then as is usual I'm going to ask does anybody have any updates to their SOI or whatever the hell we're calling it this week? Going once, going twice, no. Okay perfect moving on.

There has been some discussion on the mailing list about a couple of compromise tweaks, alternative language solutions to kind of get around a couple of these outstanding things. So I'm going to hand this over to Super Marika who has lots of things that Alan doesn't have and let her kind of go through that. While I'm doing that I'm also going to see if I can actually rustle up the registrars since I don't think any of them have actually dialed in yet have they?

Nathalie am I the only registrar on this call?

Nathalie Peregrine: I believe so.

Michele Neylon: Okay I will go and poke a couple of registrars in the eye electronically.

Alan Greenberg: We are honored to have a registry however.

Michele Neylon: David is more than a registry. He is more than that. Don't just put him down as a registry God damn it.

Alan Greenberg: You were the one referring to people by their affiliation. I know that David is more than a registry.

Michele Neylon: David has his own affiliation. David has his own affiliation.

Man: Thank you.

Alan Greenberg: You're more than a registrar also.

Michele Neylon: I'm a lot of things.

Alan Greenberg: I'm determined to make sure we don't get any real business done on this call.

Michele Neylon: Gee thanks Alan. I on the other hand I'm determined to get this PDP finished because once I got this - one this PDP is done then I'm retiring from PDPs for 12 months.

Alan Greenberg: Oh good.

Michele Neylon: Because I'm taking up other offices within the next two weeks so I will have plenty of other things to keep me very, very busy. Don't worry you won't get rid of me that easily.

(Luke) will be joining the call. I have no idea what's happening with Volker. So Marika please go ahead.

Marika Konings: Yes this is Marika. Maybe just in general we're relatively low on participation so maybe following this call we should maybe send out a notice to the working group to encourage people to participate or at least send apologies so we have an idea on how many people we have showing up as well as we're hopefully going to make some decisions out of this and it will be good to have people participating and sharing their views.

So just on the current options on the consideration to address the comments we've received in relation to the loss of informal response time for respondents as a result of the change we were proposing in our recommendations, we initially had three options that we circulated to the list that we discussed at one of the previous meeting and then there was one additional suggestion proposed by David Roache-Turner so those are the options you see on the screen. And maybe just for the record we'll just go through them.

Actually you'll see what I've done is I've set up a little poll at the bottom that I can open after we've gone through the list and that may help give us an indication where people stand with regards to these different options. As I said it's a pity that we have a relatively low number of people participating today because I think at some point we probably need to come to a point where we can get to closure on this topic.

So the first option, that's the suggestion made by David Roache-Turner, basically says that participating UDRP respondents be granted an express option to request a four-day extension should they so choose with any such received four-day extension request to be automatically granted and the corresponding deadline extended by the UDRP provider at no cost to respondents.

The availability of such automatic four-day extension option on request could also be flagged by the UDRP provider for the respondents' information on commencing the proceedings. This may give those participating respondents

that actually need the extra four days the comfort of cost neutral certainty where requested without impacting UDRP timelines overall.

As I said that was an alternative option proposed by David Roache-Turner and Kristine supported this in the e-mail that she sent subsequently to the list.

And option two: in order to accommodate this loss of informal response time due to the proposed change in the rules to no longer require the complainant to notify the respondent of a finding, four days are added to the official response time the respondent has from the moment of commencement with the expectation that for the overall timeframe this would partly be balance by the quicker start of the commencement of proceedings as the result of the requirements to log the domain registration by the registrar within two business days.

Such a change to the response time would require another targeted change to the current UDRP rules even to the change to no longer require notification by the complainant. This was supported on the list by (Luke).

Then number three: no changes made to the current recommendations regarding timing but UDRP providers are required to inform the respondent at the moment of notification of commencement of the option to ask for an extension. And this option was also supported by David Roache-Turner and Kristine.

And then option number four which is change the working group's recommendation and no longer recommend the removal of the requirement for the complainant to notify the respondent at the time of filing. This would mean the status quo is maintained. The working group would recommend that the issues are further considered as part of the overall review of the UDRP. And this was supported on the mailing list by Volker.

Do you want me to open the poll or are you first would like people to discuss or comment or maybe there are other options they would like to put on the table?

