

**ICANN
Transcription
IRTP Part D Working Group meeting
Monday 28 April 2014 at 15:00 UTC**

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

Attendees:

Graeme Bunton - RrSG
Barbara Knight – RySG
James Bladel - RrSG
Angie Graves – BC
Kristine Dorrain – NAF
Volker Greimann – RrSG
Holly Raiche – ALAC
Rob Golding – RrSG
Kevin Erdman - IPC

Apologies:

Paul Diaz – RySG
Chris Chaplow – CBUC

ICANN staff:

Marika Konings
Amy Bivins
Lars Hoffmann
Berry Cobb
Steve Chan
Terri Agnew

Coordinator: The recordings have begun.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the IRTP Part D Working Group call on the 28th of April, 2014. On the call today we have James Bladel, Volker Greimann, Holly Raiche, Barbara Knight, Kristine Dorrain and Angie Graves.

We have apologies from Paul Diaz and Chris Chaplow. From staff we have Lars Hoffman, Amy Bivens, Berry Cobb, Steven Chen and myself, Terri Agnew.

I'd like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and over to you, James.

James Bladel: Thank you and good morning, good afternoon, everyone. Welcome to the IRTP-D PDP Working Group call for - what day is this? April 28. And as per our usual procedure if you could please indicate whether you have any updates to your statement of interest, if so please raise your hand in the Adobe room or get my attention if you're not in Adobe.

Okay seeing none, would then ask folks to take a look at the draft agenda that was posted on the right hand side of the Adobe room and also was circulated by Lars earlier. Anyone have any comments or updates to that agenda? It's fairly straightforward.

Lars, go ahead.

Lars Hoffman: Thanks, James. This is Lars. Just a quick note, the - as London - the next ICANN meeting is coming up sooner than later, I just wanted to raise the point that if in case the group is not - has not finished the final report in time whether we want to schedule a face to face meeting, which we can always cancel later but really should do this now. The internal request has come around already to be in touch with Glen and book a slot.

So I would suggest that I go ahead and do that. And if we manage to finish in time we can always cancel it beforehand which is much easier than trying to schedule last minute meeting.

James Bladel: Okay so your recommendation is that we grab that meeting slot now while the London meeting is being planned and then that way if we don't need it later we can just drop it.

Lars Hoffman: Yes, that's correct.

James Bladel: I see numerous green checkmarks. I agree and I see numerous green checkmarks in Adobe. And Volker would like to comment. Go ahead.

Volker Greimann: Yes, one question coming up from the organizing team for the GNSO Council with regard to the Saturday Sunday sessions is whether we would like to have a presentation slot as well for the IRTP-D?

We are trying to streamline the working groups that are presenting at length during the Council session to leave more room for discussions when there's nothing to present that's actually currently new. So if we are not presenting a final report might be a consideration to have a very short slot or ask for just no slot at all depending on where we are.

James Bladel: Thank you, Volker. I think that's a good point particularly given that if we do not have a final report ready we probably just need more along the lines of a status update without a formal presentation with slides and things like that.

So I would recommend we take the same approach which is to ask for a brief slot on the weekend agenda, let's say, you know, the 15-30 minutes whatever the typical allocation is for a PDP update. And then if we do not need it then we will notify you as quickly as possible and that's my proposal. Lars.

Lars Hoffman: Yeah, just as a very quickly, on the weekend session it's usually the agenda point of discussing motions - forthcoming motions. So if we do finish as planned at the moment there - actually the motion being tabled to adopt the final report by the GNSO Council so there would also be discussion under

that agenda point as well. Just a side note for Volker for when he puts through the request.

James Bladel: That's a good point, Lars. Volker, if you could indicate on the request. I would hope that if we are ready with the final report in advance of the London deadline that we would also tee up the necessary motion for the Council. But, yes, it would be good if they are - if they're seeing it for the first time. So does that work, Volker?

Volker Greimann: Yeah, it sounds good. Just give me an approximate deadline when I can expect that information so I can slot that in.

James Bladel: I think we should have a good - I think we should have a good idea in the next couple of weeks here. Perhaps, you know, like the general session you should secure us a 30-minute slot now and the new will let you know as soon as possible if we don't need it.

Volker Greimann: All right.

James Bladel: Because I think ambitiously we want to use that slot because we want to be done. So okay. Thanks, everyone. Let's then move on to - let's consider this draft agenda adopted and then let's move to Item Number 2 which is review of the public comments.

We did receive two comments. One I believe from a - I actually thought we had more but maybe I'm misreading here. But I thought we had one from the - yeah, we do have more, never mind. Forget my earlier statement there about two comments.

We received several comments. I know that the registrars - I had asked around and I think that registrars were comfortable not only with individual comment but also those representatives who are currently participating in this

working group. So I think that for those wondering why, you know, we were conspicuously absent that's probably the background there.

