

**Inter-Registrar Transfer Policy Part B PDP  
Transcription  
Tuesday 15 September 2009 at 14:00 UTC**

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Participants on the Call:

Michele Neylon - RC  
Kevin Erdman - IPC  
Barbara Steele - RY  
James Bladel - RC  
Berry Cobb - CBUC  
Anil George - IPC  
Paul Diaz - RC  
Michael Collins - Individual  
Mick O'Connor - CBUC  
Rudi Vansnick – ALAC  
Chris Chaplow  
Mike Rodenbaugh

Staff:

Olof Nordling  
Marika Konings  
Gisella Gruber-White  
Glen de Saint Gery

Apologies:

Baudoin Schombe

Coordinator: Excuse me. The recordings have now started.

Michele Neylon: Okay. So now that we've decided that some people like the term hardcore and others don't. Okay. So the - today's agenda, the roll call please?

Gisella Yes, I'll do the roll call for Michele . Good morning, good afternoon everyone. On today's call we have Michele Neylon, James Bladel Barbara Steele Paul Diaz, Kevin Erdman, Mike O'Connor, Michael Collins, Berry Cobb, Chris Chaplow, and Anil George

We also have on Adobe Connect Rudy Vansnick who's not able to join on the call. From staff we have Marika Konings and Olof Nordling apologies Baudoin Schombe. And if I could just remind everyone please to state their names for (unintelligible) the transcript. Thank you.

Michele : Okay, thank you. Michele again here. Okay, the - we were looking at IRTP definitions and concepts. And I believe Marika put a document up on Adobe Connect, which is based on some of the to'ing and fro'ing we've had on the list. Have you all had a chance to look at the document on Adobe Connect?

Man: It's cool.

Man: Just getting into it.

Michele : Mikey has your sound up.

Man: Oh I'm just ready - we had a flurry of email right at the very end, our typical pattern. And I think (Chris) tossed a couple more terms in that we might want to consider. And I'm just jumping in on that, whenever you feel like doing that.

Michele : Okay. So we'll - okay then. Anybody - has anybody got any comments on the document that Marika put up based on (Tim's) definitions?

Marika : This is Marika . Just to note, (Tim's) email was based on what James initially proposed, with already I think some changes to the - I think the title account holder. And then at the end you'll see added what (Chris) proposed in his email. So, you know, the idea of this document is just to have everything in

one place so people can scroll through it, and as we discussed, look at the different issues on the table.

Michele : Okay. Mikey do you want to jump in?

Mike O'Connor: Yeah, this is Mikey. I liked (Chris') terms, if we can determine whether they're relevant to inter-registrar domain transfers, as opposed to some of the other (PDPs) they're running right now. And the way that I kind of in torturous logic got them to be relevant has actually been captured in the paragraph right before those two, in that - I think that when the actual transfer and the unwinding of the transfer takes place, James and (Barbara) are right that the reseller service provider really doesn't enter into that.

But where they may enter in is in causing the need for that. And to that extent I found those useful. Because it's true that there are times when our current list of definitions doesn't cover all the players in a scenario. And so that's the reason that I would lobby for having those in there.

I'm not sure that I've read the definitions carefully enough to (unintelligible) ones. But at least the idea of those two additional players acknowledged in the conversations seems like a good idea to me.

Michele : Okay, Paul Diaz.

Paul Diaz: Yeah, thanks Michele . Mikey and James and everybody, I really appreciate the conversation on the list. It's unfortunate that it came just before the call, because maybe not everybody's been there.

One thing that struck me, and it's just sort of a follow on what you've just said Mikey is that I think we need to be very careful and remember in these alternative, or these other entities that we're discussing, that we do keep in mind, you know, where - back to (James') point, you know, that the - it sort of

ends with the (registraut), the importance of - there needs to be some contract that we can point to.

You know, the resolution process that we have, if there's, you know, question, debate as (Barbara)'s noted, you know, they look to what is - what can we point to what's there? I think we were spinning out a lot of very interesting, and often very frustrating scenarios that exist in the real world. But all too often those players that are involved don't have any, for lack of a better term, legal ground to stand on.

And I think for our group and our discussions, and when we define the entities that are involved, that we, you know, keep in mind what is in the - what has been envisioned in the ICANN processes already, what is defined by contract, and then if there are others that are outside of that that really need to be brought in, fine, they can be clearly, you know, highlighted.

But we need to guard against kind of perhaps trying to capture everybody that might possibly be involved in something. Because ultimately they won't have the ground to stand on for the purpose of this working group, which is transfers.

Michele : Okay, James .

James : I think that Paul captured just about all of my sentiments there, which was the idea that we cannot continue to follow all of the relationships indefinitely. We have - and I'm sure that the same goes for other registrars. We have teams of folks that work on these types of issues daily, and understand all of the players. So ultimately it comes down to the reach of the ICANN policy, and the reach of the registration agreement.

And then beyond that it starts to become not only confusing, but also somewhat irrelevant. So I just wanted to kind of add what Paul says, is that for the - to keep this group on the rails, we need to make sure that we look

out and say that there are other parties out there, and other potential scenarios. But it's not really necessarily worthwhile to chase that chain wherever it goes.

Michele : Fair point. Just before I go to you Mikey, one other thing. I think Paul mentioned legally. I don't think legally would be a word I would be comfortable using, because legally they - somebody may have a right. But I think the question here, in my view anyway, is with regard to the ICANN contract spot, we as registrars have to do, not whether we're legally obliged to do something. So that might be...

Man: Fully agree with you Michele . In fact when I was saying it, I'm making little quotation motion with my fingertips, that the focus should be contractual bound, however you want to define that. Not legal in any broader term.

Michele : Well that's fine. No, it's just because I'd just be afraid if we say legal that somebody might start trying to give people rights that they don't really have. Mikey and then (Olof). Mikey go ahead.

