

**Registration Abuse Policies Working Group  
TRANSCRIPTION  
Monday 30 November at 15:00 UTC**

**Note:** The following is the output of transcribing from an audio recording of the Registration Abuse Policies Working Group meeting on Monday 30 November 2009, at 15:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but **should not be treated as an authoritative record. The audio is also available at:**

<http://audio.icann.org/gnso/gnso-rap-20091130.mp3>

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**Present for the teleconference:**

Greg Aaron - Registry stakeholder group - Working Group Chair

James Bladel - Godaddy Registrar stakeholder group

Berry Cobb – CBUC

Mike O'Connor – CBUC

Rod Rasmussen – individual

Faisal Shah – IPC

**ICANN Staff**

Margie Milam

Marika Konings

Apologies:

Glen de Saint Gery

Coordinator: The recordings have been started.

Greg Aaron: Thank you. This is Greg Aaron, and this is the registration abuse policy working group meeting for November 30. And Marika if you would be so kind and to do the roll call?

Marika Konings: Yes, thank you. On the call today we have Barry Cobb, Mikey O'Connor, Greg Aaron, Faisal Shah, Rod Rasmussen, James Bladel, and for staff we have Margie Milam and myself Marika Konings.

Greg Aaron: Okay and looks like everybody's in Adobe except for Rod where it's early on the West Coast. So we're going to...

Rod Rasmussen: I should be on there shortly (unintelligible) Greg. Just...

Greg Aaron: Okay thanks. We're going to go through the proposed abuse topics and try to knock off as many as possible today and then we'll circle back to ongoing work. The first one on the agenda is traffic diversion. And what we had on our sheet was traffic diversion, which is the use of brands, invisible text, hidden text, meta tags and title to manipulate search engine rankings and divert traffic.

So that's the name of someone else's brand perhaps and meta tags on a Web site or in hidden text in Websites or in emails, et cetera. Does this even have anything to do with domain names (unintelligible) then. James?

James Bladel: Mikey beat me to the punch by a couple minutes, so I'll divert.

Greg Aaron: Oh okay. Go ahead Mikey.

Mikey O'Connor: I was just going to be the one to say this, A, doesn't have a whole lot to do necessarily with domain names, and B, doesn't have much to do with registration. It's more of a use type abuse. So I would be lobbying dropping this one.

Greg Aaron: James?

James Bladel: Yes, very much the same comment -- that while these may be terrible issues, that certainly no one can support these types of behaviors. They are beyond the scope of what we're trying to look at, which is registration (unintelligible). They get very, very close to content and design issues for my taste.

Greg Aaron: Yes. I would agree personally. And it seems more like an intellectual property dispute between two parties and it wouldn't even be covered under UDRP if the brand name was not in the domain name itself being used. So unless anyone has any objection I think we could strike this one.

Rod Rasmussen: Greg I can't get on the Adobe here. I was just going to say that the one place this would cross over is when somebody registers a domain name, and that would make it a cybersquatting issue anyway. So this would be I think a subset of one of the use - one of the types of things you can do as a cybersquatter, but I don't know that it's (unintelligible), I'm pretty sure that's why it was in here, from my recollection. But I - from that perspective I think it's already covered from some of the other work we're doing.

Greg Aaron: Right. Okay. All right well we basically strike that one then sounds like. The next one is offensive site -- a Web site containing adult and/or pornographic content using trademark within the domain. And Mikey is first.

Mikey O'Connor: I just love these. I feel the same way about this one that I did about the last one. And I liked James' addition of the appropriate disclaimer that, you know, perhaps we don't approve of it, but it doesn't have anything to do with our (unintelligible), so I would lobby to drop this one too.

Greg Aaron: Okay. And James?

James Bladel: The same statement as before, but I did want to possibly point out that if the distinctive mark is contained within the string of the domain name -- and we're talking about in the second level so it's not a host or a part of the directory structure -- then that possibly is a fair target for things like UDRP and anti-cybersquatting mechanisms.

Greg Aaron: By the way I see...

James Bladel: Whether it - and sorry Greg. Whether that points to offensive material or whether it points to a blank page I think, you know, all of those apply.

Greg Aaron: By the way I - in Adobe Connect I see two Faisal Shahs. Faisal are you logged in twice?

Faisal Shah: I think I might be. I guess I (unintelligible) and I couldn't get back on so I logged in again.

Greg Aaron: Oh okay. All right, you have your hand raised. Why don't you go ahead.

Faisal Shah: I guess I was going to say the same thing that James said. I guess if you registered the name and it's got a pornographic term next to the actual domain name along with the domain name, that could be a potential problem. It's kind of along with what James was saying

Greg Aaron: Okay. And my personal note is this is a content issue, so I think that's out of our scope. So are we agreed we can move on from this one?