Lars has prepared this comment review tool which, for many of you who've participated in other PDPs, should look fairly familiar. And the objective or the approach is to read through each comment as, you know, objectively and on its own and ensure that it is either addressed in our existing draft report - draft recommendations and develop a response or if it is in fact novel information and something that we hadn't considered in our previous work and we should discuss how we want to address this point raised in the comments and whether or not we need to modify our existing recommendations and our report and then what the response on that would be.

So with that in mind I think that we can begin - if there are no objections we can begin reviewing these comments that we received and make the determination of whether or not they are compatible with our existing report.

So, Lars, if you don't mind could I - because I'm starting to lose my voice here a little bit, I'm not sure why. I'm wondering if I can press you into service to read through the recommendation and then the comments as well and then we'll manage a queue on each one.

Lars Hoffman: Sure. This is Lars. No problem, James. I've released the documents. I'm just going to sync it back very quickly so we're all on the same page. (Unintelligible) 1, the working group recommends that reporting requirements be incorporated into the TDRP policy. Outcomes of all wordings by dispute resolution providers should be published on provider's Website, except in exceptional cases.

The group recommends publishing reports that follow the example of the Asian Domain Dispute Resolution Center, the ADNRC. These reports should include, at minimum, information about parties involved in the dispute and the full decision of the case and the date of implementation of the decision.

This has received two comments. One from (Arthur Zonenberg). "In general this is a good idea (unintelligible) support. This will give a precedence we can all refer to make the rules more clear to everybody." So supportive of the recommendation.

And the business community considers that reporting requirements for registries and dispute providers should be developed in order to make precedent and trend information available to the community and to allow reference to past cases and dispute submissions.

As BC supports the details of our position on Charter Question A that are encompassed into the Recommendation Number 1. So also generally supportive.

James Bladel: Okay thank you, Lars. So we have two comments on this recommendation relative to Charter Question A. And both are supportive of the working group's recommendations.

I could open the queue if anyone wants to weigh in on these topics but in general I would say that the response is simply to acknowledge that these comments were received and supported and that the recommended action is to proceed with the recommendations as drafted. Thoughts? Comments? A green checkmark from Barbara. Thank you, Barbara.

Okay it looks like we are generally supportive of that approach so, Lars, if you could make that note, we can move on then to Recommendation 2.

Lars Hoffman: Sure thing. Recommendation 2, the working group recommends that the TDRP be amended to include language on the lines of this revised version of the UDRP.

There's a quote, "The relevant dispute resolution provider shall report any decision made with respect to a transfer dispute initiated under the TDRP." All decisions on this policy will be published in full over the Internet except when a dispute resolution panel determines an exceptional case to redact portions of its decision. In any event the portion of any decision determining a complaint to have been brought in bad faith shall be published.

There's only one comment from the business community. As you can see I just scrolled down. The BC supports the details of our position on Charter Question A that encompasses the - into Recommendation Number 2.

I'm sorry, I copy and pasted that, I didn't edit the comments. I should have (unintelligible). There we go. Also same as before, supportive comment and nobody else said anything on this.

James Bladel: Okay thank you, Lars. I think that this is also fairly noncontroversial. I think the only potential detail that would have to be ironed out in implementation would be any rules established on what determines an exceptional case that allows a report to redact portions of its decision.

I don't know that there were any comments on that but I think we can move on. But I think that perhaps that's something that we can note, you know, implementation of the policy might include some guidelines on that.

Kristine.

Kristine Dorrain: Hi, thanks. This is Kristine from National Arbitration Forum for the record. I just wanted to make it - remind the group that I know when we talked about this originally the language as stated in Recommendation 2 is right out of the UDRP and the UDRP does not have an itemized list of what those exceptional circumstances are. It leaves it up to the dispute provider, you know, the panel or whoever is making the decision, to find exceptional circumstances.

And indeed the circumstances are very exceptional. It's not something that anybody's currently abusing. So I just thought I'd throw it out there that we may not actually need to do anything here because where the - the thing we're taking this from, the model, is actually not - doesn't have an itemized list.

James Bladel: Okay thanks, Kristine. I do remember that discussion. And my suggestion wasn't necessarily that we modify or provide for a list like that necessarily just, you know, perhaps provide some helpful examples.

And if they're published somewhere in the rules - the supplemental rules, for example, for the UDRP I'm wondering if that's something is something that can be shared or is this just - is it just overkill at this point? You know, what are the thoughts of the group?

Kristine Dorrain: Well this is Kristine from NAF. It's not published in anybody's supplemental rules. I can tell you that the way our panelists have found the only time in which they redact any portion of the decision is when they find that there's identity theft.

