

**ICANN
Transcription
Locking of a Domain Name Subject to UDRP Proceedings meeting
Thursday 27 June 2013 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of Locking of a Domain Name Subject to UDRP Proceedings meeting, on the Thursday 27 June 2013 at 14:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to Inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-locking-domain-name-20130627-en.mp3>

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

Attendees:

Hago Dafalla – NCSG
Kristine Dorrain – NAF
Lisa Garono - IPC
Alan Greenberg - ALAC (Vice Chair)
Volker Greimann – RrSG
David Maher - RySG
Michele Neylon - RrSG (Chair)
Joanne Teng - WIPO
Luc Seufer – RrSG
Matt Schneller – IPC

Apologies :

Laurie Anderson – RrSG
Gabriella Szlak – CBUC
Faisal Shah – Individual
Celia Lerman - CBUC

ICANN staff:

Marika Konings
Lars Hoffman
Berry Cobb
Julia Charvolen

Coordinator: This conference call is now being recorded.

Julia Charvolen: Thank you, (Tim).

Good morning, good afternoon, good evening all. Welcome to the LOCK working group meeting on Thursday, 27th of June, 2013.

On the call today we have Hago Dafalla, Kristine Dorrain, (unintelligible). Alan Greenberg will be joining us a little later. Volker Greimann, David Maher, Michele Neylon, Luc Seufer, Matt Schneller, and Joanne Teng.

We have apologies from Celia Lerman, Gabriella Szlak, Faisal Shah and Laurie Anderson.

And from staff we have Markia Konings, Barry Cobb, and myself Julia Charvolen.

May I remind all participants to please state your names before speaking for transcript purposes. Thank you very much, and over to you.

Michele Neylon: All right, good afternoon everybody and apologies for the late delay; however, we were discussing stuff which was related to ICANN policy, so this was not a bad thing. It's not like we were discussing the weather.

Okay then, now as you all know, Super Marika has circulated the final report for everybody's review. And if there are any issues or any problems anybody has from the wording, any tweaks, we have a couple of days to make those suggestions, and tweaks, and edits.

Marika has also circulated a kind of - a process diagram showing how this would all fit together in terms of how a UDRP would work and the locking and unlocking thing would work and based on - based on our proposals.

So without further ado, I shall hand you over to Super Marika.

Markia Konings: Thanks, Michele.

Maybe it would be helpful if we just run through Section 6 of the report, which I think is where really the bulk of the information is and that contains the recommendations. And, maybe that allows me as well to point out some of the changes that were made based on the public comments received as well as some other issues that I identified when going through the recommendations, and as well some comments I actually received from colleagues in regard of the language.

So if there's no objection to that, I've taken control of the screen, so hopefully that'll help you to follow along my overview.

So basically, I think the first comment is on 6, I think we should probably move this actually to the end of the report, so after the section on Community Input. And, this would become the Conclusions and Recommendations section of the report.

I didn't move that yet, because otherwise it would all come up as a redline and probably be more difficult to review.

So the first changes you see at the top are basically just the changes to mark this that it is our final recommendations and that we're no longer looking for community input, but the next step is the GNSO Counsel consideration.

And maybe I can just suggest people if they want to intervene or stop, just raise your hand or speak up, otherwise I'll just run through the different items here if people agree.

So with regards to the first recommendation, what we've done - what I've done there is removed the bracketed language as based on the comments you see. There was support for adding this language. As a result of this, our discussions as well as conversations, we agreed to add solely on the basis of

the UDRP to really make it clear that there may be other reasons why a resolution may be imparted on the other provisions or infringements.

Also, added a footnote here to clarify that the (LOC) should not prevent a renewal of a domain name subject to UDRP proceedings as per the expired domain (unintelligible) policy. Again, in response to one of the comments received.

Then going further down, you notice as well that's basically changed from preliminary recommendations to just recommendations.

In Recommendation 3, an update to the numbering and some small recommendations changing the (and) sign to the actual work, and, and noting that preventing change of registrar and registrants, (LOC) is considered our (LOC) definition.

In Recommendation Number 4, again added here the definition in brackets of (LOC) and just some rewording here to really clarify that the registrar must continue to prevent changes through the remaining pendency of the UDRP proceeding. So it's just basically a rewording of the sentence to make it clearer.

Then I changed that we had there I think language that came from somewhere else, but it says, "Regarding your domain name to a domain name," (unintelligible). Put in here the general language.