Faisal Shah: Well I don't know if we couldn't - I guess my concern is that if there is - and I guess I would want to discuss it. If you guys don't think it's a problem and it's not a problem, but if there is a pornographic term along with the domain name at the time of registration, is that registration abuse.

Greg Aaron: Or is it cybersquatting. Mikey?

Mikey O'Connor: Well yes, you - this is Mikey. I'd call that cybersquatting. I am very uncomfortable with offensive content -- which is what this is talking about -- as part of our scope. I think it's wildly out of scope. If there is something in a domain name and the activity happens at registration time I'm happy to consider that, but I don't think that this describes that situation.

Faisal Shah: But isn't that what's happening? So if you have -- excuse the expletive -- but if it says fuck Microsoft, isn't that a problem?

Greg Aaron: Well what's really the issue -- the brand name is in the domain name and the brand name is being misappropriated?

Faisal Shah: Yes I'm just throwing it out. I mean I'm just saying that you're actually taking the - you're actually (unintelligible) pornographic name at the time and you are bringing that along side a - let's say a distinctive name like Yahoo!, Microsoft whoever, at the time of registration.

I guess it does have some - I guess to some extent it has an overlap on cybersquatting, but my - I guess my question is, is it - this different or are we looking at it the same way, because there is content that would come in later on as well, which I think that may not apply. But at the time of registration you have an expletive along with a name of a company, you know, which is wrong.

Greg Aaron: Okay. I forget exactly who raised their hand in what order, so I'm going to go with Rod first and then James and then Mikey.

Rod Rasmussen: Just wanted to check because I'm having problems pulling up stuff here. Did - is there an abuse topic that talks about pornography and child pornography without the use of a domain name in this area that we have to explore?

Greg Aaron: I think this is it.

Rod Rasmussen: That without - I mean I'm sorry without the use of a brand name. The only reason I bring that up is that you have - do have some serial offenders that, you know, set up things with, you know, fast flux networks, all that kind of good stuff. It's other abusive use stuff that kind of falls into the same category of other things we've already discussed where you have or, you know,

somebody who's continuing registering domain name in order to put up their whatever it is, you know, name your poison.

And then, you know, you have people complaining about it and it gets taken down maybe or maybe not. So that kind of fits under this whole category of things that are generally used but you - with serial offenders you may set a pattern just things like that where you can detect at registration time. So just wanted to point that out.

And just - there's a whole host of use issues that can be seen at registration time. So that might be - we might want to have that - we had that discussion last week; we might want to lump other stuff into that category as well as long as were categorizing abuse types.

Greg Aaron: Okay. I guess James is next.

James Bladel: Did you say James?

Greg Aaron: Yes.

James Bladel: Oh okay. Thanks Greg. Just going back to some of Faisal's comments a moment ago, and I'm thinking about how we have to be very careful when we start to feel like we're maybe at the intersection of brand protection versus free speech. And I think that there's some, you know, it's - here there be dragging kind of dangerous territory we start to wander into.

For example I think you know, without getting too specific, there's an organization that, you know, it's - to its supporters it is a church and to its detractors, and I think some jurisdictions in Europe it is a cult. And one of the ways that they very actively squelch discussion on the internet is by exercising their copyright and intellectual property rights over name, its materials, and its doctrines and things like that.

So I think that there's, you know, there's a lot of areas where were it just gets a little dangerous when we say the - and I think that's the next topic on our list here Greg is the gripe site. And I think we see a lot of overlap between that and the use of a brand name in a offensive or critical site.

And once again I think I go back to, you know, I think the holder of that mark should file a UDRP and, you know, foresee respondent to demonstrate that they have failed all of those tests that are laid out in that policy.

Greg Aaron: Okay thank you. Mikey?

Mikey O'Connor: I think James and I are singing off the same hymnal today. I'm very concerned about freedom of speech issue here. And we don't really have anybody on the call to advocate that position well, so I'll try to - I like Rod's idea of perhaps lumping some form of this into the serial offenders category that we talked about last time. But I would be very uncomfortable getting into the policing of those kinds of sites, especially gripe sites, through domain name policy.

Greg Aaron: Yes. Okay before we go back to Faisal, I'm going to weigh in with my personal view that this is a cybersquatting issue. This is basically a use of a trademark within a domain that seems to me to be a dispute between the registrant and the trademark owner. And UDRP has always been used to arbitrate these kinds of disputes.

I also think that folks are very correct to say that there are a lot of speech and individual cases that require a close look, and that's what the UDRP does or is for, and to delve into the issues of the case of each individual case itself. So that's my view. Back to you Faisal? Faisal? If you're speaking you're on mute.