So when somebody is accused of cybersquatting and hijacking a domain name and, you know, maybe counterfeiting or something and they come forward and say, "Wait, wait, wait, my credit card was stolen; I had no idea this domain name was registered." And in 50% of those cases the complainant agrees that there probably was identity theft and asks the panel to redact personally identifiable information like the party's name or location.

And then the other 50% the complainant doesn't necessarily agree but the complainant doesn't really fight it either and says hey if the panel thinks that this was really identity theft all we care about is that we get the domain name so you want to redact the respondent's, do it.

So those are the only situations in which any panel, to my recollection, has ever ordered redaction of a decision.

James Bladel: Okay thank you. I think that's helpful. Lars.

Lars Hoffman: Thanks, James. This is Lars, for the record. I am - I meant to say that we've also circulated these recommendations internally and received a few comments back from the Registry and Registrar Services.

We're still - because they didn't understand a couple of - there was a few clarifications that went back and forth and so the document isn't entirely ready yet. We'll send this out during the week.

But there's a couple of points on the various recommendations depending on how we go and that I'd just like to enter into the record right now so the group doesn't have to go back on them if that is okay.

And there's an issue here that the Services - that Registry Registrar Services mentioned which is that - whether we want to consider that private individuals the registrar and sort of part of these cases should be given the option - either an opt in or opt out - to have their personal details withheld from the application of these proceedings.

James Bladel: Okay. And that's appearing in the - I'm sorry, you're taking that from a comment?

Lars Hoffman: Yeah, I'm taking that from a comment. I've got the comments from the Registry and Registrar Services but the document that they sent back they need to refine a couple of points that didn't want to send out as it was to the group. So I'm just orally submitting the comments that they've made.

James Bladel: Okay. And I think that aligns somewhat with what Kristine had mentioned. So perhaps we should put a marker here on this - for Recommendation 2 that

the comments received were supportive of the recommendation, however, you know, we want to maybe circle back before we get to a final version of this recommendation and circle back and make sure that we've captured those concerns or at least noted them, you know, somewhere - if not in the recommendation itself and maybe in the body of the report.

Lars Hoffman: Okay that's good.

James Bladel: Okay well then - and, Lars, was that a new hand or you're just...

((Crosstalk))

James Bladel: ...jumping to get going on Recommendation 3? Okay well let's take a look here. Recommendation 3, the working group recommends the TDRP be amended as follows: Transfers from a gaining registrar to a third registrar and all other subsequent transfers are null and void if the gaining registrar acquired sponsorship from the registrar of record through an invalid transfer as determined through the dispute resolution process set forth in the transfer disputes resolution policy.

And the first comment is from the Registries. The Registry Stakeholder Group is supportive of this recommendation. It is the opinion of the Registries that an invalid transfer should be defined as a transfer that occurs in violation of IRTP.

With regard to the question of whether costs would be needed to be refunded to registrars in case of negating or reversing transfers under a multiple hop scenario because of the undue of a transfer case in cases where it has been determined that the transfer occurred in violation of the IRTP changes only the registrar of record and the expiry date of the domain remains the same. It is the view of the Registry Stakeholder Group that here should be no refund of the registration fees/costs.

Okay let's spend little bit of time unpacking this because I think there's a lot of information here in this comment. And just as a reminder to folks each time a domain name transfers there is a fee charged from the registry to the registrar and then presumably from the registrar to the registrant.

That fee is typically equivalent to one year's registration fee and then the result is that a full year is added to the term of a domain name registration. However, if the domain name registration is less than one year from being 10 years in the future than I think it just takes it to the maximum 10 years or 9 years and 364 days or whatever the logic is. I'm sure Barbara's cringing over there. But it's something along those lines.

So - but in general I think the concern here is that if a domain name were to let's say, go through three hops and the first hop were determined to be invalid what happens to the fees that were charged for the subsequent hops but also I think, you know, in the same vein, what happens to the date of expiry?

So that's - I think that is - and then the Registries are pointing out that that is a concern and that their recommendation is that there should be no refund of the registration fees and although it's not explicitly stated in this excerpt from their comments I presume that means that any extra time that was added to the registration would also be intact? I don't know if it's - if that is added as well but it seems like if you're not removing the - reversing the fees that we would not necessarily also reverse the transfers.

Barbara is going to hopefully shed some light here. And, Barbara, I think it would be interesting to note how we handle that today.

Barbara Knight: Thank you, James. This is Barbara for the record. So I think the comment does actually state that only the registrar of record changes; the expiry date does not change. So from that perspective, to the extent that there were multiple hops and additional years were added to the registration those years

remain. So it's literally only the registrar of record that changes in an undo, if you will.

