

Final Draft

Report from Drafting Group for IRTP Issues PDP on Clarification of Denial Reasons
4 June, 2008

Denial reason #8

Current text

- A domain name is in the first 60 days of an initial registration period

Proposed text

- The transfer was requested within 60 days of the creation date as shown in the registry Whois record for the domain name.

Recommendation

- Forward proposed text to Council for further action

Denial reason #9

Current text

- A domain name is within 60 days (or a lesser period to be determined) after being transferred (apart from being transferred back to the original Registrar in cases where both Registrars so agree and/or where a decision in the dispute resolution process so directs).

Proposed text

- A domain name is within 60 days (or a lesser period to be determined) after being transferred (apart from being transferred back to the original Registrar in cases where both Registrars so agree and/or where a decision in the dispute resolution process so directs). “Transferred” shall only mean that an inter-registrar transfer, or transfer to the Registrar of Record has occurred in accordance with the procedures of this policy.

Recommendation

- Forward proposed text to Council for further action

Denial Reason #5

Current text

No payment for previous registration period (including credit-card chargebacks) if the domain name is past its expiration date or for previous or current registration periods if the domain name has not yet expired. In all such cases, however, the domain name must be put into "Registrar Hold" status by the Registrar of Record prior to the denial of transfer.

Concerns

In addition to the text of denial reason #5, the IRTP policy also states a transfer may not be denied for nonpayment for a pending or future registration period, and then further states that denying transfers should not be used as a way to resolve disputes over payment with two exceptions: (i) In the case of non-payment for previous registration period(s) if the transfer is requested after the expiration date, or (ii) In the case of non-payment of the current registration period, if transfer is requested before the expiration date.

Any attempt to clarify or modify reason #5 would necessarily require a review of the meaning and intent of these other provisions in the policy as they could be seen to be contradictory in some aspects, and have been interpreted in various ways. This was also pointed out in the final report of 9 April 2008 in sections 4.2.2, 4.2.3, and 4.2.4.

- The proposed texts raise deeper issues and more complexity than we are prepared to deal with within the scope and timeframe allotted to this drafting group
- "Registration period" is not clearly linked to the Registration Agreement at present - a change in this relationship is a policy issue, not a clarification of existing policy
- There is no reference to the Auto Renew Grace Period within the IRTP policy. However, the recent ICANN Staff advisory states that there is a clear association between the Auto Renew Grace Period and the intent of denial reason #5.
- The drafting group has no desire to rush through this issue to meet an aggressive deadline
- Many of the conversations have taken place over a long period of time, leading to community input issues

Recommendation

There appears to be general agreement on what this denial reason was trying to accomplish, but we should allow an appropriate amount of time for formulating revisions that will effectively resolve the ambiguity. More time is needed to fully understand the existing and various IRTP provisions on this subject, the recent ICANN Staff advisory, and the comments in the constituency statements in order to adequately address the questions raised in the final report.

- Include clarification of denial reason #5 in PDP C of the IRTP Issues PDP Recommendations report of 19 March 2008. Encourage the current drafting group

participants to carry forward as members of whatever subsequent working group or PDP is formed. **RECOMMENDED**

or...

- Immediately extend the charter and scope of this Drafting Team to become a Working Group and seek additional participation of interested stakeholders to address this issue more thoroughly, and prior to the initiation of PDP C

Denial Reason #7

Current text

- A domain name was already in “lock status” provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status.

Concerns

- Discussions focused on clarification of the meaning of "readily accessible and reasonable means", but in the attempts to clarify this by comparison and by increased specificity potential undesired consequences were identified, see below
- The proposed texts raise deeper issues and more complexity than we are prepared to deal with within the scope and timeframe allotted to this drafting group
- We want to avoid a situation where registrars increase difficulty on contact/DNS changes in order to prevent transfers
- Some registrars have offered higher levels of security, and don't want to lose the flexibility of offering those add-on opt-in services
- The trade-off between security and convenience is one that must be made by registrants and this policy needs to provide the ability to make that choice
- Issue 5 under PDP C of the IRTP Issues PDP Recommendations of 19 March 2008 and the reason for wanting to clarify reason for denial number 7 are very closely related:
 - Issue 5 of PDP C on IRTP Operational Rule Enhancements states: "Whether standards or best practices should be implemented regarding use of Registrar Lock status (e.g., when it may/may not, should/should not be applied). (CR 8.0)"
 - The IRTP Policy Clarification of Reasons for Denial final report of 9 April 2008 says in the first sentence of the second paragraph on page 5: "Regarding "lock status", there is support for clarification, with a clear focus on the meaning of "readily accessible and reasonable means" for removing the lock."

Recommendation

- The result of the pending PDP that will include Issue 5 of PDP C could have an impact on "readily accessible and reasonable means" for removing a registrar lock. Given the

close relationship of these two issues it is recommended that they be combined as a single issue. **RECOMMENDED**

or...

- Immediately extend the charter and scope of this Drafting Team to become a Working Group and seek additional participation of interested stakeholders to address this issue more thoroughly, and prior to the initiation of PDP C. The Council may first need to decide if a new issues report would be necessary to include Issue 5 of PDP C.

Drafting Group History and Participation

The drafting group was established following a GNSO Council resolution on 17 April 2008. The group worked initially on an [email list](#) and on 15 May a [Wiki](#) was established which then became the primary work tool for the group. Mike O'Connor was appointed chair of the group that held four teleconferences; on 15, 22, 29 May and 4 June 2008. Participants in the group/subscribers to the mailing list:

Avri Doria - GNSO Council chair
 Chuck Gomes - GNSO Council vice chair

REGISTRAR C.

Tim Ruiz - GNSO Council RR constit. representative
 Tom Keller - GNSO Council RR constit. representative
 Paul Diaz - NetworkSolutions
 Margie Milam - MarkMonitor
 Taryn Naidu - Demandmedia
 Paul Stahura - Enom
 Ross Rader - Tucows
 Steve Karabatsos - Melbourne IT

REGISTRY C.

Barbara Steele - Verisign
 Pam Miller - PIR

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Michael Collins - Internet Commerce Association
 Mike O'Connor – Chair of the Drafting Group

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