Faisal Shah: ...(about that). I can understand to some extent gripe sites and what not as the next thing we're talking about, but I think to some extent I think there is a,

you know, there is -- and I think Rod pointed it - point to it, you know, child pornography.

But, you know, when it comes to actual pornography and certain uses of words along with names and brand distinctive names, you know, good famous names that then - are then tarnished at registration by names -- even what I would consider to be offensive names -- then I think there is a registration abuse at that point.

And it's a little - I think to some extent I think a little different than a gripe site just complaining about something, you know, some (unintelligible) name or what not. But there has to be a distinction between, you know, one that is targeted towards, you know, to some extent child porn or whatever else and the name and a gripe site.

Greg Aaron: Well we're not talking about child porn here, are we? I mean we could talk about it, but child porn is one of those few things that's actually patently illegal and reviled around the world. This is adult -- or pornographic content perhaps -- which is not illegal at least in most places. So why isn't this cybersquatting? This is misuse of a trademark at registration and why shouldn't it be solved through a trademark-oriented process?

Faisal Shah: Well I think to some extent I think there is an intersection with the cybersquatting, but I think this may take on this - in this regard something which has an offensive name I think to me takes on a different role. And I guess that's why - this is how (unintelligible) at the time of registration it's an offensive name, it's an expletive, it's designed for one purpose, and to some extent there could be all kinds of different types of porn on it, or maybe we're not tackling child porn at this time, but I don't know.

I mean to me it just seems like there - that this is - this puts - this falls in a different category that needs to be addressed. And - but I can also see intersection with cybersquatting, but I think it may be a little different.



Greg Aaron: James and then Mikey.

James Bladel: Yes I think...

Greg Aaron: Or Mikey...

James Bladel: Oh go ahead.

Greg Aaron: I think - I'm sorry I think Mikey had his hand raised first. I was - I'm sorry I stepped on you there James.

James Bladel: Go for it Mikey.

Mikey O'Connor: No worries. This is Mikey. I think that the - there are several issues. One is porn and offensive speech is a very difficult topic to legislate, even outside of the domain name space. There are different standards in different parts of the world, there are all kinds of very murky legal questions there, whereas the cybersquatting side of that name -- presumably the name would have two components.

It would have the offensive word with murky law around it at best, and it would have the brand around which there's much clearer law.

And so from just a simple standpoint of addressing the problem, I'm with Greg and the others on this. I think that UDRP and cybersquatting is - there's a much more robust way to fix this problem rather than trying to view policy around offensive, which I think again the ghost of (Wendy Seltzer) speaks in my ear. I think that would be very difficult to do and I'd be really uncomfortable trying to do it.

Greg Aaron: James?

James Bladel: Yes, I just wanted to point out the - that when we're discussing overlap between this issue and cybersquatting I think that it is almost a total overlap. If you consider that hosting any type of adult content is done for profit or for other type of gain or even to disparage their reputation of a particular brand-holder, I think that still falls under the bad faith use of (mark) that doesn't - that one does not have rights to use.

And I think that, you know, if you look at that definition of cybersquatting and in the most general terms, it does pick up this incident - this type of incident.

Greg Aaron: I was going to say I think this is one of the reasons why the bad faith language in the UDRP is very useful and is often applied, because people who are registering these kinds of names are doing it specifically in bad faith. I'm not aware of a lot of people getting away with this kind of stuff either once they are challenged under UDRP either.

So where are we? Do we really need to try further effort to break this out and make it special or - in some way, or is it a cybersquatting issue? What's our level of consensus here? Faisal do you want to - I mean do you feel that it needs to be called out and requires special treatment somehow?

Faisal Shah: I think we could probably - I just, you know, I'm just a little - there's something about it that really strikes me as being an issue especially when you take an expletive and you put it right in front of a distinctive name.

And - that I think it's a - it just strikes me as not being the, you know, apart from being a grudge site - a gripe, whether it should be separated or not, I think - well I don't know I'll leave it up to the group. (Unintelligible) within the cybersquatting and we could try to address it there.

But I don't know. I mean I don't - I mean I would like to hear from some other - maybe from some brand guys that could tell me that they see that as not

being a problem and maybe we could push this off 'til next week or something 'til I can get some of these other guys on the call to talk about it.

Greg Aaron: James I see your hand up.

James Bladel: Hi. Sorry I was a little slow on the mute button. And just a question for Faisal. And I - just to be clear, it's not that I don't think this is a problem. It's just that I think that, you know, the intersection with cybersquatting issue is almost complete.