James Bladel: Okay thank you. So it's just the first - the fee associated with the invalid transfer and the additional registration time, term, associated with the invalid transfer; only those parts of the transaction would be reversed. All subsequent transactions would be treated as legitimate.

Barbara Knight: If I could just clarify, James? Barbara again. So...

James Bladel: Yeah.

Barbara Knight: ...I mean, everybody looks at it as a regular transfer unless we hear otherwise we would consider it a legitimate transfer so from a registry operator's perspective, at least VeriSign's implementation of this, is that, you know, the fees get charged as the transfers occur. And when the undo is done it's done through a - we actually have a tool that does it where it just - it literally changes the registrar of record on it - on the account.

So I don't know if there is anything that's done at the registrars, you know, to take into consideration what the fees are. But our system would not change, you know, reverse any fees as - in association with undoing a transfer that was considered in violation of the policy. I don't know if that helps to clarify or if it just muddies the water a little more.

James Bladel: No, I think it does, thank you. And it just got me thinking about something else which is suppose that the first transfer were determined to be invalid but also the third transfer was determined to be invalid. I think the way we approached this recommendation was that the third transfer being invalid really didn't matter because the registrar of record would revert back to the state that it was in prior to the first invalid transfer.

However, the registrar involved in that third transfer might feel that they have a case to get their fee - to recover their fees as far as a refund if they can demonstrate that it was, you know, part of the same invalid or fraudulent process.

So I think that we need to consider this a little bit more. Go ahead, Barbara, I'm sorry, I was just kind of mulling that over. But go ahead.

Barbara Knight: Yeah, thank you James. It's Barbara again for the record. So I guess this kind of speaks to the, you know, one of the issues that we're dealing with further down and that's the, you know, the statute of limitations. And, you know, right now the statute of limitations is six months so there's, you know, there's a limited number of hops that can actually occur.

When the registry operators, and I don't know, maybe, you know, Kristine can speak to it, you know, from her perspective as well as a dispute resolution provider. But, you know, when we're processing a dispute, you know, obviously there is a gaining registrar and a losing registrar typically involved.

And so we would look at it based on the grounds of what is actually being filed. So if for instance there was a couple of transfers that occurred the first one, as you were indicating, was done in violation of the policy and then, you know, maybe there was a, you know, a third one that occurs and that's also done in violation of the policy.

Then from a dispute perspective when we're looking at them if it's the dispute that was done, you know, the third hop then, yes, then we would consider that one as the one that's done in violation.

If there's - if somebody comes to us from, you know, Registrar A to Registrar B that - considering that to be the first transfer that was done in violation we wouldn't really look at the third one being done in violation. We would basically just evaluate the case on the merits of what was being filed from -

for the transfer relative the transfer from Registrar A to Registrar B. Does that make sense?

James Bladel: I think so. But I think that that just further demonstrates why we probably need to spend a little bit more time on this - on this issue that was raised I think in, you know, I think it's a good comment from the - and an excellent contribution from the registries and something that probably needs to be examined a little bit more closely even if we just end up reinforcing our original recommendation we can at least clarify on this particular point.

So, Kristine, go ahead.

Kristine Dorrain: Yeah, this is Kristine from National Arbitration Forum. Thanks .I just wanted to sort of echo what Barbara said and also maybe just offer a clarifying statement which is we also do not look back past the original party.

So if the transfer between parties, you know, C and D, if those are the parties that are in front of us we don't look at farther back to see was there an illegitimate transfer that proceeded C and D?

Yeah, Parties A and B would have had to bring a dispute or A would have to bring a dispute against F or whoever. But the - we also do not look any further back. If the parties - even though the first transfer was illegitimate and the third transfer was illegitimate, if the dispute in front of us was for the third transfer that's the one that we adjudicate.

There would be some (unintelligible) way to go back and figure out, you know, was there some other proceeding problem unless somebody brought it to our attention. So that's - I guess maybe that clarifies or maybe it doesn't, I don't know.

James Bladel: Thanks, Kristine. I think that that does clarify that scenario. And I think that that's helpful. I think the scenario that at least I'm still thinking about is that

there's not something further back but there's something in the middle that is occurring where someone can say, hey, you know, I can demonstrate that my hop was fraudulent too. Can I at least get my money back? So maybe that's just, you know, something that we're going to have to take a closer look at I think.

Okay so, you know, an excellent point raised by the Registry in their comments. And something that we should, I believe, take a little bit more and put under our microscope here.

So the BC has posted the next comment on this recommendation. Additional provisions should be included for multiple transfers in the dispute - TDRP - that set out how to handle disputes when multiple transfers have occurred. They could help clarify the process and facilitate the handling of the dispute.

Multiple transfers are used in domain hijack situations and also since the aftermarket has developed after the policy was written a third party can easily purchase a hijacked domain in good faith.