Mike O'Connor: This is Mikey again. This isn't one that I want to spend all of my political (unintelligible) on, but maybe here's a way to resolve this in a way that works for everybody. I agree with everything you guys are saying. I think that one way to think of these is more in context setting.

So James , it might just be useful to highlight the list of people who don't have a role in the IRTP, especially the urgent return process, when it comes down to that. And then include these definitions in that list. So make it clear to the registrar - you know, this is I think mostly for registrants. Clearly the registrars are sophisticated about it.

Michele : So basically what you're saying is that in some ways by defining who isn't involved, it helps to define who is involved.

Mike O'Connor: Yeah. And that's the only purpose that I would think it might be useful, to leave the - you know, remember this is just a list of definitions. This isn't saying anything about policy. But I think it's useful for registrars - or registrants to know oh, the service provider has nothing to do with the transfer.

When it comes down to brass tacks, it's the registrant, you know, it's the list above that has - that touches that. And so I think it's more for sort of an educational clarification purpose that I'm interested in calling those out, than in any way saying that they should be bound or included in any policy that we write.

Michele : Okay, that's a fair enough point. Who's next there? (Olof) was next, then James .

Man: (Unintelligible) in the queue please.

(Olof): I very much connect to what (Mike) said. I think - and what Paul said. I mean when we come to a new policy language, I think we're way beyond limits with all these definitions, which are partly - I mean they're rows that they're overlapping, and all of that.

And - but I think when it comes to trying to describe any scenarios we would like to describe, well it can be useful, but perhaps could (unintelligible) the definitions on the side burner while we start discussing the gist of the matter, and see which ones that may evolve and which we may find useful in our descriptions.

But I believe that the definitions for any policy is (unintelligible) would be - have to be pretty much restrained to clear a (unintelligible). Thanks.

Michele : Okay. (Olof) could you take your hand down please?

(Olof): Oh yeah, I always forget.

Michele : Because it confuses me, and it just causes headaches. Any of you guys want to jump in there with any thoughts or comments on this?

Man: Can I just jump in? I can't get on connect, and I'm out of the office.

Man: That's okay.

Man: ...speaking, sorry. Yes, I think I tend to agree with (Olof) and with (Mike). You know, let's just park it there, and we'll see where we go with the reports. And if we never mention service provider in the report, then there's no need for a definition for it. That's certainly there in the hijacking scenario, but possibly not in the transfer scenario, contractually anyway. But I did get the term from the SSAC Report. It wasn't one that I just made up, so.

Man: Just by way of explanation. I think part of the reason why myself, James , and Paul are so wary of introduction - introducing these terms is because several of us were involved in some other working groups where - how can I put this diplomatically - the terms of reference are being constantly expanded by certain parties, and giving us massive headaches.

So we're trying to keep - make sure that the terms of reference of this working group remain within its parameters as much as possible. So that's just to explain why we're being - why we might seem to be overly paranoid. Anybody else on that one?

Mike O'Connor: This is Mikey. I also like the term overly paranoid.

Man: Do you want to add that to the list?

Man: Yeah, I'd love that.

Man: Okay, work away, work away. And you can just say that (unintelligible) to refer to registrars of being overly paranoid. I'm gonna have to live with that for years. I won't be able to go to an ICANN meeting, I'll have to hide.

James : This is James.

Man: Yes.

James : Just because I get the sense that we're about ready to move on from this list, I wanted to point out one area of distinction. I think this goes to Mikey's point about making sure that we're all synchronized and on the same page. I just wanted to make sure that everyone is comfortable with the Items 3, 4, and 5 on that list. The Change of Registrar, the Change of Account, and the Transfer.

And understanding - because in the industry - and I'm sure everyone sees it as well, all three of those operations are referred to loosely, and in some cases incorrectly as transfers, when in fact only Number 5 qualifies as a transfer under this policy and this working group. So I just wanted to get that out on the table, because I think it is an area of confusion that we encounter probably daily in our work with registrants.

And it's just something that I think that in general a bit of outreach to the community and education is probably a good thing.

Man: I like the thing on the education anyway. Mikey then Paul .

Mike O'Connor: Just to take this one step further in terms of narrowing our scope, we only worry about inter-registrar transfers in this group. Do you want to amp that up at all James in that definition of 5?

James : Possibly (Mike), we could say that Number 5 is an inter-registrar transfer, and that any - 3 and 4 in fact do not leave a registrar. I do want to point out



however that one of our charter questions - and I don't have the charter in front of me - does mention transfers as they relate to change of registrant. So I think it's - these other definitions will appear in our discussions, and maybe will appear in our charter. So I just wanted to make sure we got them on the table.

Mike O'Connor: I like them. I think they're great. This is Mikey.

Michele : Sorry, just one second. I'm jumping through multiple windows here. I think Paul was up next, was he?

Paul : Yes, thank you Michele . Just very quickly. I agree with James , as others have already said on the list, for the non-ICANN literate folks out there. I think it's very important that we keep these other definitions James is suggesting for folks that are not necessarily in the know, will clearly understand that when we talk about IRTT - inter-registrar transfer policy. That's what the transfer's about.

These other things loosely get called transfers, don't get misled. And for our final - either the report of this group, it probably is very helpful to have some of this language even up front, and then quickly state but that's not what this group's about, and get to Number 5. You know, focus on what we're really supposed to be here for.

Michele : Yeah. Well I agree with that. And (George).

(George): Michele I was just wondering, just looking at the things that you're trying to define, you have some fairly sort of fundamental definitions here. I'm curious, and I apologize if you've discussed this already, but do you also need to define registrar and registry? Since if we're defining registrant, you know, they all exist together, and they can't exist without each other.

Michele : Valid question I suppose.

Mike O'Connor: Yeah, that's a good one. This is Mikey, I buy that.

Michele : I don't have any issue with somebody defining them personally. I don't know. James ? Paul ?

Paul : Sure, this is Paul . I think we should do that. That's a good point (Neal). You know, for clarity's sake, let's get clear definitions out there right up front.