Then again, some clarification of language in the last sentence. Any update as a result of a request by the (credit) affiliated privacy proxy provider to reveal that on the line proxy customer data must be made - need to - must I think a more firm and clearer word, at least from a legal perspective.

And then here the question is we currently say must be made before the two business day timeframe, and/or before the registrar verifies the information

requested and confirms the (LOC) to the UDRP provider, whichever occurs first.

And the comment is here wouldn't it be sufficient to say before the registrar confirms the (LOC) to the UDRP provider, as that would need to happen in any case before the two business day timeframe ends?

(Unintelligible) any objection to making that change?

Not seeing any hands.

Kristine Dorrain: Marika, this is Kristine. Sorry, I wasn't fast enough to get up my hand.

I saw you post - when I read through this the first time, I read sort of in pondering to see if that would really make a difference.

I think it might be okay. I'm wondering because it says made before the two business day timeframe ends or before the registrars verifies the information requested and confirms the (LOC) to the UDRP provider, whichever occurs first.

So I think it would probably be okay. I think the reason we maybe put it in there was because we were trying again to confirm that the proxy provider, you know, updated - whatever that's called. The release of a shield or whatever it's called. I think the point was that should not take any additional days.

So, we don't want the registrar to think that they get to have additional days to verify and confirm the (LOC). I think we need to say - I think the point was there's - we're not adding additional time for that. If you want to do that, you need to do that within the two days given.

And, I'm wondering if we're - if it's clearer you know either the way it's written now or with your suggested change? I think that's my only - the only thought that I sort of have lingering in my mind on that.

Markia Konings: This is Marika.

I'm happy to leave it as it is. I think your point makes perfect sense as well to really affirm that again. So, I'm - personally, I'm fine leaving it as it is unless people think it's clearer to change it.

Not seeing any further hands, I would then move just to guess that we leave it as is and note that indeed that's an additional confirmation that the two day business - or two business day timeframe also applies if changes are made as a result of that proxy information review.

So moving further along then, I think again a clarification of language here to the first sentence here. A registrar may not permit transfer to another (registrant) or registrant after the registrar receives a request for verification.

Just to clarify that it's the registrar who receives that - down here again. A question. For the purposes of the UDRP, the registrant listed in the Whois record at the time of the (LOC), the question - or the comment made here is should a clarification be added here to make clear that this is as confirmed by the registrar to the UDRP provider in response to the verification (unintelligible) in confirmation of the (LOC).

People think that's a helpful clarification? I think that's probably to prevent any confusion through any changes being made to the Whois following the (LOC). Because I think we have said that updates to reflect accuracy or accuracy updates may be made as long as the UDRP provider is also informed.

So I don't know if people think this is a helpful clarification here.

Michele Neylon: Marika, this is Michele.

I would just say that any clarifications on any matter are going to be welcome from my perspective. I mean, the entire problem that a lot of us have is we don't have a massive legal team being called upon to interpret things is always going to be a problem. So if a policy exists with plenty of clarifications, plenty of clarity, then that's going to be easier for us to implement operationally. Thanks.

Markia Konings: Thanks, Michele.

Kristine?

Kristine Dorrain: Yes, this is Kristine from (NAF).

So I'm not entirely sure that that's actually a clarification because it's - should a clarification be added here to make clear that this -- I'm not sure what this refers to -- is as confirmed by the registrar to the UDRP provider in response to the verification request and the confirmation of the (LOC).

When the actual statement says for the purposes of the UDRP, the registrant listed in the Whois record at the time of the (LOC) will be recorded as the respondent.

So it seems like the clarification is different than what we have in the paragraph. The paragraph says the person listed in the Whois is who the provider is going to characterize as the respondent.

The clarification seems to suggest that the private email that goes to the provider confirming the response - the verification request is the registrant, and that's an old practice that at least the forum -- I don't know what WIPO does -- has gotten away from.

We're no longer relying on the email to the provider to determine who the underlying - to determine who the registrant is publically. We use that information for additional service, but the UDRP says the entity in the Whois is the respondent.

So - or maybe we codify that in our rules. I can't remember now.

But so I'm not sure that the clarification is actually a clarification. To me it seems more like a change. Or, maybe you could explain what you meant by that Marika if I'm misunderstanding.

Markia Konings: Yes, this is Marika.

I think the assumption was that whatever is confirmed or verified by the registrar is the same as what is in the Whois record. But you're saying that in cases where it may be different, what you take as the registrant is what you took from the Whois, right?