BC supports the details of our position on Charter Question B that are encompassed into Recommendation Numbers, 3, 4, 5 and 6. The BC particularly appreciates the work of the working group in developing these complex and carefully composed recommendations.

So let's unpack this one here a little bit. I think that the BC is generally supportive of the recommendation as it stands. Am I missing something here? They want to see some clarifications on what happens when a domain name is purchased in good faith after it's been hijacked. If that - do we have a representative from the BC that can maybe. Are we - we're missing Chris.

Well, I'm trying to see here if there's anything that is going to take us down a different path that we haven't already covered in our recommendations. And I'm asking the group and, you know, certainly opening up to Lars, if they spot

anything here that is novel. And I think that it - in most cases it seems to be a reinforcement of the deliberations that were used to arrive at that.

I don't know if I'm breaking up. Does anyone else here audio problems? I'm on my phone so it's not the Adobe.

Lars Hoffman: It's good, I have to say. This is Lars.

James Bladel: Okay. Berry notes that it's clear. Graeme says it's fine. I think it might be just be you, Kristine.

((Crosstalk))

James Bladel: Okay thanks. All right excellent so then moving on to Comment Number 6, which is the third comment on this recommendation, "Null and void," - this is coming from ICANN staff - "Null and void is not appropriate terminology. I think may be reversed at the direction and within the discretion of the dispute resolution panel."

Can we scroll back up, Lars, to which specific phrase is being targeted here by staff? "Are null and void." Okay. And I'm interested in our new stakeholder ICANN staff is helping us here to understand why null and void does not work in this context.

"Not appropriate terminology, I think maybe reversed at the direction with the discretion of the dispute resolution provider." I don't know that that's what we were going for here. I think what we were trying to communicate with this recommendation is that if the first transfer is determined to have been invalid or is invalidated through some sort of dispute resolution process then all subsequent transfers would necessarily also be invalid and as if they had never happened.

So, yeah, I guess maybe, Lars, maybe you can help me here. Barbara is first in the queue so go ahead, Barbara.

Barbara Knight: Thank you, James. This is Barbara. So maybe we can say that the - of all the subsequent transfers are subject to reversal. Does that get us where we need to be?

James Bladel: I like the language, I just don't know - I guess I'm not clear on what problem we're trying to solve. We don't like null and void because why? Because - go ahead, Holly.

Holly Raiche: Yeah, I'd really like to understand why null and void is not what we mean because I think that's what we did mean in the end. So if you say - if we just use the term "reversible" it completely changes what we - what we actually arrived at. So I'm trying to understand why that doesn't work.

And then do we have to reopen this? Because I think if null and void language is changed then we actually need to really re-discuss what we sort of have gone through at some point. Thanks.

James Bladel: Thanks, Holly. That is exactly my concern as well. I'm not against changing the language, I just want to understand if, you know, we're changing our intent or what problem we are trying to tip-toe around here. Lars, maybe you can shed some light.

Lars Hoffman: Well I wish I could. I'd like to point, Kristine mentioned in the chat that registrations are null and void is different (unintelligible) that it's differently than we might. And I think that's probably where the comment comes from too that it's a legal concern.

I would have to go back and have checked what exactly the problem with this would be. But maybe Kristine can also elaborate what she thinks. I'm sorry to not greater help.

James Bladel: Okay thanks, Lars. Kristine, you're welcome to respond but I did...

Kristine Dorrain: Okay, thanks. Yeah, this is...

((Crosstalk))

James Bladel: Go ahead. Go ahead.

Kristine Dorrain: Oh yeah, no thanks. This is Kristine from NAF. I just wanted to clarify that I know that when I worked with ICANN staff on other - the URS and that sort of thing one thing that's very particular both, you know, from the UDRP and URS and other policy standpoint is that having language that only talks about the effect of something is often ambiguous because different people can interpret how that should happen.

So perhaps ICANN is looking for specific instructions as to what they want to have happen. So null and void is not like a registry action; it's not a status that something - that something can be had or activity that someone can take.

So perhaps what they're getting at is, you know, the registry shall do such and such at the direction of the panel or the panel can, you know, find that the, you know, all of the transfers should be reversed or the panel can find that the transfers are null and void and therefore the registry shall take action A, B and C. So that would keep like our null and void language in there but provide a specific direction.

That's my only suspicion is because a lot of times what we're talking is, you know, we want to have something happen but it ends up creating a huge problem for ICANN's Compliance staff if it's not specific as to how it should happen and you leave it way too open ended. So that's my suspicion. I have

no idea if that's really what happened. But just my past interactions with ICANN make me think that that's maybe what they're thinking about.

James Bladel: Okay thank you, Kristine. Yeah, I think that that could be - I think, you know, you're probably very close to the actual concern here is that it doesn't leave any specific direction to the registry on what it should do and therefore it could be interpreted or implemented differently and inconsistently.