Michele Neylon: Oh sorry yes. There's a couple of people who've got their hands up there. So I think it is only fair and judicial -- oh God I hate that word -- I think it's only fair that we give them a chance to make a couple of comments and hopefully by the time they've done that we'll have at least one other registrar on this call.

Please go ahead Alan then followed by Faisal.

Alan Greenberg: Thank you very much. I guess a couple of comments. First of all one is attractive in that it doesn't add any days for organizations that are not - for respondents that are not responsive at all. But I think it adds a fair amount of complexity in terms of describing the process in terms of documenting it in terms of telling people what their obligations are. And I find that somewhat problematic.

My preference is number two. I believe that it is reasonable and we're adding a day or two. I find number three far too complex and saying that people have to pay for what they get now for free I think is really objectionable. And number four is a good fall back if we select one or two and there are violent objections in our final report. And I wouldn't mind us documenting the other three options or a subset of them in the final report saying these are the ones we considered but in balance we picked the extension of four days.

So I think four is an option that we have in the final review following the comments on the draft report but I don't think it's something we should give up right now. We spent a lot of time and had a lot of good arguments why we wanted to change the process of not having the complainant notify the respondent immediately and I don't think we should give up on that because of one or two comments without at least trying to remedy with some other fix whether it's one or two. Thank you.

Michele Neylon: Thanks Alan. Faisal go ahead.

Faisal Shah: I guess my question to maybe David or Kristine if they're on the call is the difference between one and three the fact that one is an automatic extension? Is that really the difference? And maybe also the fact option one doesn't require a change or an amendment to the rules? I'm just trying to understand kind of fundamentally the differences between one and three.

Kristine Dorrain: Pretty much any respondent who can show a decent reason for asking for an extension and pretty much at least the forum, a reason for asking for an extension gets one. And currently the practice at least at the forum is to charge \$100 for the request and they can have up to 20 days of time. So that's what number three is basically just saying that when we serve the case upon respondent we will say hey by the way if you don't think the 20 days that you're given is enough time, there's this process. Sometime in the next 20 days go in and request another 20 days and you pretty much have it.

And number one the difference would be where any respondent who intended to respond so they think the benefit here or the thought here is that rather than lengthening the overall process by four days considering about 80% of cases default, so why would we lengthen the process for those 80% if they didn't need to be lengthened?

So the thought process for number one was well if somebody is going to say hey I kind of want to respond but those four days are really important to me because I think I would have been notified and been able to get on this sooner, rather than having to pay the \$100 they could just say hey I need a few extra days and they would just get it, no questions asked, no fee, nothing, all they have to do is tell us they want four extra days. Then if they still wanted the official codified extension of up to 20 days, pay \$100, they would still get that as well.

So the main difference is just saying yes we know that you might have gotten notice if the complainant had actually served you properly and so we will give you the extra four days just in case that may have harmed you. That's the main difference. Does that answer your question Faisal?

Faisal Shah: Yes, yes that's perfect. I was just trying to figure out also the difference between the 20 days and the four day. I got it. Thank you.

Kristine Dorrain: You bet.

Alan Greenberg: Michele I have a question based on what Kristine just said.

Michele Neylon: Go ahead, go ahead, go ahead.

Alan Greenberg: Kristine or David who I now see is on the call or at least supposedly is on the call, for a respondent that does not request the formal paid extension, do you normally get some communication before you get their formal answer?

Kristine Dorrain: This is Kristine. Yes and no. A lot of times we'll get clarification questions that say hey I'm thinking about responding, can you tell me where to find the rules or where to find the form. So yes I mean for the people that are going to respond unless they're going to hire a lawyer like John Berryhill or someone who already knows where the forms are and knows what's going on, if they're going to respond (unintelligible) a lot of times we hear from them and they need a lot of handholding and guidance.

Also we have a vast majority of our filers use our filer portal and they have to request to be put onto the portal. So we'll have a lot of people who request to be put onto the portal so they can see the documents and the case and that sort of thing but they maybe never even actually respond. So we know that they got service, we know that they're there, but they're choosing not to respond. So there's kind of a mix of levels of communication and contact that

are generally a precursor of hey this party's probably going to respond but not necessarily.

Alan Greenberg: Okay. I was wondering if we could do something essentially saying that the 20 automatically becomes 24 once there's any communication but I'm not sure how we can document that.