In that case, I think we shouldn't add any clarification because basically what is currently there is then what is the current passage on what is required under the UDRP. Do I understand you correctly?

Kristine Dorrain: Yes. That's correct.

See, the problem we've gotten into for - because we used to do that. We used to get the - the letter from the registrar and it would have information different from the Whois. But then, the complainants would kick and scream and throw a fit because, "Well, that's not available in the Whois, and that not information that I had when I filed, and why do I have to change my complaint?" And, "Well, why should I trust the email from the registrar? I'm supposed to be able to rely on the Whois."

I mean - and again sort of getting away from the whole like - you know the reliability of the Whois information, you know aspect of everything. So, we moved away from that.

And so I can tell you right now there are dangers in trying to rely on that email. It's going to be much better if we rely on the Whois. And if the registrar wants to send us additional registrant information in the verification, then they absolutely can. But the point of the verification mostly is to get that (LOC) and to - as well as any additional service information from the registrar.

Markia Konings: Thank you. So this is Marika again.

So then just to confirm - so basically, what would happen now in this new process basically, as soon as the registrar confirms the (LOC) and verifies the information, you then take your snapshot of Whois with the registrant information and that is what is confirmed in the complaint.

Kristine Dorrain: Yes. That is correct. Yes.

And anything the registrar sends us, we add to our file and we absolutely will still serve that information. And as I - I don't see (Ty) on this call, but - oh, it looks like WIPO is represented possibly.

But, I believe they do something similar as well as far as making sure that everybody who they're notified about does get served.

Markia Konings: Okay. Fine.

Joanne Teng: Hi all. This is (Jo) from WIPO filing in for (Ty). I can confirm that we also do something similar. We send out email to the registrar asking for them to verify details, and then the details that get sent back to us we'll also use for service.

If it is substantially different to the Whois, we may contact the complainant and then say, "Just so you know that these are details we have received from the registrar. If you wish to amend your complaint, you may do so."

But, the basic thing of the email to the registrar is that we get those details (unintelligible) for the purpose for the service.

Markia Konings: Thank you, both. Very good, helpful clarification. This is Marika again.

I think for (unintelligible) comment, I don't think we should make any changes based on the (unintelligible) from both WIPO and (unintelligible).

So then moving on, I think here again in the next paragraph is just a clarification basically adding, "Depending on the terms of service of the proxy and privacy service, a registrant may opt to reveal underlying data as a result of privacy proxy services to the provider or in the Whois, or both."

Recommendation 6. This is one that we added based on the feedback received in the (unintelligible) public comments received. So the Recommendation 6 reads that as a best practice, registrars and UDRP providers are encouraged to post on their Web site their respective business day calendars, or business days calendar.

Michele Neylon: Just hold on a second, Marika.

I understand what that means, but I wouldn't word it that way.

Markia Konings: How would you word it? Tell me.

Michele Neylon: I'm not - just give me a second. I'm just looking - I'm just only going back - (it's not in English).

Native English speakers on this call, how would word this, because that does not look like English.

I was going to say something like operating - the operating schedule or working hours, or something. It's this business days calendar. If I were to ask one of my staff to post our business day calendar on our Web site, they'd probably look at me like I had three heads, and I can see other people being confused by that.

Anybody else on this call have suggestions?

David and then Volker.

David Maher: Open hours is a simple suggestion, or opening hours.

Michele Neylon: That works for me.

Volker?

Volker Greimann: Well, I think this is intended to encompass is that we also have to put public holidays on our Web page, and I don't think that is something that is practical. I think it goes a bit beyond what best practices actually should be. That's all.

Michele Neylon: Okay, but you - okay, would you - for example, Volker, do you have a problem with posting on your Web site your opening hours? And I assume you don't.

Volker Greimann: Not at all. No.

Michele Neylon: No, I didn't think you would have.

But if you were asked to put a great big spreadsheet with every single public holiday in Germany or your part of Germany...

Volker Greimann: Exactly.

Michele Neylon: So initially, it's just going to be a bit impractical for you to do it.

Volker Greimann: Correct.

So opening hours we have that already, but I think beyond that, that's problematic.

Michele Neylon: No, I tend to agree. It's just the business days was hurting my head.

Marika, go ahead.

Markia Konings: Yes, this is Marika.