I see that Holly notes that that makes sense. I think that we should probably ask Lars to check into this one and make sure that, you know, that we are - understand the pitfall exactly here because I kind of - I want to go back to what Holly was saying.

I think what we are attempting to state here is that those subsequent transfers after the invalid transfer never happen. How do we express that without running into the problems that Kristine raised and that staff I think maybe has identified?

And I think until we have a better understanding of those problems we're not going to be able to competently answer that question. So Lars has that as a takeaway. That's a good point here.

And I, you know, I think that if there's a different way to say it or if we can craft the language to work around those vulnerabilities then I think we should. But I think we need to know what those are.

So okay so if there's no further discussion on that we can move down to the next comment which is actually on a different recommendation. So any other thoughts on the Recommendation 3, the multi-hop problem?

Okay, seeing none that was a good discussion. Let's move on to Recommendation 4. The working group recommends the domain name be returned to the original registrar of record if it is found through a TDRP

procedure that a non-compliance domain name transfer has occurred. The TDRP as well as guidelines to registrars, registries and third party dispute providers should be modified accordingly.

First comment is also from staff. "Working Group recommends that a domain name be returned to the complaining registrar is a TDRP procedure finds that invalid transfers occurred regardless of any subsequent legitimate transfers."

I think that that is restating the recommendation is that - Lars, can you help?

Lars Hoffman: Yes, sorry. The concern was that the phrasing of original records - original registrar of record is a little bit clumsy. And so this is addressing that issue essentially.

James Bladel: So it could have - the difference between original registrar versus complaining registrar meaning that original registrar of could have been open to, you know, some registrar eight years ago.

Lars Hoffman: Correct.

James Bladel: Okay. I think that is a minor change but perhaps something that we could address with some language modifications to clarify that we are not talking about the registrar - otherwise all domain names that were disputed would go back to Network Solutions right? But so yes I agree that that should be clarified.

And Holly has pointed out in the chat that this might help us address the question above. I think it tells us specifically what to do, Holly, but I think it's still - leave some opening with the - that the idea of what we mean by know and avoid and what should happen to those other registrations - or those other hops. But I think it definitely closes in a little bit on that.

Any other thoughts? Berry has suggested, "Registrar filing the complaint in place of I presume a complaining registrar." Either works for me. I don't know if there's any language in other processes like that UDRP that could be - they probably refer to it as complainant so perhaps we could even use registrar complainant.

Kristine Dorrain: Yeah, this is Kristine from NAF. And when Mikey and I were working on the original draft that we decided not to use we - I pointed out that using terminology - and maybe we can't get away from it - like registrar of record, gaining registrar, etcetera, often tends to be very confusing especially to panelists who are, you know, well trained legally.

But, you know, this idea of who's gaining and who's registrar of record so, you know, going with, you know, much simpler terms such as complainant and respondent or complaining registrar and responding registrar actually would make things far simpler from the providers and the panelists standpoint.

We may not be able to get there but, you know, any time where we could do that that would be fabulous. And I had recommended early of making those be defined terms in the actual TDRP and/or rules.

James Bladel: Okay thanks, Kristine. I think that's helpful. I think the question is which language or terminology do we align with because in the IRTP itself the terminology is registrar of record for the losing registrar and gaining registrar. So if we want to align the terminology with UDRP then I guess that change to complainant and respondent.

So and perhaps that is more appropriate for this section or, you know, I hate to say it but maybe we need a definition section to this modification that says something like the registrar complainant is the registrar of record at the time of a - at the time that the disputed transfer took place; something along those

lines. And then we would establish some definitions that would bridge those two, you know, dictionaries from the IRTP to the UDRP.

That's just one - oh there we go. Kristine, everybody loves definitions, right Kristine? It makes life much easier. You may see some green checkmarks as well...

((Crosstalk))

Kristine Dorrain: It's a requirement for law school, isn't it?

Barbara Knight: Yeah.

James Bladel: Okay so, Lars, is that a - new here? We're going to charge forth or - oh, Lars' hand went down. So can we put there then as a takeaway, Lars, that we want to come up with some definitions of the terminology. Particularly I think we want to do define registrar of record versus complaining registrar or registrar complainant or however we want to phrase that, we want to define gaining registrar versus responding registrar or registrar respondent.

And then we probably should also define the different parties if we're talking about transfer contact registrant, etcetera. So I think that I'm trying to follow the chat here with one eyeball on what's going on. Good conversation - good exchange going between Barbara and Kristine where Barbara is pointing out that there could also be complaints filed if a registrar is unable to transfer a domain name because they're being blocked I the registrar of record.

So the complaining registrar may not be the registrar of record. Good catch, Barbara, that's exactly true; they could be reversed in that regard. So we need to be careful with our definitions.