Kristine Dorrain: Yes I think that's a little bit of a slippery slope because the other thing that we get is hate mail where you're a jackass I'm never talking to you again, don't e-mail me. And I think in that case we don't want four extra days added to that case.

Michele Neylon: Okay. Marika you had a poll? Oh here we go.

Marika Konings: Yes now you should be able to select...

Michele Neylon: That was really dramatic Marika.

Marika Konings: Was it?

Michele Neylon: The thing kind of magically just appeared. Okay so everybody who is logged in who is on the Adobe Connect can vote in the poll that Marika has just made available.

Alan Greenberg: I see David Roache-Turner is not on Adobe. We may want to accept a verbal vote.

David Roache-Turner: This is David. Hi guys. Listen I'm having some difficulty accessing the Adobe at present so I will vote verbally if I know what the question is.

Michele Neylon: Okay Marika could you do the honors please?

Marika Konings: Yes so option one is the alternative that you had proposed, the four-day automatic extension if requested. Option two is adding four days to the current response time which would mean a change to the rules. Option three is no change to the current recommendations but requires the UDRP providers to inform the respondent that they have the option of asking for an extension. And option four is basically change the working group's recommendation and no longer recommend the removal of the requirement for the complainant to notify the respondent at the time of filing and basically go back to status quo and suggest that it is considered as part of the overall review of the UDRP.

David Roache-Turner: Thanks Marika. Then our vote would be for option three which is that we insert a recommendation to clarify in the provider notification that there is an option for extension.

And I would just add to the points which Kristine raised earlier that the approach that she described with respect to the receipt of a respondent extension request generally accords with what we experience here at WIPO with the exception that we do not charge any fee for any extension that would be requested or granted.

Marika Konings: David I see you're now in Adobe Connect, if you can add your vote or otherwise I can do it for you.

David Roache-Turner: I will add it thanks.

Michele Neylon: Well looking at it at the moment option one is only supported by one person, option has been supported by two, option three by two and at the moment option four has the most support with three but there isn't a massive...

Alan Greenberg: Michele it's Alan. I'm curious for the people who voted for option four, why would we want to give up at this point given how much time and effort and how strongly we believe that the no notification to reduce cyber flight was

important? I'm just surprised that that many people are willing to essentially roll over given how important we thought it was at the initial point.

Michele Neylon: So does somebody want to speak to that?

Alan Greenberg: I know we now have ten people online but we do not have anything like ten votes.

Michele Neylon: We have three, five, seven, we have eight votes total so we're only missing two. Are you including Marika in your ten or are you excluding here?

Alan Greenberg: I'm looking at non staff people.

Michele Neylon: Okay.

Marika Neylon: Yes this is Marika. I think David and Gabriella haven't voted yet. I think Gabriella has only just joined the call so she may be catching up on what we're voting about.

Michele Neylon: In the interest of transparency and since Marika can actually see who has voted for which option and in order to quash this thing with Alan so Alan will stick in pins in effigies of me and some other people, Marika who voted for option number four? Please tell us. I know the answer already.

Marika Konings: So this is Marika. So it's yourself, Volker and (Luke).

Michele Neylon: Okay so Alan would you like me to explain to you why I voted for option number four?

Alan Greenberg: Sure.

Michele Neylon: I think the problem I have with this and I think others might be better at speaking to this than I will be, I understand that there are issues, perceived

issues, seen by various parties with respect to this little part of the UDRP. However, I'm not too comfortable with making changes that either benefit one party or another at this juncture. I think that something like this it's an issue that needs to be resolved at some point but I think it's something that should really be - I would be quite happy leaving until there is a full review of the UDRP. That's my own personal view.

Alan Greenberg: Okay thank you.

Michele Neylon: I mean (Luke) and Volker have more experience of UDRP than I do because as I've stated in the past our registrar we don't really get that many UDRPs. I think we've so far in 2013 we have had one UDRP notice from the Czech court which they had to withdraw because the domain in question was no longer registered by the time we go the notice.

Alan Greenberg: Kristine's comment in the chat is interesting me. Kristine?

Michele Neylon: Yes so Kristine's comment is must certify the (unintelligible) so the registrar is not quickly locked. Registrars that know what to do with UDRP don't typically have it. Dave Roache-Turner's agreeing that could lead to further condensed registrar lock time for the U.S. for example.