Michele : And (Neal), as you brought it up, do you want to provide them?

Anil: Yeah, I can take a shot at it.

Michele : Sorry. If anybody brings up the question, I'll always volunteer them.

Man: Let no good deed go unpunished.

Michele : Exactly, exactly. I mean the other thing as well, I think it was Paul who brought it up. I mean this thing about people not understanding, I think it's a very, very important point. Most people don't understand.

Mike O'Connor: You know, this is Mikey. I really emphatically agree with that. And I think that's really where I was coming from in the other part of the discussion, is that maybe in addition to the policy portion of our report, if we could do some educating along the way we might be able to help people a lot.

(Chris): (Chris) here. In the asset report, actually Appendix A of the 2005 report, they have actually an overview of the register transfer process which I found very useful. I mean it needs updating. It might be something we could consider putting in an Appendix as well.

Man: That's great. And we had some - didn't we have that in the last IRTP report?

James : I remember - this is James . I do remember a diagram and an overview. So maybe we can go back to the IRTP A and borrow from that.

Woman: Yeah, we did a number of diagrams to try to depict the various scenarios as well (unintelligible) the use of EPP and things like that. So I'm happy to as well re-circulate these to the group here so we can see what additional work might be required or not.

Man: (Olof).

(Olof): Yes. Briefly, I sent around the definitions we have in the ICANN glossary just as some kind of starting point for registrar and registry. I do that to list...

Michele: Okay. So anybody - anything else on that? So we're all agreed on the idea of let's make things nice and clear and simple, so everybody knows what we're talking about. Yes? Okay I'll take the silence to mean that you all agree with me. Okay next on the - on our agenda. RTP Part B, Public Common Period Update.

Marika : Yeah, this is Marika . I circulated to the group earlier today the announcement on the opening of this public common forum. And just a note as well that it has been translated in the five UN languages, and we'll be accepting comments as well in those languages.

I think there's quite a bit of an experiment that will hopefully inform as well some of the ongoing discussions on how to reform the policy development process, and what role translation should have in that. So this is for now, you know, a one up exercise to see how that works, and how much extra delay this results in.

Because of course comments will need to be translated back to English for the group to review these. So we'd just like to encourage everyone to have a

look at that, and forward it to any group or individual you think might be interested in providing comments.

- Michele : Thanks Marika . And thanks for indulging my madness about insisting on having it in more than one language. Sorry guys, I'm a languages graduate. This was kind of inevitable. Anybody have anything else to say about the public comments period? No?
- Man: No, other than just to thank Marika , and say I think it's great that we're doing an experiment on this, and leading the way.
- Michele : See? We'll go down in history. If it's a success they'll thank us, if it's a failure they'll blame me. I would ask people though to please, if you could, try and encourage people to come and to bring passes around to your colleagues, to your friends, to your next door neighbor. Paul .
- Paul : Yeah. Exactly to that point Michele , just a question Marika . What is the timeframe? These public comments, is this open for the duration of the working group? Is there a particular deadline? I'm sorry I haven't looked at the announcement if it's there.
- Marika : If I remember correctly, the deadline is the 5th of October. It's a 20 day deadline that's imposed by the ICANN by-laws.
- Michele : Is there a possibility of extending that Marika , if we deem it necessary?
- Marika : I don't think there's any objection. I don't know, I mean...
- Michele : I'm just asking. I was looking more just to have a complete view rather than anything else.
- (Olof): This is (Olof), it has been done before.

Marika : And I think an alternative is as well - I've received for example requests on another public common period that has just closed where I basically indicated to the person that wanted to submit a comment, you know, just send it to me directly, and I'll make sure that it gets forwarded to the group.

Because the only challenge is of course at some point we need to summarize the comments and put forward an analysis. If we keep on getting in comments, it's difficult to do that process. So either we, you know, extend it for a certain time, or we just say, you know, any comments that people want to make they can still make either by just sending it to me or to you Michele , and we'll, you know, put them - forward them to the group.

Michele : Yep, fair enough. I just as I say, it was just more a case of being, you know, clear about what we're doing. Clear for me at least anyway, and everybody else hopefully. And thank you Mikey. Sorry, Mikey's comments on Adobe are making me laugh. What was the next item on the agenda? Okay.  
(Considerancy) statement template. Okay, has anybody got anything to say about that?

Marika : This is Marika . I - following the last call I think some people indicated that they would be interested to think about some additional questions that they would like to put into some place for constituencies to consider, and then hopefully respond to.

I did repost the template to the list, but there hasn't been any discussion or suggestions. So the question would be do people need more time to come up with these questions? You know, and if not, can we just then get it out to the constituencies, and give them ample time to provide feedback.

Michele : So any thoughts on that? James .

James : Yes, James here. Thank you Marika , I did review the latest version and I was fine with that. I think there was some concern regarding whether it was

too jargon-heavy, and I think that you've addressed that as well. The question would be what is ample time?

Is there a standard window for turnaround on these constituency statements? Because we have quite a few in the pipeline right now, and I just want to make sure that they're all getting their due attention.

Marika : I think the by-laws do prescribe something, but I think overall we've given constituencies more time. I think the official deadline is 20 days. But I know for example the post expiration one, we asked a different constituency representative on the call what will be reasonable. And I think in that case they indicated that 30 days would be good.

So I guess the question would be again for, you know, for those of you on the call that are part of constituencies and will be working on this, you know, what timeframe would be reasonable to come back to this group. Because I think the important thing is that this group gets, you know, the right information, sufficient detail. And if that's helped by a few extra days, I don't think we should restrict that.

Man: I'd like to be the first in line to lobby for a little bit of an extended timeframe, once this is published, or released the constituency.

Marika : And what would that timeframe be?

Man: The 30 days sounds good.

Mike O'Connor: This is Mikey. How far away from Seoul are we? I've lost track of the calendar.

Man: About maybe five weeks?