I'm just wondering if we - they need to add something to it, because I think you know the main reason why we're having this recommendation is that I think that the comment related to the fact that we were talking about business days, and it may not be obvious for everyone what business days are for the respective entity that needs to take action.

So, I'm wondering if that - if we would reword it something like, "As a best practice, registrars and UDRP providers are encouraged to post their opening hours so that it is possible to identify the business days that apply to the perspective entity," or something like that.

Michele Neylon: Okay.

Anybody else have any thoughts?

Markia Konings: Kristine has her hand up.

Kristine Dorrain: This is Kristine.

Michele Neylon: Go ahead, Kristine.

Kristine Dorrain: Thanks. This is Kristine from (NAF).

I don't know if every country does it this way, but what we have published in our supplemental (unintelligible) for a definition of calendar days, we say - we define it and then we say, "Excluding days - the following days are excluded from the calculation of calendar days. All of the Federal holidays as listed in US Statute," blah-blah-blah, which isn't incredibly easy because then someone has to go look up US Statute blah-blah-blah.

But it may be one way where you know if there's a single document that's available in a country for you know sort of Federal holidays or National holidays, maybe a link to that page would be acceptable?

I mean, this is just a best practice as a recommendation right? We're not requiring. So if we want to tell - you know, if we - I think it's a - I mean if we soften it as a suggestion and say it would be really helpful for everybody if we all knew, I would be willing to post a document that - you know, so nobody had to go look up the US Federal Code for when the Federal holidays are.

So I'm wondering if other registrars would be willing to also do something similar, not that everyone would. But just a thought.

Michele Neylon: Okay.

I have Alan and then I think Volker again.

No Volker's gone. Alan, go ahead.

Alan Greenberg: I would suggest we change the wording of this to say what we're trying to achieve instead of finding the contract language. You know, that registrars and UDRP providers provide a means so that other parties can understand on which days they will be, you know, able to address UDRP issues or whatever the right wording is, and leave the definition - you know, exactly how this is put in the contract.

And besides, it's not the best practice - it's not going to go into a contract. So, identify the end result that we're trying to achieve instead of finding the technical words that apply to cover you know Federal holidays and local holidays, and the CEO's birthday where everyone takes off.

You know, we're trying to figure out what days are we going to count as days in which you are operating as a business and accessible.

Michele Neylon: Okay. Thank you Alan.

Alan Greenberg: And, try to come up with some wording that implies that instead of trying to come up with a legal - you know, what could be construed as legal language.

Michele Neylon: Okay.

So how about - I've heard working hours, opening hours...

Alan Greenberg: You know, which days are you open or not open you know for business to be able to enact UDRP-related tasks?

Michele Neylon: Yes.

I think - I mean, I think - if anybody has suggestions on the wording of this - Marika, this was - this - the output from this working group was going to have to go through some kind of implementation as well, isn't it?

Markia Konings: Yes, that's correct.

Michele Neylon: Okay.

So maybe if we can - if we - even if you need to just kind of expand on that or add a note to explain what we're trying to get at, then you know that's - that might help. I don't know.

Alan Greenberg: I would aim here for clarity and not prescriptive wording telling them exactly how to do it, but clarity on the intent.

Markia Konings: Yes, this is Marika.

What I've noted now based on Alan's suggestion is something along the lines of as a best practice, registrars and UDRP providers are encouraged to provide a means so that third parties are able to identify what the relevant operating hours are for the purposes of UDRP-related tasks..."

Alan Greenberg: Days and hours, otherwise they'll say 9:00 to 5:00.

Markia Konings: Okay.

Michele Neylon: Okay, are we happy now? Are we in a happier place spiritually?

We are. Okay, perfect.

Oh, Kristine. Is that an old hand Kristine or a new one?

Kristine Dorrain: My apologies. It's an old hand.

Michele Neylon: Okay. Your hand is old. No offense.

Okay Marika, please continue.

Markia Konings: All right. Moving along. Let's see what the next one is.

Here again I think it's a clearer language on the - in the last sentence and the registrar must verify the information requested by the UDRP provider before the registrar - and verifies. And there's a comment here that says given the new verification requirement under the proposed 2013 RAA, some clarification should be made that this is not talking about Whois verification of the Whois data. And, that is a requirement to provide the provider with the verification of the items requested.

And if people agree with that clarification, then I guess could take just the form of a footnote where we just specify that this is a - this verification relates to - provide the provider with the verification of the items requested and has nothing to do with (unintelligible)...