Anyway so that's my rationale. Volker's got his hand up so let's cede to Volker unless he wants to be a gentlemen and let Marika go first. Your call Volker.

Michele Neylon: I think he's being a gentleman. Marika go ahead.

Marika Konings: Yes this is Marika. Of course one way to look at the poll as well instead of looking that option four has the most votes is to look at the majority of people actually want to consider alternatives to address the concern. So I think we need to be careful as well as just assuming the one that got the most votes is the one that is mostly supported.

I think we need to look as well at the context to see that the majority of people on this call -- and again we may need to consider if we want to put this poll as well on the mailing list to give others an opportunity to weigh it. I think we need to make sure it's all the way balanced and see how many people are actually willing to accommodate the concern through various ways and maybe further discussion need to be had then as to what could be a compromised position to that instead of just saying just because option four has the most votes that one wins.

Michele Neylon: Okay thank you Marika. Volker have you managed to work out how to use the telephone?

Volker Greimann: Hello can you hear me?

Michele Neylon: Yes we can now. We can hear you Volker.

Volker Greimann: Very good. In my five years I've never seen cyber flight and I've only seen a case where a domain name has been transferred prior to us receiving the request to lock it and that happened about two week before so I doubt that was a case of cyber flight. Therefore I'm very hesitant in making a change to the UDRP that is not holistic because any change that we make would be to the detriment of the registrant.

And if we feel that 80% do not even reply that also means that a fifth of all registrants does reply and shortening that period by four days even if they have the option to extend which most will probably not know about, have to be educated about, it will only create confusion that I would like to avoid at this point. If we look at this point again in the context of a holistic review of the UDRP that might be an option for me.

Michele Neylon: Thank you Volker. Anybody else? No okay.

(Matt) is asking in the chat there if it's -- I'm just kind of paraphrasing you
(Matt) sorry -- if there was some way of putting out a poll that was accessible
to all members of the group with a way of ranking if giving a preference.
Marika's saying that's possible on Survey Monkey.

Mr. Greenberg sir?

Alan Greenberg: Yes just out of curiosity - as a curiosity I'll note that if you look at options one
and three which are both grant an extension one way or another, our current
poll is three, three, three so I think we probably need to go to the list.

Michele Neylon: Fair enough.

Alan Greenberg: I'll just make one other comment on Volker's reply and I think in light of what
Kristine and David have said that most cyber flight occurs from registrars who
don't lock for a long time and therefore of course would be in violation of the
two-day rule that we now we have but are still not acting reasonably from a
registrar's point of view is this PDP like many others is confronted with trying
to set rules not for the vast majority of large registrars who play by the rules
and do honorable things but by the small number who either do not know
what the rules are and therefore can't play by them or are deliberately not
doing something.

So I think we need to be very careful about making decisions based purely on
the experience of the registrars on this call, on this PDP. They're not the ones
that typically we're trying to fix problems with.

Michele Neylon: Okay thank you Alan. Then we have Kristine. Good afternoon Kristine.

Kristine Dorrain: Good afternoon. This is Kristine from (NAF) and I just wanted to
wholeheartedly support Alan's comment which is that we have to be careful
that we're not basing all of our inferences on people who know what's going
on with the UDRP and know what they're doing.

I wanted to also mention that in the context of thinking back about all the work we've done in the past four months on these calls, we should have took a two-fold approach so yes we have decided that we're going to tell the registrars you need to lock within two business days, which is great for the majority of registrars that are familiar with UDRP and know what they're doing are locking in the timeframe. Those are the registrars that are not seeing cyber flight for the most part unless there's something really wrong with communication or something.

But then so this idea that then complainants would not serve the respondents was just another layer of protection which just was the point of yes the 48 hours or the two business days or however we -- I can't remember how we phrased it -- is one piece that's going to help and the other piece is not giving the respondents a chance to cyber fly before the domain name is locked. And so we have to remember this is sort of a two-pronged approach.

So we're trying to educate the registrars but this idea of not serving the respondents until the domain name is locked is sort of a just in case, right? So the registrars should originally be as a result of our best practices and our recommendations the registrars should be stepping up their locking. And, you know, eventually we should be sort of almost solving this problem is our hope.