- Marika : Yeah, I think it's about 30 days before people start traveling basically. It's a little bit more than that. Now the 15th of September, and I think GNSO meetings are starting 24th of October.
- Mike O'Connor: So I guess the question is - in my mind, are we gonna try and get these done before people go to Seoul, or should we let it slip over the meeting? Because if it's tangled with the meeting then all of a sudden we're way out. You know, we'd have to add a couple more weeks it would seem to me.
- Marika : Well I guess the question is if no one wants to add anything, you know, we can get it out today or tomorrow, and, you know, that should give people 30 days before they leave Seoul. But - to Seoul. But I guess the question would be are there many other things that people are doing now that they need to get done by Seoul that would conflict with, you know, with this work.
- Mike O'Connor: Insert hysterical laughter into the record for me, thanks. I think it's fine. You know, if we got it out today or tomorrow and gave it 30 days, I think we can turn that around here.
- Michele : I think I'd agree as well. I mean if we leave it for much longer, it's going to start going into time just before Seoul and into Seoul, and people aren't gonna reply. Does anybody else have any thoughts on that?
- (Chris): Yeah I think we've got to fight our - (Chris) here. We've got to fight our own corner as it were and go for 30 days, and not put it back because of Seoul.
- Mike O'Connor: This is Mikey, I'm fine with that.
- Michele : Okay, moving on. Sorry, I'm being a total tyrant here today. I keep losing the agenda which doesn't help. Right, what was the next thing there. Okay. Now the next source on the agenda was continue discussion on Issue A, whether a process for urgent return/resolution of a domain name should be

developed, as discussed within the (Asack) Hijacking Report. Paul . Mikey, hands up. Go ahead.

Mike O'Connor: You know, this one collides with so many other PDPs that are going on right now. Maybe we need to do our scope narrowing thing again on this. What do others think? Because, you know, we've got the domain - the post domain, an expiry one that's going. And I guess that's the other one. Do we need to narrow this to only talk about urgent return of domains that have been transferred inter-registrar?

Michele : Mister (Collins).

Man: I was just gonna answer (Mike). I think that I had assumed that was the transfer return that we meant, was a inter-register transfer reversal.

Mike O'Connor: I think we might want to re - just add that into the statement. Because if we don't, we run the risk of colliding with a much broader issue than perhaps we want to take on.

Michele : James .

James : Yes. So if I'm understanding Mikey's correct - question correctly, leveraging our definition list, we're only talking about the urgent return as per Item number 5, which is an inter-registrar transfer. Is that what you're asking (Mike)? (Mike)?

Michele : Mikey?

Mike O'Connor: Sorry, you know, I was so eloquent on mute. I always say my very best stuff on mute, sorry. I think it's the definition and the note on Adobe. And if that's just sort of an informal one, and our actual charge has the inter-registrar narrowing in it, I'm fine. I just, you know, this one reads much broader. And I'm not sure that we want to tackle the whole gamut of urgent return



resolution issues, especially given that the post domain expiry PDP is also running in parallel with this.

James : Understood. And if I could just follow up on that, most registrars that we do, and I'm sure most registrars would also - if they're offering the other two types of functions, the change of account or the change of registrant would probably have their own internal undo procedures as well. I'd say like those kind of go hand in hand. But that's not necessarily something we can discuss here on this group. But they do exist.

Mike O'Connor: This is Mikey again. Just to intrude one last time. Maybe this is another education opportunity, where as we proceed down the narrow tracks that I think we're all agreed to, we make it clear what the things we're not covering are at the same time.

Michele : Okay, (Barbara) and then Marika , or Marika then (Barbara).

(Barbara): This is (Barbara). From my perspective, I don't think that the current transfer policy and the dispute policy that goes with that really contemplates the urgent return of a domain name. And so - I mean in fact one of the first things that the transfer dispute policy indicates is that registrars are encouraged to try to resolve the dispute themselves.

And I would almost think that urgent returns should be addressed at that level. Because as I said, the dispute policy doesn't really contemplate a quick return of a domain name. And I think as time is of the essence, I think that there is value in, you know, perhaps addressing this somewhere, maybe through a best practices document that registrars could put in place.

And there may be a role as well that the registries could play. But I'm not certain that it would be best addressed in this particular PDP.

Michele : Marika .

Marika : Yeah (unintelligible). I do want to point out, I can see if you see the question by itself without the context that, you know, you might go in all kinds of directions. But as it is part of an IRTP PDP, and I think that's pointed out as well in, you know, the charter itself. You know, it shouldn't lead to too much confusion as to what this is relating to.

I do agree I think in the issues - or in the initial report we can definitely provide some further explanation as what this means. But if we would change the charter questions, this would be something that would need to be taken back to the council.

Michele : James .

James : Hi, thanks. This is James . I wanted to go back one speaker to (Barbara), and just kind of touch on what she mentioned. I think she's - in many ways she's absolutely correct is that registrars can and do work out a lot of these issues on their own, or within - with one another.

And that I think works pretty well when you're talking about, you know, for example Go Daddy working with (Paul's) organization, Network Solutions, or Michele or some of the folks that are visible and participating, and you reach contact, etcetera.

But I think (Barbara), my take on this particular question was whether or not there needs to be some sort of an escalation process when that breaks down, and when we're dealing on the edges here of a registrar that is either not responsive, or has gone dark, or is possibly even conflicted in the types of activities.

So I think the way I read it was that we were looking for an emergency channel that we could work through when the registrar to registrar process fails.

(Barbara): May I just go ahead and jump in.

Man: (Unintelligible).

(Barbara): I mean I think you were reading my mind exactly James . Because I don't agree, and that's - or I don't disagree. One of the things, you know, what I was saying there could very well be a role for registries as well in that process.

And I think that you hit the nail on the head when you said, you know, to the extent that you're working - or trying to work with a registrar who is not responsive, then there may be an area for registries to step in at that point. So I agree with what you're saying there. I'm just not certain that...