And my question would be do you - can you envision any adjustment or tuning of the cybersquatting definition so that it picks up this type of occurrence?

Faisal Shah: Yes, you know, it might be that, you know, we talked about this, you know, emails this week. And maybe the - but - I think it might be that when you - if you change a definition of UDRP, again we're going back, you know, to what we talked about where it's not actually being used, but it's actually - picks it up with a distinctive name and has that attached to it.

It might actually pick it up in UDRP. Does that make sense? Where it's not actually being used but if we can register it that way, which we flip back again as we, you know, as we discussed in the email, back to that ACPA definition, which we keep going back and forth on, it might very well pick up something like this.

Greg Aaron: Well one of the things that people have noted about the UDRP is that the language requires use of the domain name.

Faisal Shah: So...

Greg Aaron: However for many years, the panels have been coming out with decisions regarding domain names that have never been used. Basically use was kind

of a - I mean in the case log, use has kind of fallen by the way side. It's not really required. I think that's one of the questions that needs to come up in relation to UDRP.

We've been talking about making a recommendation that UDRP, you know, it's time to have a review of it. And I think that's one of the things that needs to be mentioned in our report -- use is in the language but it's honored only in the breach sometimes.

Faisal Shah: Well the ACPA doesn't - it doesn't include the use (unintelligible), it's just - it's - I mean that's where - I think that's what - when Mike Rodenbaugh originally had tried to combine both (unintelligible) and UDRP, I think that's what he was getting at. And, you know, when we talked a little bit about some of the stuff that, you know, James and I have talked about, you know, in our group here, I think one of the problems with UDRP is you have to have the registration and you have to have the use. They both have to occur. On the ACPA you only have to have the registration.

So I think that to some extent that's where - you know, it's like you're saying Greg, you know, it - maybe they just come up with that outside of the actual policies, but that should probably come back in and maybe we'll pick up something like this.

Greg Aaron: Well I'm reluctant to go back and look at the ACPA stuff again because we said we wouldn't. But...

((Crosstalk))

Faisal Shah: Greg I'm not actually advocating looking at it. In fact, we are - I mean I think it's something that you would actually put in your - in the - in any report that we do in connection with a PDP. And that's what we would put it, but we wouldn't change the definition at this time but I think it would be crazy to kind of try to go back again and revisit it.

I'm just pointing out that I could see where that was an issue, and that's an issue that we've discussed before. And you see I has come again. And maybe the way to deal with this is in the PDP, right, where you actually put it all in there and say, you know, in - or the (entry) report, "Here are the issues, here's what we think, and here are some of the (unintelligible) that have come up and let's figure it out of the PDP."

Greg Aaron: Yes, I would definitely mention this use issue as something that's, you know, one of the reasons why it's time to look at UDRP again, because it's - like I said, honored in the breach. So I mean I would definitely be in favor of that. That sound okay to everybody? I'm not hearing any demurrals. Mikey?

Mikey O'Connor: I'm fine with the use issue. I'm not comfortable with legislating what constitutes offensive. So if we're still on the offensive side of things, I'm not comfortable putting that in the report. I'm fine with the use registration kinds of stuff, but not at all with - I can't...

((Crosstalk))

Mikey O'Connor: ...into the job of determining what is offensive.

Greg Aaron: I would - I personally agree. Listen, it - we basically have four folks I think who have come down as saying this is a cybersquatting issue. Faisal you want to - I mean where are you right now? Do you want to bring the use issue in and make sure that's in the report, or is there something about this that you still feel needs further examination?

Faisal Shah: Well I mean I think - I mean I didn't - to bring the use report up in the, you know, the use of the issue up in the report. But I guess I just wanted to reexamine it to some extent and then we'd have to bring it up in the use report if we - if it turns that way.

But I mean you got me and - you just got me on this call right now, and I don't have - I mean I'd like to hear from somebody who's doing - who's dealing with these particular issues and especially somebody from a company that's - that has to, you know, deal with this. I might even (unintelligible) from, you know, from Microsoft and ask him, you know, what his thoughts are so I can actually better prepare for (unintelligible). But I don't know, it's up to you guys.

Greg Aaron: Well it's not up to us, its up to all of us. I mean at this point feel free to bring in some other opinion, but I think the question in front of us is you have to tell us why this isn't a straight cybersquatting issue, okay? That's what I think - I mean that's personally what I want to hear.

Faisal Shah: Yes. That's fine. (That's fine).

Greg Aaron: Okay. If you want to bring something in next week, please do so.

Faisal Shah: Okay.

Greg Aaron: Let's move on to gripe site. Now let me scroll down here. We kind of - we - group these together. The gripe site was deleted for some reason but it said complaint/form site with trademark in the domain name and the classic example was something or other sucks dot what com. Whatever. Why isn't this a cybersquatting issue, or is it? Mikey?