But that - I mean I'm correct right this is sort of the point of this working group wasn't just to amend the UDRP as much as to get the registrars on board with how to deal with UDRP unlocked.

Michele Neylon: Alan has agreed. Anybody else have any other thoughts on this?

Alan Greenberg: It's Alan. I just go back to the amount of time we spent discussing it. And, you know, we put not only a lot of time into it but we thought it was important at the time. And I am reluctant to give it up without at least an attempt to fix it...

Michele Neylon: Okay.

Alan Greenberg: ...whether it's one, you know, whichever option it is that we pick but without some attempt to fix it and understanding we may have to go back and pull it out all together at the last, you know, in the final version.

Michele Neylon: Okay thank you Alan. Anything else?

Right, Marika could you - would you be able to do some kind of Survey Monkey style thing for this that we can send to the entire list so that we get a higher level of participation or more representatives spread or however you want to word it?

Marika Konings: This is Marika. Yes is there any other questions we need to ask like, you know, I don't know, I think that their ranking I think was one suggestion so we have an idea of where our preferences lie.

But do we need to ask people's (all), you know, which are absolutely no goes for them or just leave a box for comments so they can identify themselves if there's anything else they want to add to the suggestions that are on the table?

Michele Neylon: I mean I think if we add a comment type thing then that should be grand, grand being my - one of my favorite words.

Lots and lots of chatter on the chat thing, okay moving on do we have any outstanding comments that we need to look at Marika?

Marika Konings: Yes let me pull up the...

Michele Neylon: It's been a while.

Marika Konings: Yes exactly. This is the last version of the public comment review tool. And I think if I remember correctly where we left off and didn't finish our conversation is on let's see, I think there's options for settlement.

We did have some discussions there that basically comments 19 and 20 on Page 10. Yes I didn't (include) page number.

So we did have some discussions there but I don't think we actually reached a conclusion as to regards which option the working group would support or whether, you know, we would consider one of the alternatives that was suggested in common (unintelligible).

Michele Neylon: So which page am I looking at Marika?

Marika Konings: I think it's Page 10. It's just on the...

Michele Neylon: Oh it says the one 1920 there. It seems to be multi-ball numbers, five and sixes and things. Okay so hold on a second.

Marika Konings: And this is Marika. If I can add maybe one thing because I think one thing the working group will need to consider here as well -- and it's an issue I asked some questions to the UDRP providers on this -- that actually currently in the UDRP rules suspension is only foreseen in the case of the initiation of legal proceedings. Although suspension in the concept of settlement, you know, is a standing practice. And, you know, is I think laid out as well in some of the supplemental rules. And I think ICANN has always said as well that that's, you know, not objected to.

So I think maybe that's something that the working group will need to spell out in its recommendation that, you know, that by outlining a procedure it also means that a new settlement is a accepted reason for suspending a procedure.

And that can be done probably in the form of an advisory. I don't think that would require any changes to the rules or anything like that but to really make clear that it's not contrary to what's currently in the UDRP.

Michele Neylon: Okay thoughts, comments, anybody? No okay. Okay so hold on a second. Was - those exchanges about the suspension, that was just between you and Kristine and David I think you CCed me on some of those or was that the list?

Marika Konings: Yes. This is Marika. I was just trying to get some clarity as to whether this notion of suspending as a result of (unintelligible) negotiations was recorded somewhere else as it's not, you know, mentioned in the UDRP rules.

I was just trying to get some clarification as to where it's recorded. And both Kristine and David provided some feedback as to where it can be found in their respective documents on their Web site as well as supplemental rules.

And I think it's something you know we can share with the mailing list if (Christina) and David don't object if people want to have a look at that.

Michele Neylon: Okay. David has his hand up. Go ahead David.

David Maher: Thanks Michele. Yes I think it would be helpful at least from my perspective to circulate that information to the group.

I won't go over it again now if you're going to do that. But I think that it is important Marika as you mentioned to clarify in some way as a result of this process that unlocking a domain for purposes of giving effect to any settlement ridge between the parties is allowed and is appropriate in those particular circumstances.

We do see a lot of cases at WIPO which settle, around 1/4 of all cases in fact. So we think it's very important that in the working - in the - that as a result of the working group's work that we not end up with a lock obligation which

precludes the possibility of settlements occurring because they occur in practice and we need to account for that in our recommendations.