James : If I could follow up with that. I think I 100% support the idea, but the dispute process is - I'm going to struggle to put this diplomatically. It's not really viewed as a reliable mechanism to undo a transfer, either from the perspective of timeliness, or in the perspective of how - what, you know, what sort of consistency of output we can expect from that process.

So if we in this group develop a - an urgent return process that's in escalation that involves registries and registrars whenever the existing methods fail, then, you know, I think that we need to think about whether or not we're invalidating that other dispute method. And if so, you know, I don't think you're gonna get any objections over here. Because we don't really have a lot of faith in it.

Michele : Marika .

Marika : I didn't take my hand down.

Michele : No you didn't.

(Chris): Can I put my hand up? (Chris) here.

Michele : (Unintelligible) away.

(Chris): Maybe the urgency element of it, we're talking about when the DNS is changed. Because in a hijack or transfer, the sort of alleged hijack, if the DNS hasn't changed it's still just sort of a (diminished) function.

Mike O'Connor: This is Mikey. I just want to chime in and support James and (Barbara's) kind of refinement of this. Because I think it - having been involved in a few of these in the real world, you know, when you're dealing with (James') organization and (Paul's) organization and (Barbara's) organization, it's generally not an issue. It's when you're on the edges.

And so I like the introduction of the idea of escalation for something like that, to let the sort of default norm be (Barbara's) position, which is let the experienced, capable players work it out amongst themselves. And when that fails, have an avenue for escalating. So I just wanted to chime in in support of all that.

Michele : Okay. I've just - from personally, I also like the idea of it. If you're dealing with somebody you can't reach, that there is some way of escalating it, and taking them out of the picture, which I think pretty much echoes what James and Paul and a lot of people were saying. Anything else on that?

James : This is James . I'm sorry, Michael Collins had a note on the list relative to whether - who can initiate a transfer dispute. Did we want to...

Marika : This is Marika . There's a question for (Olof). Isn't that one of the issues that comes up as well later - one of the issues in the later PDP?

(Olof): During (unintelligible) yes. But don't take me off the cuff. We should look into the other ones. I don't know them by heart I started to say.

Woman: Doesn't ring a bell for me as well, but it has come up somewhere. So I can double check that.

Mike O'Connor: This is Mikey. I think it's worth taking an initial crack at it in this discussion. Because we may learn some things if we have that conversation that we can apply down the road.

Michele : Okay.

Paul : Michele it's Paul . Can I jump in?

Michele : Oh (unintelligible).

Paul : Yeah, just to respond. The envision PDP D has a question about the transfer dispute resolution policy. But the focus of that was how do you handle disputes when multiple transfers have occurred? And I guess it'll depend on the scoping at the time when it's created. Are we really focused on the policy itself, and the limitations that some of us feel that exist today?

Woman: In addition to the question, in that same category is whether dispute options for registrants should be developed, and implemented as part of the policy. So that would address the question that...

Paul : There you go.

Woman: ...Michael Collins has posted. Of course if this group starts discussing this question and realizes that, you know, a broader debate should be had, an option would be to go back to the council and ask whether this question can be incorporated, or possibly defer discussions until this PDP occurs, are two

options that might be considered, if the group feels strongly that that discussion should be had as a whole.

Man: Sorry Marika , just to get this clear in my head. There's going - there are several other PDPs related to this already planned. Is that what people are saying?

Marika : Well we're currently in IRTP Part B, and there is - there are issues outlined under our PDP C, D, and E. And I'm just - what I just read off is what is listed on our PDP D, which has categorized some issues related to IRTP dispute policy enhancements.

Michele : And is there a list of these upcoming PDPs anywhere?

Marika : Yes, I can circulate a document. This was developed I think in March, 2008. And we basically started with A, then now we're in B. But B for example has already incorporated some issues from PDP C that people filed at the time that were closely related, and it made sense to put them together into one PDP. So I will circulate that document to the group, so everyone can see what other issues are going to be considered in the context of the review of the IRTP.

Michele : Okay, thank you.

(Chris): (Chris) here. Issues report Page 10 has a quick chart we can take a look at.

Woman: Yeah. I think the quick chart just has like the headers, and under each of those headers you have three, four issues listed with some explanation.

Michele : Okay. So Marika if you could circulate that list it would be helpful anyway, so we have some idea of what we're talking about.

Mike O'Connor: This is Mikey. I want to get us back to the who initiates thing. It may be that the who initiates on this escalation is different than the who initiates on some of the other stuff. So I think it might be worth - you know, I can envision who initiates on this one being registry, registrar, or registrant.

Whereas in some of the others that may not be the case. So I just want to throw that monkey wrench into the process. Because this is the urgent escalation situation, which may be different than the less urgent stuff that's contemplated in some of those other things.

Michele : So in your view who do you think would be initiating it?

Mike O'Connor: I'm not really sure, until I sort of see how this unfolds. In general, in the prior PDPs on IRTP we've shied away from registrants initiating. In most cases we've felt more comfortable - registrars and registries. But on this one I could envision a situation where something's gone catastrophically wrong. The process is broken down so badly that we might want to open the door up to registrants. But I don't want to throw my body on the tracks on that one just yet.

Michele : James . I'm sorry, Marika .

Marika : Yeah. I just wanted to point out that, you know, in relation to the question that Mikey raises, I mean some of the questions that we pointed out as well as in the issues report that we need to be considered in this context is what is the actual extent of this problem. You know, would it warrant a new procedure, or, you know, changes to the policy. How do you ensure a fair process.

And I think related back to the question as well, like who would be the decision maker? Who decides whether it's actually a hijacking or not, and, you know, who's indeed the initiator. And maybe review as well which market solutions or best practice already exist that, you know, either a registrant or a registry or registrar can make use of to address this issue.

Michele : Okay. Are you all following the notes that (Barbara Steele) put up there on the - on Adobe?

Mike O'Connor: This is Mikey. I like that a lot (Barbara).

Michele : (Barbara), you want to jump in there?