((Crosstalk))

Michele Neylon: (Unintelligible).

Marika, just hold on one second.

The verification request email that the providers currently send, does that have a special name, or does it - I mean, is there a name for that email? That thing? Is it - does it have a standard name?

So I mean my understanding is that this - that that is - it's the data that's requested in (unintelligible) contact that we have to verify. Just wondering does it have a name?

Markia Konings: This is Marika.

I don't know. I think it's referred to as verification, but I think Kristine or (Jo) are probably the ones that are able to say if it has a specific name.

Kristine Dorrain: Yes. The email from us says - this is Kristine from (NAF). The email from us says verification request. That's the subject line.

Joanne Teng: This is (Jo). We just call it a request for verification.

Kristine Dorrain: Right.

Michele Neylon: Okay, so - all right then, so - then maybe something about the verification request from the - this is the (context of) the verification request from the UDRP provider. I don't think this entire thing about the 2013 REA is relevant.

Kristine Dorrain: No, actually I think, Michele, it is. That's why my hand is up.

Michele Neylon: Oh, okay. Go ahead.

Kristine Dorrain: Okay, well because I think Marika makes a really good point because some registrars, when they get our emails, and please confirm that this is the registrant. Please provide us with the - you know, please (lock) the domain name and provide us with the language of the registration agreement.

And occasionally we'll get an email back saying, oh my gosh, we looked into that. You're right. The Whois is wrong. We're canceling the domain name.

And then the whole thing goes down the toilet because the complainants only trying to get a UDRP.

They're not trying to cancel the domain name. They don't want the domain name to be deleted. And it sets in motion a whole, like, just (crabal) of craziness because the registrar starts suddenly investigating the accuracy and validity of the Whois.

So I think to clarify that this is not a request of, you know, if you want to verify the accuracy of the Whois is (unintelligible), I guess they could, but I want to make clear that that's not what we're asking.

So all we're asking for you to do is tell me, you know, are there any additional contact information that I should be serving. Please lock the domain name. Tell me when it expires. Confirm that you got the domain name locked.

And that's what I need. So I think Marika has a really good point. We're not talking about digging into if the Whois data is right or whatever. We're only talking about verifying the information requested for the purpose of the UDRP.

Michele Neylon: Okay. (Alan), go ahead.

Alan Greenberg: It may well be true that you're not asking for that. But the current RAA basically requires a registrar to investigate it to some indication that Whois is not accurate, so.

Kristine Dorrain: And that's fine, but I mean, I don't want them to think that they can't proceed with our process because what happens is they'll say, oh well, we're not going to provide you with any information or we're not going to respond to you because we're busy investigating Whois.

It's like the Whois process is parallel to the UDRP process. You want to investigate the Whois, go ahead and do that but don't hold up the UDRP for it. You know, verify what you've got and let us - send us on our merry way.

Alan Greenberg: Then we better - then we perhaps need to be exclusive about that.

Michele Neylon: Okay, anybody else have...

Marika Konings: So this is Marika - so maybe just suggest or draft up a language in the form of a footnote and people can then comment that's sufficient clarification or see if anything else needs to be added.

Michele Neylon: Yes, go ahead with that. I'll agree as well.

Marika Konings: Okay, so then moving on, one change in the left hand arrow box, which I think we forgot to change based on our previous discussions and initial (for) to any calendar to business days, I think was just a lot about being in synch with the actual recommendations.

And then recommendation nine is the new one that we introduced to accommodate the loss of informal response time which I think was already circulated (at length) and discussed so participating UDRP respondents be granted an express option to request a four day extension, should they so choose, with any such receipt for the extension request be automatically granted and the corresponding deadline extended by the UDRP provider at no cost to the respondent.

The availability of such automatic four day extension option on request should also be flagged by the UDRP provider for the respondent's information on management of the proceedings. And here in the line needs a bracket, just something I added based on our discussions during the last call that said, and does not preclude any additional extensions that may be granted by the UDRP provider as to Article 5D of the UDRP rules.

Kristine Dorrain: Marika, can I just interrupt because your change in the - in arrow five is actually just a change to the UDRP itself. That wasn't our language. The UDRP gives the provider three calendar days.

Marika Konings: Right, but per recommendation - the old recommendation five which is not eight, we basically said that we wanted to change it to business days to make sure that it's aligned. So, indeed, that would be a change but I think it's...