Okay let's highlight that as a to-do that needs to be completed before we can consider this work to be final. And I see a green checkmark from Lars.

So then move on to - oh we scrolled here. I think we're - I think we need to go back up to Number 8, thank you. So this is from (Arthur Zonenberg) I believe representing a - was it a registrar?

Lars Hoffman: Yes he is, he is - I mean, he says he wrote in a personal capacity but he's working also for Dutch Netherlands based registrar I believe.

James Bladel: Thank you, that does ring a bell. So okay so Comment Number 8 to Recommendation 4. If multiple transfers have occurred after the first one that is wrong then only that one should be checked. So far so good.

Checking the entire chain does not seem useful to me. Whether the domain may be afterwards - wherever the domain may be afterwards it should be rolled back to that state before the first breach preferably actively by the registry. I think we're all aligned so far.

Most of the affected registrants our puppets by a hacker or a real users that saw a deal that was too good to be true, and inviting price for a high-value domain, then it usually is. But it's pretty much a corner case that does not occur often.

I think that in summary, this comment supports all aspects of our recommendation. I think that the points made here do a line with the discussions that we've had during our deliberations as well as that this is often used infrequently but to some effect by bad people who are trying to obfuscate the source of a hijacked domain name and that sometimes legitimate purchasers are caught up in that.

So I think that that is good. I think that no modification to the language, at least from this comment, is required.

Okay then moving on we've go about - maybe 13 minutes here so let's move on to Recommendation Number 5. The working group recommends the statute of limitations to launch a TDRP be extended from the current six months to 12 months from the initial transfer.

This is to provide registrants the opportunity to become aware of fraudulent transfers when they would no longer receive their registrar's annual WDRP notification.

The first comment is from the Registry Stakeholder Group. The Registries can support this recommendation but with reservations. Specifically the longer the statute of limitations is to file a request for enforcement would also mean that there's a greater opportunity for multiple transfers to occur between when the first - when the alleged violation occurred and the request for enforcement is filed.

So I think that that is a legitimate observation that the wider this window is open the greater the exposure to the multi-transfer problem that we identified in the previous two recommendations. But in general it looks like the Registries support this extension.

And I think that we can note this concern but also note that it's not necessarily derailing the overall recommendation.

So moving to Number 10. The ALAC particularly support Recommendation five. It would extend the statute of limitation to launch a transfer dispute resolution policy to be extended from the current six months to 15 months from the initial transfer. ALAC is effectively echoing our recommendation back to us with their blessings and so thank you for that.

Can you scroll just a little bit there, Lars, or is it going to jump to the next page? Go there we go. Thanks.

The next question was - or I'm sorry comment was submitted by Thomas Rickert who is I believe a NomComm appointee to the GNSO Council and I believe he raised this at the Council workshop in Singapore on the weekend session there. Could be wrong on that but at least that's where I think I remember it was raised.

So Thomas notes, since a lot of registrations are paid for one year it would only be after that time the customer might spot but they are no longer the owner of a domain name. This would especially be true in case where the domain name is abducted but the DNS remains unaltered.

If the statute of limitations is one year and the incident occurred almost at the time of payment renewal the registrant would most likely lose the opportunity to take action as there would be no or little time left to do so.

Example: abduction of domain name on renewal date plus three days, limitation would become effective one year later which would leave the registrant almost without a chance to notice that he has not been invoiced and the domain has already gone.

Additional three months would not really make a difference to the registrar's but that could be very beneficial to the registrant who in most cases is unsuspecting and would need time to figure out - to find out the measures he or she can take.

To let's take a look at this here because what Thomas, I think in general, is saying is that we need to extend from six months to 15 months to allow for - because most registrars - sorry, registrars, will not notice that a domain name is missing until they fail to be billed for it.

I think Mikey was targeting the WDRP reminder; Thomas here is instead targeting renewal. So let's pause here and let's think about that one for a moment. And, Holly, go a head.

Holly Raiche: Yeah, it's exactly the thinking that Thomas has got that was discussed at the ALAC meeting. And that's why we actually said 15 months for very much the same reason. It's a matter of when are you going to notice something's wrong? And then how long do you have to do something about it? Which is why we said 15 months instead of 12.

Recognizing maybe we get stuck with 12 but we want to give the opportunity for the victim, really, to do something about it once it's noticed, that was our thinking behind the 15 months. Thanks.

James Bladel: So this is James, if I could just speak as a registrar here for a moment, step outside of the, you know, the comment tool and just put myself in the queue.

I'm a little confused on this one because if there is an inter registrar transfer than the expiry would - the renewal has already occurred, the transfer was the renewal or the billing and that the - there has been another year added to the expiration.