(Barbara): Yeah, I was just gonna go ahead and mention, I mean just at the end of the day, I mean the registrars actually own the relationship with the registrants. There's actually no I guess benefit of contract directly between the registry and the registrant. However, you know, the registries are charged with making certain that registrars are complying with the policy.

And if we find that there is a registrar that is not submitting a - what a registrant considers to be a valid transfer dispute, or violation of the policy, then obviously that's something we would need to take up with the registrars.

Michele : What would you - how would that be handled normally (Barbara)?

(Barbara): They said that we would get a complaint here at verifying. As I said, we would reach out to the registrar that was responsible I guess for the domain name, and the original relationship with the registrant to basically speak with them about the fact that they would need to submit a transfer dispute on behalf of the registrant.

So more than likely if it's a case where a domain name was transferred fraudulently, or in violation of the policy, then we would go to in essence the losing registrar. If it's a case where a domain name is being met by the registrar of record, then we would go to them and explain to them that, you know, they do need to be processing the transfer disputes in accordance with - or transfer requests in accordance with the transfer policy.



Michele : Could you - just following up on that, just me being really curious, do you have any kind of statistics on the number of times that you would have to actually intercede on behalf of registrants?

(Barbara): Since I - since the new policy has gone into effect, I would say - and that was 2004, November of 2004, I would say probably twice.

Michele : So basically it doesn't really happen.

(Barbara): It doesn't happen that often.

Michele : (Michael) then James .

(Michael): (Barbara) pardon my ignorance. But is there actually a requirement in the policy for registrars to file a transfer dispute? Or is it just a policy that enables registrars to file a dispute?

(Barbara): I guess I should defer to an attorney on that one.

(Michael): I apologize. Well my other question is I have heard of at least one case recently, and I don't have any - it's not firsthand, but it was just something I read about where a registrar refused to file a transfer dispute, because the registrant couldn't prove that they were the registrant on the day of the transfer. So I mean it could be difficult for a registrant I suppose without a cooperative registrar.

(Barbara): Definitely. And I mean it in short depends on what the registrar was also asking for as proof of identity. I mean it seems to me that, you know, if it's a case of a transfer in violation of the policy where it did go from one registrar to another, and they're looking for it to be returned to the original registrar, the losing registrar, the former registrar of record should have the who is data.

And then it's up to the registrar to determine what form of identification to confirm the person's identity at the time that the transfer was initiated. You know, they also are supposed to have, you know, and retain copies of the forms of authorization, or FOAs.

So they - I guess I question whether or not, you know, the registrar was really - I don't know how I should say it - you know, truly looking at the request from the registrant. Because technically they should have all of the information available to them to determine who the registrant was at the time that the transfer occurred.

Man: I will say that the registrant completely agrees with you.

Michele : James , Mikey. James I think you should go in this time.

James : Yeah, I'm sorry. I just was trying to jump in there and answer or address one of the questions that (Barbara) had raised, which was the frequency of the disputes, and how often those are - that policy is used. I can tell you that the answer is not often. For example, we in first quarter of this year I think initiated 16 transfer disputes.

That's relative to about 700 instances where we worked either internally or with another registrar to undo a transfer. So just to give you an idea of the proportion of what we're talking about, with the formal policy versus how often we're working with the other registrars.

Mike O'Connor: This is Mikey. Actually I was gonna jump in on this same topic. I think it would be, you know, these are really helpful sort of tiers. It seems like there's a big - a bigger number, not a huge number but a bigger number of disputes that are worked out registrar to registrar, and then a smaller number that get filed, and an even smaller number that actually get seen at (Barbara's) end.

So we've got sort of anecdotal numbers of 700, 15, and 2. And part of what I'm wondering is - well two things. Is there a way to firm those numbers up without generating a boatload of work for a lot of people? Or do we even need to? And then the second is back to the education thing. And I wonder if the reason it's so few is because in many cases registrars just don't know what to do. And I don't really have good...

Man: Sorry, were you saying that the number of cases - the small number of cases is due to registrar ignorance, is that it?

Mike O'Connor: No, no. I'm sorry. Registrant ignorance, I mean to say.

Man: Okay, sorry.

Mike O'Connor: Not registrar.

Man: Makes it just more clear.

Mike O'Connor: Those words are so close together for an old guy.

Man: I know, I know. My staff get confused as well, and they're meant to know. Paul . Don't get me started.

Paul : Not at all. Just trying to weigh in here and answer a couple things that had been raised. You know, for Mikey and (Barbara) and everybody throwing out facts and figures. I don't know, honestly I think it would be very, very difficult to get more comprehensive numbers. You know, what James has just shared, let's leave it at the anecdotal level.

But, you know, I think most registrars would consider a lot of that stuff proprietary information. But directionally I think all registrars would agree that what we're discussing right now is directionally accurate, that there's a very large number of disputes, and that as you start (unintelligible) through the

various processes that are available, you wind up with a very, very small number on the end.

Part of which also if you go back and read the TDRP, one of the challenges we have is that when it gets escalated up to the registry level, when they look, if the inappropriate transfer was initiated because the bad guy, let's call the person who took the name, had changed the contact information, and then initiated the transfer request, when the registry looks at it, they see it as, you know, it appears to them as legitimate.

So it gets thrown back to the registrars to try and figure out what went on before the request was initiated. Look, these are all very complicated things. But this - overall this dispute policy, you know, it's good that we're having the discussion, because some of it could get to this question of, you know, the urgent response.

Do we necessarily need new regulations, new rules? Or do we - can we go back to an existing tool that we have, and perhaps tighten it, refine it, and end up with the kind of new tool that we're hoping for, some way to deal with it.

And the question of, if you have an unresponsive registrar, and only - at this point only registrars can initiate, do we need to open it up so that the registrant can have some way of raising a voice and saying look, I was wronged here. Get me back my name. And then there's, you know, a clear path for them to take to get the name returned.