Mikey O'Connor: I think there's case law that addresses gripe sites and says that that's an appropriate form of speech and that in those case that - you know, you lawyer types are going to be a lot better at answering this than I am. But, you know, there's - I think there's lots and lots of case law that supports the right to speak out against a brand -- trying to squelch that speech through ICANN, which I don't think is an appropriate role for us.

Greg Aaron: James?

James Bladel: Yes thanks Greg. This is James. And I think this is an interesting topic, because I believe that it touches on the free speech use but also opens up something interesting. And I'm not a lawyer, so I would defer to the attorneys on the group, but it also opens up the interesting discussion of whether or not anything that's published on a gripe site, if it's known to be untrue could become - could constitute libel.

And if not, does that mean that a printed newspaper is held to a different standard than its online channel which may, you know, host similar or dissimilar content and having different standards for those different media.

So - but having said that, putting all this under an umbrella and saying that this is probably a - an area that ICANN shouldn't be treading into, this is very much centered on use and intent and content and all of the things that I think make me very nervous when we start talking about ICANN policy.

Greg Aaron: I raised my own hand. This is Greg. So I'll basically second everything you say. In the gripe sites I've read about over the years, yes as Mikey said there's kind of some case law that that's a speech issue. I feel nervous about getting into speech issues and legislating those at ICANN. It's a usage issue I think. And also when somebody really does have a dispute about one of those, sometimes it's about well is it really being used for a gripe site or not.

You know, are you actually using it for speech or are you just ripping on somebody's trademark? I think those have to be looked at on an individual basis, and that is what the court system and/or UDRP is for -- looking at those individual cases when needed. Barry?

Barry Cobb: Thanks Greg. This is Barry. I just wanted to ask real quick - so in regards to this abuse type, are - what we're labeling it as, I mean is there cases in UDRP for both where some have actually - were able to reclaim the domain name and others where they didn't put a case through to recover the name as well, or has this all strictly been in actual true legal court?

Greg Aaron: Well there have been UDRP cases about those kinds of sites. I don't know offhand how they've fallen out on which sides.

Barry Cobb: Okay thank you.

Greg Aaron: So is anybody interested in pursuing this one or should - it is a cybersquatting issue?

Rod Rasmussen: Greg I was going to point there's actually a pretty notorious case recently in this area where the actual domain name -- and this - what I just read about wasn't a brand, it was talking about Glen Beck, who I guess could be considered a brand -- but it was a very - it was a free speech issue. But the way the domain name was registered made it very interesting in that they said in the registration of the domain name it has Glen Beck and then did something really evil or, you know, I don't remember exactly what it was. So it made it a very interesting case.

And the person who actually registered was able to retain the rights. But it brings up the idea of I can say something in the 63 characters of the domain name and like a Tweet that would be, you know, extremely, you know, you could be very pejorative within that very quickly and get into the libel issue and then the venue if it - like the UK could be very important.

I just bring that up as - for full coverage. I'm still kind of in the - it's more in the cybersquatting arena, but I just bring that up for kind of the - where this might go as far as what somebody might have in mind here.

Greg Aaron: No, and in my book libel is not something for ICANN to make decisions about. It's a court thing. James?



James Bladel: Yes, Greg you're absolutely right, especially ICANN is probably not going to do a very good job in accounting for regional and jurisdictional differences between that definition.

But I just wanted to point out to Rod, that was a really interesting case because in that particular instance I believe that the person was claiming that it was a satire site, which I think has some bearing on whether or not or something fits the definition of libel. This is my layman's take on that particular case. So - but yes I agree it was a very interesting example.

Rod Rasmussen: Yes that was my take too.

James Bladel: Yes.

Greg Aaron: Yes.

Rod Rasmussen: Yes.

Greg Aaron: Okay so where do we stand on this one? Is it - I'd like everyone to voice their opinion? Is it really a kind of a cybersquatting issue and/or something that ICANN can stay out of, or do we need further examination? Mikey?

Mikey O'Connor: I'm in the cybersquatting camp.

Greg Aaron: Okay. Barry?

Barry Cobb: Likewise, cybersquat.

Greg Aaron: Faisal?

Faisal Shah: You're talking about - we were on gripe sites still right?

Greg Aaron: Gripes, yes.

Faisal Shah: Yes. I think to some extent I would say gripe site. If it's not - I mean again I'm going (ahead into) pornographic issue but just a pure gripe site, complaining about a particular company or what not, I think it's probably free speech and you can pull it under cybersquatting.

Greg Aaron: Okay thank you. James?