Michele Neylon: Right, thank you. Okay there's a couple of other comments here which we haven't looked at all Marika is that right, these ones here, the preliminary Recommendation 11?

Marika Konings: Yes this is Marika. We only cover those on 19 and 20. But we still - that's still a question that we, you know, either need to resolve as part of discussing the comments or come back afterwards when we're done reviewing all the comments.

Because I think we still have option A and B on the table and I think the working group at some point will need to, you know, make a decision on whether they go to recommend one or the other or none.

Michele Neylon: Well how about okay, we run two polls, one for the Options 1 through 4 and the other for this Option A, Option B thing just to get some kind of idea of where - what these - the feeling in the room?

Yes, no, perhaps terrible idea? Okay moving forward of (unintelligible) I'm assuming David that's an old hand so I'm going to ignore it studiously.

Now we've got 18 minutes to go. So what I want to do very quickly is just try and have a look at a couple of these and then there's a couple of other items we want to have a quick look at on the agenda.

So pre-recommendation Number 11 ICANN collaboration with UDRP providers, registrars, and other interested parties will develop educational informational materials that will assist in informing affected parties of this new requirements and recommended best practices following the adoption by the ICANN board of these recommendations.

FICPI and ICA are both supportive of this. I assume we don't need to do anything beyond that. Any - no other action - any other action required? No? Good.

Next, right, ICA, the next one charter Question Number 5 whether additional safeguards should be created for the protection of registrants in cases where the domain name is locked subject to a UDRP proceeding.

ICA in regards to additional protections for registrants we favor adoption of specific prohibition against unilateral registrar movement of a domain name to a new account that deprives the registrant of control over his domain name registration until such time as the UDRP provider renders final judgment.

Assuming absence of subsequent appeal to a court of competent jurisdiction or the case is settled or withdrawn.

Any comments, comments, reactions? Earth calling working group, come in working group?

Alan Greenberg: It's Alan. This part of the working group looked away for a moment and I really don't know where you are. I heard you reading it but I couldn't find the text. Can you tell me...

Michele Neylon: I'm on Page 11. It's Charter Question Number 5 about additional safeguards. And I'm looking at comment Number 23 which is for the Internet Commerce Association where they're suggesting the following that they - adoption a specific prohibition against unilateral registrar movement of a domain into a new account that deprives the registrant of control of the domain name until such time as the UDRP renders final judgment.

Alan Greenberg: Okay sorry I heard five and I was looking at Recommendation 5. That's my confusion.

Michele Neylon: All right.

Alan Greenberg: Now give me a moment to read it and maybe anyone else has any comments.

Michele Neylon: Volker?

Volker Greimann: I see what he's trying to get at but I think that's problematic because the procedures each and every registrar has of how they implement the lock and how sure a domain name is not tampered with or - the data is not changed their first registrars and (unintelligible) implementation and technical necessities also between registrars.

And some registrars I know do it like that because that's the only way they can ensure that. I mean so I would be cautious of adopting that in the end.

Michele Neylon: Okay. And for those of you who didn't quite make out what Volker was saying he's saying that he'd be wary of this because for some registrars moving the domain into another account away from the registrant's primary normal account is the best and safest way for them to lock the domain down.

Kristine and then Alan. Kristine go ahead.

Kristine Dorrain: I have two points. First one is that I think did somebody mentioned in the chat that it has to go to the registrar - or the registrar agreement with the registrant? And I think that's right because I think some registrars have it in their terms that that's what they're going to do.

So that would require - you know, probably not an insignificant number of registrars to up and change their registrar agreements or yes the registration agreements I mean.

And secondly we have to remember that sometimes when a UDRP is notified to the registrars there are other bad acting things going on at play. Like the registrar finds that the Whois is fraudulent or some other thing is happening simultaneously.

And so sometimes that's why we get noticed that the domain name has been moved because the registrant is in violation of some other prohibitions of the registry - or the registration agreement.

And so we want to be careful that we don't start telling registrars what to do with their customers and with the domain names, you know, in the event that there's other things behind the scenes that we as a provider or, you know, as - even as a working group are not aware of.

Michele Neylon: Okay thank you. And the next person there is Alan.

Alan Greenberg: Thank you, two comments. Number one in support of what Kristine said we have been very careful to try to specify what the impact, not the impact but what the end result of that we want is and not be prescriptive in terms of telling registrars exactly how to run their business.