((Crosstalk))

Kristine Dorrain: Okay. I'm sorry. And I did - while I have the microphone, I did actually like your parenth- your - the stuff you added in brackets, Marika. Thank you.

Marika Konings: Thanks. (Alan).

Alan Greenberg: Yes, I'm not quite sure where we are because the page has been scrolling. The section on the four day optional extension, I think we need to make clear whether it's in a footnote or somewhere but in the vicinity of the recommendation, we need to make clear why we're doing this. That is...

Marika Konings: And this is Marika. I think that comes up in Section 5. You'll see there as well that I've added language to the working group deliberations and I think there I included in the section that in response to comments received on, you know, the loss of (follow) response time, they were adding this. So you may want to have a look to see if that...

Alan Greenberg: Okay, as long as it says that plus - but by not adding it for all, we are making sure that in the - in cases where there is no response at all, and you might add the majority of UDRPs, the process is not extended. I think those two counter balancing things have to be said, you know, near each other to explain why we're doing this, because we're adding a relatively awkward process and I think we need to give the rationale for it.

Marika Konings: Yes, this is Marika. I'm sure...

Alan Greenberg: It may already do that. I didn't focus on five last night.

Marika Konings: Yes, I'm sure we include the rationale in the public comments review tool but I'll double check because I know that we - I did add in the, I think in Section 5 that we've added this recommendation in response to public comments. But I'm not 100% sure what I indeed added that rationale to it but if I haven't, I'll add it there.

Alan Greenberg: Okay, I was suggesting perhaps as a footnote here because a lot of people only read the recommendations. It comes out, when you read it, as a relatively awkward process and as I thought it may be worth our while to document why we did that perhaps as a footnote just to reduce the number of questions and comments that come out because of it. It's just a thought. It's not crucial.

((Crosstalk))

Michele Neylon: Yes, just adding to what (Alan)'s saying that reinforcing it, I mean, people do tend to read the recommendations, not the details. Oh, Marika, have you broken the news to the rest of the group of what you did with the schedule? Just to give people extra encouragement.

Marika Konings: Yes, this is Marika. I haven't done that yet but basically our tentative Monday morning schedule that was originally scheduled from 7:30 to 9:00 has now been moved up to 7:00, from 7:00 to 8:30 because we had to move it up because the opening ceremony is starting earlier so an additional incentive to actually get our work done and we can actually just cancel that meeting.

Michele Neylon: For the record, if it starts at 7:00 am, the likelihood of me making the meeting on time is slim to none, for the record. I'm happy to say that.

Alan Greenberg: Michele, I'm not near my phone so I can't - near my computer so I can't raise my hand but I was going to add it also increases the likelihood of boycotting which is akin to what you said.

Michele Neylon: Well, yes. Well, I'm all in favor of boycotts because, I mean, after all it was an Irish invention, so I'm happy to keep the tradition going. Anyway, moving swiftly on, we have about ten minutes or so left on this, so we...

Marika Konings: No, we actually extended this call to 90 minutes in order to try to get through most of it...

Michele Neylon: (Unintelligible) drop off at the top of the hour. Sorry.

Marika Konings: Okay, well, then I'll just speak even faster and try to get through most of this. Let me see, the next...

Michele Neylon: Sorry, I have to (do that).

Marika Konings: The next thing here, recommendation number eleven and I think again, an additional - just a clarification that we've - and it comes back to your previous comment on do certain things have certain terms, adding here that the notification of the registrant is called, notification of complaint, (part of) UDRP rules, it's just an added clarification.

Recommendation number 12, just added here, development work at the end of the (session) so now raised the working group recommended this issue is further reviewed as part of the (private) proxy accreditation program development work as it's not in place yet.

Recommendation 13, I think the first part here is just some rewording. They said a complainant or its authorized representative is required to provide the

registrar with the required information to support the implementation of the panel decision. I think just a clarification.

And then a question, it now says this may include the information that should be in the Whois whether we may want to consider changing this to should as I think this is one of the points that I think some of the registrars have made on various occasions on the call that without that information, it's actually really hard to move forward with implementing their decision. So do people feel strongly that it should be many or that it should be should?

Michele Neylon: Anybody? Any takers? Okay, moving on.

Marika Konings: So I just leave it at may then?

Michele Neylon: Yes.

Man: People involved don't want to change it, leave it.

Marika Konings: I see (Luke) saying it must be must.