James Bladel: Cybersquatting if anywhere.

Greg Aaron: Okay. And I say the same, cybersquatting if anywhere. So it sounds like we can move on from that one.

Okay and next one is fake renewal notices. Let me find that one. Fake renewal notices. And the definition that we had from a while back was correspondent sent to registrant from fake registrar in order to claim renewal fees. How - first of all how many of us have actually received one of those in the mail or via email? I know I have.

Mikey O'Connor: Yes me too. Mikey here.

Rod Rasmussen: I have dozens every week.

Greg Aaron: James says yes. The ones I've already - I've always gotten were - from what appeared to be a reseller or what was probably a reseller. It wasn't a registrar I had ever heard of. Have you seen anything different or was it from a totally fake company that had nothing to do with registrations?

Mikey O'Connor: This is Mikey. I get them from all sorts of places, but I've never, like you said Greg, I've never gotten one from a registrar that I had ever heard of before. It may be that they were a registrar, but never anything that I'd heard of.

James Bladel: Greg this is James.

Greg Aaron: Yes.

James Bladel: Yes, I think the best you could hope for in that situation is that if the reseller or a registrar that's only going to, you know, gouge you on the registration prices. I mean I think that it's also very likely that they're not related to a registrar or a reseller at all and they're just looking for, you know, for someone to cough up the off-ID so that they can transfer your name to some offshore registrar you don't ever see again.

Greg Aaron: Yes. Maybe we should break it down. Let me attempt to do so. It wouldn't be unusual for a company to try to get another company's customers, right? You know, all kinds of companies do that. You know, you get mail from one phone company who wants to, you know, you to go to their service from your current one for example.

I'm assuming there's no problem with those. If a registrar wants to solicit your business and they're doing so in a legitimate fashion, you know, using some sort of a mailing list or what have you, I mean I don't see any issue with that. I think the issue here is the fraudulent nature of these solicitations.

There have been some cases internationally like in Australia and New Zealand a couple years ago there was a big case where the - actually the - one of those governments got involved to shut down a registrar that was - or I'm sorry a reseller of some company that was trying to, you know, basically steal customers and misrepresenting themselves. So I've seen that happen.

Rod Rasmussen: Greg? The...

Greg Aaron: Yes.

Rod Rasmussen: ...case law in the US or the case law - major one in the US would be domain registry of America. The FTC actually had an injunction against them. This the - based on actions from registrar.com, if I remember at the time.

They continued to send out very dubious renewal notices, but they have complied with the letter of the actual injunction the FTC got against them, so they're - I would call them deceptive myself personally, but I guess the courts haven't (unintelligible) on whether or not or that would be (still) deceptive legally or not. That's the big one still in the US -- them and their various affiliates. So I think that might be one of the main drivers of this. And those...

Greg Aaron: Yes, the - now Domain Registry of America was a reseller of another registrar? Is that correct?

Rod Rasmussen: I believe they were originally, but I also believe they became accredited at one time. But I don't know that for a fact.

Greg Aaron: Okay. So in this case, it's an issue of a registrar or a reseller sending out renewal notices. Maybe it's not clear to the recipients that this involves a transfer of sponsorship.

Rod Rasmussen: Correct.

Greg Aaron: What's the issue for ICANN?

Rod Rasmussen: It seems to be a transfer policy issue to me, not a registration policy.

Greg Aaron: Well a transfer issue is covered perhaps under our registration definition -- registration being those things that registrars and registries aren't involved in in those basic transactions. You know, like we have some PDPs right now in transfers about how they, you know, if registrars want to dispute them, for example, that's been an issue. So a transfer issue could possibly be within scope. James?

James Bladel: Yes, hi. This is James. And I think that this is one of those things that's hard to categorize. I agree with you Greg that it's a transfer issue. If the sender of these fake renewal notices is in fact a registrar or a reseller then it can become a transfer issue or a means of disputing a transfer. If not, then it becomes somewhat of a domain hijacking type of an issue.

And I also see the potential for a WHOIS abuse issue. I hate to take us down that rabbit hole, but clearly they received the contact information from the registrants through questionable means. You know, if I have a name with GoDaddy and GoDaddy says, "I don't sell," you know, "information about my customers," and yet somebody got it somehow, then I think that that's another area that this potentially touches on.

Greg Aaron: Yes. Now what you're saying is basically somebody mined the WHOIS data, right?

James Bladel: I think that's - my strong suspicion that that's the origin of a lot of these fake renewal notices.

Greg Aaron: Yes. Now registrars - in the current contract there's a prohibition against registrars using WHOIS data in that fashion, I think, for marketing purposes. I'd have to go look.

James Bladel: Yes I'd have to take a look.