You know, we did not define a new lock and said everyone must use it because we recognize different registers may implement this in different ways.

But I have a question to Marika or anyone else who remembers. I thought we had a caveat somewhere saying that the lock must be done in such a way that registrants can fill on to their requirements to keep Whois up to date or to change the DNS address or something like that. Don't we have some reference to that somewhere?

Michele Neylon: Alan I - this is Michele. I think we had some discussion about that but I can't - I don't recall us making a firm decision on this stuff.

Now Marika's put up her hand and she's got a much better memory than I do.
Go ahead Marika.

Marika Konings: This is Marika. I'm not really sure about that but actually don't recall anything that specific is currently in the report.

I think the only thing we do refer to is that a resolution of a domain name shouldn't be impaired as a result of the lock. I think that's the only thing I recall that...

Alan Greenberg: Well but we certainly had a lot of discussion saying we cannot prohibit a registrant from change in their phone number if their phone number changed or if their hosting provider has changed their DNS address. That's something that they have to be allowed to change.

And I think we certainly talked about it. And a registrar, you know, now putting it in the registrar's account may mean that those operations are manual and have to be done on the phone.

But nothing the registrar should be doing should be prohibiting those things which are essentially either requirements of the registrant to be able to do or requirements to use the domain name which at this point has not been found in violation of anything.

So maybe we need something like that to, you know, remind registrars that the lock has to prevent some change prevent changes to some aspects but must not or should not or something provide the other changes.

So I don't think the mechanism should count. It, you know, yes the registrant may not be able to do it nicely and invisibly online in the middle of the night but they should be able to still do it. And therefore the comment that was made here is valid but the way to fix it they're suggesting is not.

Michele Neylon: Thank you Alan. (Matt) go ahead.

(Matt): Hey Alan I think the way we resolved it was by trying to be - to draft the language in the report so that we didn't explicitly require registrars to do anything that would prohibit those sort of changes but it - but retained as much flexibility for registrars based on whatever contract arrangements they have with their customers to prohibit or make difficult or whatever their policy is or allow anything - any sort of those changes to other Whois data or anything else because we just took a very minimalist approach.

All that you can - that you must do is prevent a change of registrant and registrar. And everything else is a matter for the registrar to handle with its customers.

But at least that way nothing about the lock requirement prevents registrants from doing any sort of those things is purely up to what the rules have been set forth by the registrar that they chose when they registered the domain name.

Michele Neylon: Okay thank you. Anybody else on this subject?

Alan Greenberg: It's Alan. So I think our answer is that we are not requiring anything which prohibits the registrar registrant from making the kind of changes that the commenter is talking about.

But I think the answer - that answer begs the question and maybe we do need to where we're specifying what they are locking saying nothing in this policy requires you to lock the other - to bring up the changes to the other things.

Michele Neylon: This seems like a reasonable enough way of dealing with it. I don't know how the hell we'd word it but...

Alan Greenberg: Yes.

Michele Neylon: ...I like the concept.

Marika I think was is - Marika mentioned that she was going to check to see if we'd already covered this or not and we - and we'll - if not we can add something in there.

So in terms of response here we appreciate the ICA's concerns. However we don't want to be too prescriptive in don't want to be too prescriptive in how registrars are going to implement any potential changes to policy or words to that effect or something.

Alan Greenberg: And we will consider putting words in our recommendation to that to the effect that legitimate changes can, you know, are not prohibited by this policy. We're not saying whether they're allowed, we're just saying we're not prohibiting them.

Michele Neylon: Exactly, exactly. And I think that makes a lot more sense.

As we've only got about five minutes left I don't want to get into more comments because you're all being wonderful today and getting really engaged which I'm really happy about but we are a bit time poor.

With respect to forward planning and deadlines and work plans and all those shiny things Marika?

Marika Konings: Yes, yes I'm here.

Michele Neylon: Okay you're there, just checking that you're still alive. Okay Marika and I have been discussing the - have been discussing Durban. And obviously we realized yes that it was a city in Africa.

But beyond that and more importantly we have provisionally requested a meeting space for the schedule there I believe. Marika?