Michele Neylon: (Luke) wants must. Hold on. Hold on. Okay, (Luke) wants must. Does anybody else want must or is (Luke) just flexing his (modal words)?

Marika Konings: Yes, this is Marika. I'm wondering that - if that would add a new requirement under the UDRP. I don't know what (Kirby) says but just looking at (Christine) and (Joe) basically saying (what about)...

Kristine Dorrain: Yes, this is (Christine). I mean, from the - yes, the UDRP doesn't say anything at all. It's silent as to what must be provided. There's no sort of implementation rules around the UDRP at all except the registrar is required to communicate to the provider and the complainant within three calendar days of the decision when the decision will be implemented barring the paragraph 4K, any sort of paragraph 4K challenge.

So if that - assuming none of that happens, the registrar is required to implement that on the day they say they're going to implement. And there're no parameters around how that implementation is going to happen and I will observe that in the past eight years that I've been here, the way in which these transfers happen varies by the registrar.

The registrars handle implementation differently. So I think that not all registrars have or want contact information for the new Whois because they just basically send an authorization code to the complainant's lawyer who emails them.

But I'm finding that more and more, probably in response to the new RAA and transfer rules that I'm a little bit unfamiliar with, I'm finding that more and more registrars are wanting the information so they can change the Whois information when they're doing the transfer, providing the auth code or whatever it is that they're doing.

So I'm thinking that there are more registrars than (Luke) that would be interested in that word must. But I think there are other registrars who won't care because it won't affect them at all, so maybe should is a nice varia- you know, a nice happy medium. I don't know if (Luke) would object to that but then that makes slightly less optional but it doesn't require it for the registrars that don't need or want it.

Michele Neylon: (Luke), since you're the one who raised this, how do you feel? Or maybe you might not be able to speak but you should be able to type. He's typing slowly. We're waiting for (Luke) to type. Okay, he's typing slowly. Oh, here we go. Okay, he's saying he's okay with should but the complainant will have to bear the consequences.

Marika Konings: Okay, so this is Marika, so I'll change that to should. Then moving on to the recommendation which is now 14 because of the renumbering. I think a

clarification here as we said before, indication of a suspension of a proceeding with the party have agreed to the settlements, I think where it's actually the reality of the case that they are trying to reach a settlement, so I've updated that.

And then at the end, I've basically made a change saying complete within two business days of the confirmation of the settlement by the UDRP provider which is basically bringing it in line with our agreed approach to the settlement.

And then we added the line which is the result of a review of the comments that said we receive (unintelligible) unless a dispute, the major registration is otherwise the subject - to subject of a core proceeding that has been commenced concerning that this be the domain name, and addition as well, as the public comments.

Then recommendation number 15 is basically the language we agreed to on the mailing lists in relation to settlements that basically outlined the step-by-step process. (Alan), please go ahead.

Alan Greenberg: Yes, in reading the first one - parties ask for a suspension, perhaps we need clarify as to who they asked. I'm presuming it's the dispute provider but it wouldn't hurt to actually say that.

Marika Konings: Okay, I can add the...

Alan Greenberg: Request may be a better word than ask.

Marika Konings: Request suspension is it with the UDRP provider, from the UDRP provider?

((Crosstalk))

Alan Greenberg: From, I guess.

Marika Konings: From. Okay. I'll make that update. Then moving further down, this is just removing the language that we had there before on the different options. And then I added a new recommendation, number 17, to reflect, and (Alan) pointed out rightly, I copied and pasted this from another report and forgot to update the name of the working group.

But basically need to recommend that an implementation review team is created following the adoption of the recommendations that would be basically available to staff should there be any questions or clarifications required in relation to the recommendations and that would serve as well, as a sounding board as staff develops, too, the proposed implementation plan for consideration. (Alan), is that an old hand or a new hand? (Unintelligible).

So then I think the covers all the recommendations. Then it basically goes into the level of consensus for these recommendations and that comes back to the information that I shared, as well, on the mailing list and on Item 3 on our agenda which is reviewing that standard methodology for making decisions so we basically need to make a determination as to what is the level of consensus for these recommendations by the working group. So (Alan), I see your hand's up again.

Alan Greenberg: Yes, there was a comment in the chat I think by - from (Matt) going back to number one, referring to the - solely on the basis of the UDRP with a footnote and I read that. I was also going to make a comment when I reviewed them last night because the statement is somewhat cryptic, perhaps less so than it was before but it was still somewhat cryptic and we may want to enlarge on that.