Greg Aaron: I think that's probably true under the old and the new. I'm going to find it here while - would anyone else like to weigh in?

Mikey O'Connor: This is Mikey. I think that one of the questions that I hear you trying to get at Greg is to what extent ICANN even has jurisdiction. If these folks aren't bound by any of our contracts -- they're not registrars, they're not registries --

they're essentially fraudulent actors out there in the world. I'm not - much as I would like to swat this behavior, I'm not sure that we've got any jurisdiction.

Greg Aaron: If it's a reseller, is the reseller bound to the same terms and conditions that its parent registrar is?

Mikey O'Connor: I believe - that is Mike...

James Bladel: Was that a question or a statement?

Greg Aaron: That's a question.

James Bladel: Okay, because it certainly is.

Mikey O'Connor: Yes, I was going to say the same.

Greg Aaron: And so contractually I believe they are. And there's also been some discussion of this recently because various parties have weighed in and said, "Look resellers need to be held to the same requirements." I think there's total consensus on that. I'm just wondering is it totally clear in the contracts and so forth.

Mikey O'Connor: My - I guess my question is, are most of these fraudulent letters coming from resellers or are they coming from somebody who's not a reseller. That's where I was headed. To the extent that these letters are coming from registrars or resellers then I think we do have jurisdiction.

And I would feel quite comfortable including a discussion of this in the PDP because registrants, especially unsophisticated registrants, are being defrauded by this behavior. And to the extent that ICANN can help mitigate that, I think it'd be a great (thing).

Greg Aaron: Okay. Yes, Mikey you bring up the jurisdictional issue. If it's a reseller doing it, then I would hope that resellers bound to the terms and conditions that its parent registrar is. The question then becomes what happens. So what? If it's not a registrar or reseller and it's just a fraud or a scam of some sort, then what's ICANN's role.

Rod Rasmussen: So this is Rod. I think that I - there's two parts on that fraudulent side. One is the fraud sponsor is trying to get your credit card or what have you. I don't think ICANN has any role in that, because a fraudster can try and get your credit card in about a million ways. It just happens to be using a domain name in this particular case.

In the case of a hijacking, I think there's a role in the remediation of a hijacking type event. I don't know that, you know, a - the rouse that is used to do a hijacking really matters as much as just the fact that the domain was hijacked at all. And I don't know that - whether that comes really under the scope of this group.

Greg Aaron: Yes. And does a hijacking involve - I mean we're talking about changing the WHOIS data or just the transfer between registrars?

Rod Rasmussen: One (unintelligible).

Greg Aaron: I - yes I ask because if there's a dispute about a transfer, there is a transfer dispute policy or a registrar can raise the red flag and the problem can be worked out. There's an existing process for that.

Mikey O'Connor: This is Mikey. We're also working on that in the post-expiration domain name recovery working group for pure hijackings staying within a registrar. But I think that in answer to your earlier question Greg, what happens if the registrar - if this is being done by a registrar or a reseller, then I think ICANN does have a role. They can do enforcement actions, but there may be rules

by which enforcements can be brought right now. And if that's the case then I think this is a (unintelligible).

Greg Aaron: Marika?

Marika Konings: Yes this is Marika. Just to correct what Mikey said, he said post-expiration domain name recovery working group, but I think he meant to say the IRTF working group. They have as one of their issues to look at whether a process for margin of return of hijacking domain names should be developed.

Greg Aaron: Okay. Thank you. So it sounds like we've boiled it down to if a registrar or reseller is involved in this kind of misleading activity, well what's the recourse or what should ICANN do? That's the - maybe that's the way to phrase it. Does that sound logical? James?

James Bladel: Yes, I think I'm just going to go ahead and play devil's advocate here for a little bit. I think what we would need to understand - if it's truly coming from a revenue growth or a reseller, we need to define what the perception is. You know, is it the deception that they are purporting to be your current revenue growth and giving you a renewal notice versus, you know, offering you some sort of a special deal or promotion to transfer?

You know, I mean if I were to take Mikey out to lunch and say, "Hey Mikey, you know, GoDaddy would give you this really great coupon if you move your names to our services." I don't - I want to make sure that just genuine outreach or attempts to be competitive on price and service are not caught up by anything we would try to do here.

And so I think to avoid that we would need to define what is the deceptive action here. Is it purporting to be the current registrar, is it purporting to be a registrar when they're not or, you know, what's - what lie are they telling?



Greg Aaron: I think you've hit on something important. Again, the problem here is fake, deception, or fraud not legitimate competition or so on. Mikey?