Marika Konings: Yes this is Marika. So basically I think we're still aiming to finalize our reports in time for Durban. And I think that the working group may want to consider indeed whether it wants to use that time for example to, you know, inform the community about the final report or decide that no such meeting is needed. Or if we do not meet the deadline that meeting could be used as a face to face opportunity to work through any of the remaining items that there may be.

So I think at this stage we tends to be requested I think Monday morning from 7:30 to 9:00 as well as make sure that doesn't conflict with any of the other big sessions.

Michele Neylon: Hold on a second. Hold on, hold on, hold on. You requested 7:30 in the morning?

Marika Konings: Yes I did.

Michele Neylon: I'm very upset with you Marika.

Marika Konings: It's to provide you all with an incentive to get the report done by Durban so we can actually just cancel the meeting.

Michele Neylon: Okay. Good come back.

Marika Konings: It's a good incentive?

Michele Neylon: That's a lot better.

Man: Got my vote.

Michele Neylon: It's like oh my God seriously it's like wow. Okay then...

Alan Greenberg: Yes Michele I don't think we're going to make the publication deadline but I think we're going to have this wrapped up by Durban.

Marika Konings: But Alan just to clarify because we don't need to meet the publication deadline because this is not a document that will be for public discussion or consideration. It will be submitted to the GNSO Council for their consideration. And that deadline is basically ten days prior to their meeting.

Alan Greenberg: Yes no, no I understand but we always try to meet the publication deadlines even if it's not required. I'm just saying I think by early July we should - or end of June we should have this wrapped up.

Michele Neylon: Yes.

Alan Greenberg: So...

Michele Neylon: I mean Alan I just I think just from our perspective if we're working towards that deadline it keeps focus because I think we - that's what we need to do.

I mean if we can - even if we end up, you know, just kind of going right look we've agreed on 95% of this, this 5% outstanding then okay fine, we can try and drive forward for something. But let's not - let's keep focus.

Alan Greenberg: Yes. And I think there may well be few enough people of the working group in Durban that a meeting may not be the effective way of getting that last 5% done. But I like the threat of a 7:30 meeting to give us incentive.

Michele Neylon: Especially on a Monday. I mean Monday 7:30 in the morning Marika you are cruel. You are cruel. I like it, I appreciate it, but you are cruel just for the record. Volker go ahead.

Volker Greimann: Yes I would just like to add my voice to yours Michele 7:30 is a very, very difficult time for most of us I think.

And as a GNSO counselor I would also like to add that while you can submit motions and documents to us and they (work) doesn't mean you should do that because if you want the council to actually read them and be able to comment on them then we might need some more time. So I just wanted to point that out.

Michele Neylon: Okay thank you.

((Crosstalk))

Marika Konings: And this is Marika. If I may add one thing to what Volker said. And I think at least, you know, from a staff perspective I think what we see indeed with these kinds of rather big reports that, you know, with - you know, for new requirements on different parties indeed the council needs time to review.

So I don't think or I at least anticipate unless we indeed can get the report out a bit ahead of time that the council would be ready to possibly take a vote on this.

But I think at a minimum it would give the group at least an opportunity and the council as well to talk through the recommendations, answer any questions there may be and, you know, have some further discussions which hopefully we get the council ready to actually take a decision on it at their next meeting.

So I think at least from a staff perspective it's a, you know, the kind of approach that we've seen with previous report. Although of course it would be great if the council doesn't have enough time and feels ready to take a decision by Durban if the working group is ready on time.

Michele Neylon: Perfect. Okay then ladies and gentlemen boys and girls - Alan I'm going to give you the last word. I don't like doing it but I have to do it.

Alan Greenberg: I love it. I was just going to make a comment to Volker as the counselor who would likely be introducing the motion if there is one I would think it would be appropriate to introduce it for consideration of the council in Durban even if we do make the eight day deadline and then rely on the automatic deferral to fix the problem.

So I think what Marika has just said is exactly right, it would be nice to have the report locked up by Durban so we could talk about it as a (unintelligible) on the weekend even though it's not going to come before council for consideration formally that week.

Michele Neylon: Okay. Any other comments very, very quickly? Okay then thank you everybody and let's follow-up using email which we all use every single day.

And we look forward to speaking to you again in one week's time. Thank you.

Alan Greenberg: Good meeting. Thank you.

Marika Konings: Thanks bye.

Man: Bye.

END