Marika Konings: Is it - so you're referring to the recommendation number one?

((Crosstalk))

Alan Greenberg: It says in this context the term lock means preventing any changes of registrar or registrant without comparing the resolution of the domain name solely on the basis of the UDRP. Now, I'm not sure if that solely on the basis of the UDRP is referring to preventing changes or without resolving the resolution.

You know, when we took the brackets out, there's less clarity there and I think we may want to explain what we mean. This is another of those cases that clarity is more important than - than getting the wording right for the actual policy.

Marika Konings: So this is Marika. Does the language that (Matt) has suggested meet the...

((Crosstalk))

Marika Konings: So basically it reads solely on the basis of the fact that a complaint on the UDRP has been filed or solely on the base of the fact that a UDRP proceeding is ongoing. Again, I can introduce this language in the next draft so people can have a look at that and basically comment on the list if...

Alan Greenberg: I think you need to break it up into two sentences to make it clear that what the (soleys) are referring to and to put a subject in the sentence to make it clear what you are - you know, what you are referring to. Is this it the locking or the not impairing? I think it's the not impairing because that's where the brackets were originally that we've taken out.

Marika Konings: Yes, and this is Marika. I think that's correct because I think what we concluded was that there may be other reasons for which resolution may be impaired under other provisions in that registration agreement.

Alan Greenberg: Maybe we need to say that, truly that - simply that clearly.

Marika Konings: Okay, I can suggest on language and people can have for that based on I think what...

Alan Greenberg: Yes. It was the one case where I read it and said, "Oh, exactly what are we trying to say?" And it wasn't clear. And now I'll back down. Back to consensus.

Marika Konings: Thanks (Alan). So based on that level of consensus, one of the requirements is that a formal consensus call needs to be conducted with the group so I discussed it with Michele and one way forward may be that, you know, based on the changes that we make to the report now, and maybe we need to give everyone as well a couple of additional days to look at it, review it and see if there're any substantive issues remaining.

And if, you know, none are made by the deadline, that basically then on the basis of the feedback received, Michele can send out a notice to the working group basically saying well, it looks like we have unanimous consensus.

As far as I'm aware, no one has raised any objections to date and basically giving people a certain deadline by which they need to say that if they don't agree with that designation, so that can then be included in the reports.

And, again, if there's any objections to the unanimous consensus, then of course, we can further discuss what the appropriate designation is and - or whether people want to include any minority reports in the report.

And maybe just crawling down, but I think we covered most of the items because these are just updates to that section. And then there're some other updates as well to some of the other parts of the report which are more just bringing it in line.

This is a final report, you know, noting that we received comments, that we reviewed them. I also need to update the executive summary to reflect the changes made to the recommendations.

As Michele mentioned, and I hope you'll see that we also made an effort to translate these recommendations into a process flow chart. So the idea would be to include that in one of the annexes to provide, like, an illustration of what the different steps in the process are and the different roles and responsibilities, so again, if you have any comments or any concerns about the flow chart or you notice any things that are incorrectly noted, you know, please share those with the mailing list.

And with regards to timing, I think ICANN turns this around pretty quickly, so my proposal would be if I can get an updated draft on - out on the mailing list by tomorrow, we'll give everyone until Monday, close of business, to indicate any major remaining issues.

On that basis, we can then decide whether we actually need an additional call on Tuesday, which I think we've penciled in for Tuesday at 14:00 UTC. And if there're no objections, we may not need that call or Thursday's call and may be in a good position to actually get things delivered by the 10th of July. Does that make sense to people? Is there anything else people think we need to consider or - silence is agreeing?

Michele Neylon: Silence is always agreement, Marika. We know this. I have to drop off because I'm going to be on another call, so I look forward to seeing people's comments on the mailing list.

Marika Konings: If I can make one last note, and this is Marika again, because one of the things I'll do in the meantime as well is prepare a proposed draft resolution or a motion that we can submit together with the report so that gives to council the opportunity as well to review the draft motion and have it, you know, see if

there are any further changes needed so that hopefully by the next meeting in September, they would actually be in a position to vote on the report.

So we're not seeing any other hands and I think Michele may have already dropped off. People just can close the call here and we'll give you back 30 minutes. And please watch the mailing list and let me know if you have any further comments or edits as soon as possible. All right, thank you everyone.

Alan Greenberg: Thanks Marika.

Kristine Dorrain: Thank you.

Woman: Thank you all.

END