Mike O'Connor: I'll just - this is Mikey. Just thumbs up on that, that's exactly where I'd like us to go.

Michele : Okay. (Barbara) you've - you're from the registry constituency.

(Barbara): Correct.

Michele : Is there anybody else from the registry constituency in on this call?

(Barbara): I think (Eric Brown) is the only other person, and I don't anticipate that he's on the call today.

Michele : Okay that's fine. Is - what does - does the registry constituency have any other - anything further on this that they could share with the rest of us, in terms of - like the volumes of these kind of complaints that they're getting.

(Barbara): I did put clarifications down in the chat area.

Michele : Right.

(Barbara): You know, just to, you know, to clarify. The two that I was referring to are those instances where a registrant has come to us. And I agree that, you know, the overall number of actual transfer disputes that are seen at the registrar level is significantly higher than what we see here at the registry. And I think everybody recognizes that, you know, the process under the TDRP is very long.

If you play out, you know, that all the different time frames between, you know, the time that a, you know, a registrar files the transfer dispute, the other registrar responds, there's a review period. It could go on, it could be appealed. I mean you literally could spend over a hundred days trying to get resolution on an issue if it goes the full spectrum of what's contemplated by the TDRP.

So, you know, the number that we actually see at the registry level is significantly lower, and it's just a fraction of probably a percent of what is actually seen between registrars and resolving transfer disputes.

Michele : Okay, thank you. (Barbara) just for my curiosity, in terms of volume of these disputes that you're seeing brought - being initiated by the registrars, I mean

are you talking about one or two a week, or hundreds a week, or what kind of volume?

(Barbara): We may see one or two a month. Quite honestly we see more court orders than we do transfer disputes.

Michele : Okay. And the court orders would be in relation to what? To the same topic?

(Barbara): It could be relating to the right to use a domain name, or I mean in some cases it could be an inappropriate transfer, where people, you know, opt to go to court, you know, versus using the transfer dispute policy. Or even they're doing a (TDRP).

Michele : Right. Marika .

Marika : Yeah. I just wanted to point out, and it's actually an issues report, and actually a comment made by Go Daddy. So James might have more to add. Because one of the reasons I think that they suggested that procedure might be considered is that apparently some registrants will consider the domain name hijacked go to a UDRP process.

And I presume that's, you know, in that case registrants - registrar has to log onto the domain, and has all kinds of other implications. So that was seen as a reason why this might be pursued. And James I would invite you to write a comment if I mischaracterized your submission from Go Daddy in that respect. But it might be something worth to consider as well for this group.

James : I think I would have to confer with some of the folks internally in domain services, and figure out what the impetus was for that.

Michele : (Kevin).

(Kevin): Yeah I'd like to go back to the one comment about, it may also be useful to comment about things that we should exclude. Because it does seem like to the extent that there's a problem that the registrant would have, as of some ownership dispute, that the emergency provisions, while that may be what they want to have, would not be appropriate to be handled under the ICANN policy.

And if there's a legitimate legal dispute, then it seems to me that ICANN isn't the appropriate place to have that dispute resolved. I think, you know, ICANN implementing a court order is the way to go, and that we should be very clear that we are talking about procedures between the contracting parties, rather than sort of conflicts external to those procedures.

Michele : Marika . Is your hand still up by accident?

Marika : Taking it down, sorry.

Michele : Okay, that's all right. It's okay. Just want to make sure I don't miss people, because then people start complaining at me.

Mike O'Connor: This is Mikey. I'd like to chime in right behind (Kevin). I think (Kevin's) got a - the start of a pretty productive idea there, that we might want to clarify what could - what would be an inappropriate use of such a policy, as well as what's an appropriate one. So I just wanted to give that one a thumbs up.

Michele : Okay. Is somebody just putting in something very, very big into the Adobe?

Woman: Yeah that's me. I just copied the language from the issues report that I was just referring to.

Michele : Okay. In response to the request for the comments or the experiences within, with the inter-registrar transfer, the Go Daddy group knows that if a registered

name holder feels that a third party has legally hijacked his or her domain names for a transfer, they may lodge a UDRP dispute.

This complicates the issue since the registrars involved may be willing to work to correct the situation, but now have their hands tied, etcetera, etcetera, etcetera. Of course once you initiate the UDRP process, then you can't really resolve it otherwise, can you?

Mike O'Connor: This is Mikey. That sounds a lot like (Tim).

Michele : He's not here to defend his good name.

Mike O'Connor: Yeah, well no. You know, I'm not - actually I'm not doing this in a pejorative way at all. It's just that I remembered (Tim) saying something almost exactly like that in one of the earlier PDPs. And so James when you run back, you might just check with (Tim). I'll bet you'll find the source there.

James : Will do.

Michele : (Barbara).

(Barbara): I guess the question I would have is - and I don't know if anybody on the call knows, is whether or not you could actually withdraw a UDRP case after it's been...

Michele : You can. You can, you can suspend it.

(Barbara): Okay.

Michele : You can suspend it, or you can cancel it completely. We've - I know this from (unintelligible) (UDRPs) for (CCDLs). I presume that the UDRP process is the same for GGLD. Because we've had clients who've been doing it both



sides, and they managed to reach arrangements outside of the (unintelligible) process, which is basically - and stalled or canceled it and everything else.

I'm not too sure how long it takes to actually do that as it were. I don't know if anybody else (unintelligible). James have you had much to do with them? With UDRPs.

James : With UDRPs? No.

Mike O'Connor: This is Mikey. I think...

Man: ...suspending the UDRP as well.

Michele : Sorry?

Mike O'Connor: This is Mikey. I think what (Tim) was talking about is that sometimes the UDRP is used as sort of a spanner in the works to jam a process to stop, to give people time to work something out. Again, I'm sort of putting words in his mouth, but.

Paul : This is Paul .

Michele : Go ahead.

Paul : If I can, just to respond. Mikey I think you're misreading the comment there. Rather the UDRP is very, very explicit about what registrars must do once we've received notification that an action has been commenced. And the way I read it, because it's our own experience, it can be a source of frustration.