I think what I believe what Thomas and perhaps what the ALAC is also - and correct me if I'm wrong here, Holly, what the ALAC is driving at is more the case where the domain name does not transfer to the new registrar but instead transfers registrants...

Holly Raiche: Yeah.

James Bladel: ...or changes accounts from one registrant to another. And that's where I start to run into trouble because as we've - I think uncovered in our use cases in those scenarios the - it's very difficult to demonstrate that the IRTP was not applied correctly until we implement IRTP-C which includes the provisions for transfers between registrants.

Holly Raiche: Yeah, okay.

James Bladel: Can we maybe have a larger group discussion on what that - because I don't want to be all alone on that; I would love to hear from other folks, other registrars, other - Barbara.

Barbara Knight: Thank you, James. This is Barbara for the record. So I agree with what you're saying, James. And also the renewal item also causes me a little bit of concern because this could go out several years if it was a multitier registration anyway. So I'm not certain that going from six months to 15 months is really going to buy us that much. But that's my opinion.

James Bladel: Thanks Barbara. And just, you know, personally I could also see some concerns being raised by Business Constituency and other folks that are involved in domain name aftermarket activities that extending this beyond one year means that - well let's just say that no purchase would ever be final at least in some scenarios.

So I think that they would be concerned that this would extend that. And I think that we would then also go up to the comments above where I think it's the Registries that note that the longer this window is open the more likely that we are going to encounter those multi-hop scenarios.

Holly, go ahead.

Holly Raiche: Yeah, we also did discuss Barbara's point. I think we are not completely wedded to the 15 months but certainly the 12 months would be something that we were there for.

We also recognize that there is a problem when you put multiyear then how long - it starts to become how long is a piece of string? So I think minimum of 12 months would be the ALAC position taking into account what Thomas said but also listening to Barbara - 12 months would be a minimum I think. That's why we supported the recommendation that just added the three months

really for Thomas's reasons recognizing there are real problems with extending it. Okay thanks.

James Bladel: Yeah, thanks Holly. I think that that - I think 12 months is, you know, as the ALAC and as Mikey, when he was involved and as the recommendation shows I think 12 months is - we can hang a lot on the 12 months. I think that the extra three months - the benefits started to tail off and the downside start to - or the exposure to potential downside starts to increase.

So let's make a note here that generally the working group supports 12 months but believes that 15 months would be - would require some exceptional justification. And if necessary, Lars, if you want to put a note here I could certainly follow up with Thomas, I'd be glad to speak to the ALAC although they probably would rather hear from Holly.

If we want to circle back to the folks who are raising this particular proposal and ensure that we are fully understanding their concern and perhaps if we can assuage them by discussing that this is either an issue for IRTP-C implementation or something that should be addressed, you know, should be addressed elsewhere.

We have an opinion from ICANN staff. "The justification seems weak since the registrants are unlikely to notice and take action because of a missing WDRP notification."

Tend to agree but it's what we have. And I think that, you know, there are - the options are limited to actively get the attention of a registrant that is ignoring its registrar communications. But this is just one.

I don't know that it's - I don't know that this is - I mean, it is weak but I think weak is preferable to none and I think that - so we shouldn't remove it. Any other thoughts here?

Okay I do know that we are now 1.5 minutes before the top of the hour so let's put our pin here, Lars, if you don't mind? And let's make a point to begin discussing - we'll maybe circle back in case some other folks join, want to weigh in on earlier comments or if, you know, you're mowing the grass or something this weekend that's where I get all my ideas and someone say hey, wait a second I want to go back to Comment Number 4 and talk a little bit more about that or something like that.

So we'll circle back here between this time next week. Was there - Lars, can you help me? Was there a holiday we were running into this time next week or that - no, that's - or was it Rob Golding was saying that was - was that the spring banking holiday in the UK on the 5th?

Lars Hoffman: Yeah, the fifth - the first Monday in May is UK bank holiday.

James Bladel: Okay. Rob, are you going to kill us or turn us into the queen if we continue? Because I think that we're - and the last Monday in May too - well that works because I think that starts to align with Memorial Day and now we've got multiple countries on that.

So let's plan on meeting as per usual next Monday at this time, our typical time slot. And then they're all just working - yes, yes, life of the - the glamorous life of an entrepreneur is you don't get those banking holidays off. But let's target that for our next meeting and we will circle back with this comment. But we will allow some time at the beginning of our agenda to revisit any comments that folks want to reopen but otherwise we'll jump in Number 13.

So thanks, everyone, for a good discussion. And let's go forward with where we are. Thank you.

Barbara Knight: Thank you.

Woman: Thanks, everyone.

Lars Hoffman: Thanks, James.

James Bladel: Bye-bye.

Barbara Knight: Thanks, James.

((Crosstalk))

END