That because registrants may not be aware of other alternative means, the tool that they know is UDRP. They initiate the process, we get notification, we're required to lock down the name, if the name came into us. If it's gone elsewhere, the other registrar must - that's the source of frustration. Because

once that's in place, until such time as either the panel makes its determination, or the parties to the case terminate the UDRP, we just have to basically go into a holding pattern.

You know, when there are - there could be other channels, whether you work it out mutually between the registrars, use the dispute policy, any other tool that we're discussing, there's a possible new tool as well. All of those things are taken off the table, they're not available any more. Because that - the UDRP process - which is a contractual obligation of registrars by the way - requires us to lock things down.

Mike O'Connor: This is Mikey. Actually I agree 100% with that. I think we're just saying the same thing with a different perspective. But I agree that using the UDRP in this circumstance is probably a really bad idea. It's just that it's the only thing that not so well educated registrants know to use, so they sort of pull the pin on that grenade, in many cases inappropriately.

Michele : I mean just speaking from my own personal experience, I mean we were able to rectify a situation involving a domain, thanks in part to (James') help, we didn't have to go into anything kind of crazy. Just emailing the right people, stuff was sorted out without there being massive UDRPs and court cases, and God knows what else. I think James knows what I'm talking about.

Mike O'Connor: Well Paul and I just had an experience like that too. And I - this is Mikey again. I agree. I think what we're working on here is a pretty narrow case, again back to the what's included and what's excluded list. That doesn't happen very often, and we hope continues not to happen very often. But it's sort of a more productive, useful, accurate approach to resolving those few issues rather than the sort of, you know, the use of inappropriate tools like UDRP.

Paul : Yeah this is Paul . But just to follow on Mikey, I think one of the reasons why we need to address this as a working group now, you know, we have new

GGLDs on the horizon which could represent, you know, scores, hundreds of new extensions, many, many more registration players, registrars, resellers, etcetera.

And if we don't have these rules sort of clearly thought through and well publicized, and I underscore the well publicized part, it may be very difficult, and in not so near - not so distant future to find enough willing and capable white hat parties to work these things out. Better to have the processes clearly laid out, there for everybody to use, and to act upon.

Also when they're a policy, you can also, you know, get back to those registrars that may not be compliant, and in some cases may even be complicit in facilitating illicit transfers and what not, that, you know, you can bring compliance actions against them.

Mike O'Connor: Yeah, absolutely. Mikey here. I agree 100%.

Michele Silence.

Mike O'Connor: Golden.

Michele Disturbing actually.

Mike O'Connor: It's that hum of consensus.

Michele : Hold on a second there, come on. Somebody has to throw a spanner in the works.

Mike O'Connor: Clock is counting down.

Michele : Okay. Anything else on this guys and girls? Just so you're aware, on the eight hours terms guys is not gender specific, in case anybody starts getting offended. Okay. We'll move on then. What was the next item on the agenda.

Sorry, a million windows open here again. Okay, the next meeting I think was the next item on the agenda. We're still working on the every two weeks thing, are we?

Woman: Yes, I think that's so.

Mike O'Connor: This is Mikey. I think though that there's a conflict two weeks from now with a call about the (unintelligible) malicious conduct that's popped up. It's scheduled at the same time as our normal two weeks from now call would be.

Marika No I think it's scheduled - well we would have to finish after an hour. Because I think that one only starts at 1500 UTC if I'm not mistaken.

Man: Yeah, that's correct. The next call would need to be 60 minutes rather than 90.

Michele : Okay. Which was this malicious conduct thing (unintelligible).

Woman: A Webinar on new GGLDs and mitigating malicious conduct that time.

Michele : Okay. I'm just gonna see if I can find it. Sorry, my Inbox is as usual a mess.

Mike O'Connor: I'm not sure that you got it. It's been publicized sort of unevenly. It went out to the council, and didn't make it through the BC list.

Michele : Oh, I got it on the at large list I think. The one on September 29 at 1500 UTC?

Mike O'Connor: Yeah.

Michele : Oh yeah, no I got that. Right, that went into a different folder. Somebody registered the domain mitigate.ie as well, there you go. Sorry. Useless trivia for you. Okay, so do we want to - we just want to keep run with the normal 60

minutes instead of 90 in that case. Or do people want to reschedule? Or what do people want to do?

Mike O'Connor: The 60 minutes is fine with me. This is Mikey.

Man: Michele I think the 60 as well.

Michele : Okay. Anybody have anything else to say about timing? No?

Marika: I have a question for the next meeting. Do you then just want to move on to issue B? Or just have a discussion on all the issues before going back to A and, you know, consider potential solutions or recommendations?

Michele : Well I would - personally from my perspective, okay the comment - the public comment period is open when - do we need to do anything with the constituency template at this juncture? Or can we send it out?

Marika I thought the consensus was to send it out and give constituents 30 days to provide their feedback?

Michele : Anybody have any objections to us sending out the constituency template? Okay, we'll take the silence to mean there aren't any problems with that. So yeah, I mean just move - just plow on I suppose. Is there anything anybody particularly wants to see on the agenda for the next meeting? No? Okay. So can we draw this to a close then?

Man: No, no. Let's drag it all the way out.

Michele : Yeah well that's the thing I'm afraid of, you know? There's probably some masochist somewhere on this phone call who actually enjoys dragging these things out. Would anybody like to...

Man: I'm sorry, I was on mute. What was that?

Michele :           Okay never mind, never mind. Okay for those of you in American time zones, maybe you need to drink more coffee. For those of us in European time zones, we definitely need more coffee. But for totally different reasons. Speak to some of you this evening, and speak to the rest of you in two weeks then.

Woman:             Alrighty.

Woman:             Fine.

Man:                Great, thank you.

Man:                Thanks Michele .

Michele :           All right, thanks Marika and (unintelligible).

END