Mikey O'Connor: Yes, actually I got so wrapped up in this part of the conversation I forgot what I was going to say so I'm going to drop off. I agree with James that, you know, we certainly don't want to accidentally derail normal competition. And as you start to define fake, then you start to get into all that difficulty that you run into whenever you - it's almost the same kind of difficulty that you run into speech area. And so it does - the devil's in the details on this one, that's for sure.

Greg Aaron: Okay well what's the best way to proceed on this one? There's this issue of basically is it - or - is a registrar or reseller doing something that is deceptive or fraudulent and do those situations lead to - I mean what - I guess what's the harm? If there's a transfer dispute it can be disputed. There's a process for that. But I mean in general it's not something we like to see in the industry. James?

James Bladel: Yes, if I can maybe skip ahead to crafting some recommendation or disposition on this particular issue, would be that really this is - this one umbrella -- fake renewal notices -- touches on several things. If it is a registrar or a reseller of an accredited registrar, then, you know, we get - then it becomes somewhat of a transfer issue. It becomes somewhat of a WHOIS use issue, and it possibly could even translate into some beefier language under that section that we quoted in the RAA.

If it's not a registrar or reseller and it's simply an attempt to hijack, then I think that we need to categorize it as, you know, some sort of a hijacking attempt and then again it probably falls under IRTP as opposed to registration abuse. And again I think that last point there about trying to define and put some boundaries around what the deception is when these things are going out, I think it's also important.

So I think - bottom line for me anyway is that this is probably not something that can be addressed by registration abuse policies but definitely should be referenced or referred to other working groups that are working on this area,. So that's IRTP -- that's the, you know, any of the future who is or who is misuse groups -- and I think Mikey also touched on (PE, CNR) as well. That might be a possibility depending upon when these renewal notices are actually received. So I mean just cutting to the chase, that's kind of my feeling in the abstract.

Mikey O'Connor: This is Mikey and a question for Margie. And that is from the kind of enforcement side of ICANN, does ICANN feel like they need more tools in this area, or is the sense that the toolset that exists today is sufficient to draft this kind of stuff?

Margie Milam: Sure. In our RAA working group we have made some recommendations for additional enforcement tools, but I don't know that they're specific to this particular issue. It's brought, you know, broader violations of the RAA and I'm not sure that there's a very specific requirement relate to the issue that we're talking about.

Mikey O'Connor: It seems like that that would maybe be another -- this is Mikey again sorry -- another of the catalog of recommended destinations for this issue that maybe the RAA working group take a look at this.

Greg Aaron: I'm wondering if Mikey and James would be able to craft a paragraph just kind of explaining what the issue is. We kind of narrowed it down to this is an issue of registrars or resellers doing something which might be fraudulent or deceptive and maybe making a recommendation to us about how to refer that to another conversation such as, you know, the RAA discussions. Would you like to take a shot at it? Doesn't have to be long.

James Bladel: Sure.

Mikey O'Connor: Yes I'm happy to do that.

Greg Aaron: Okay. Okay thank you. I'll put that down as an action item. Would you like to move on?

Man: Go ahead.

Greg Aaron: Why don't we move on. WHOIS topics - we've actually got one discussion going on now, which is the WHOIS accessibility issue I raised a couple weeks ago. And Rod and Mikey have definitely volunteered to help. And what we're thinking about doing is we're going to go visit a, you know, 50 representatives registrars or so and see if they're currently offering access to their WHOIS for example. So we started drawing up a list and that's about as far as we've gotten.

Rod Rasmussen: I'm just going to chime in at - where my - I have my detection team or my team that does mitigation work is also cataloging every time we have a registrar that is not publishing WHOIS so that we can, you know, find out who owns the domain so we can contact them to let them know they've been hacked or something like that. So keeping track of that as we've - starting a couple weeks ago.

Greg Aaron: James?

James Bladel: Yes I'm sorry to interrupt Greg. I was actually reading the RAA when I caught the - a little bit of a snippet of what you guys were saying there. Are you saying that you're going out and checking to - or auditing to see if registrars are offering WHOIS on their Web site and via Port 43, because that seems duplicative to some appliance efforts that are currently under way. And maybe you could just...

Greg Aaron: Well...

James Bladel: ...piggy back on what they're doing.

Greg Aaron: Maybe, although I'd like to do some independent verification independent of what the compliance staff might be doing, just to get an idea of what's up. We do have the option of - I, you know, I can go to (David Geisen) and say, "What do you guys have going on."

Mikey O'Connor: This is Mikey. I think it'd be a good idea just to find out. You know, there are enough windmills to tilt (unintelligible) in the world without adding extra ones if compliance is actually working on this.

Greg Aaron: Yes I can do that. I'll put that as an action item. Okay I've got that down. Okay. Think that's the only WHOIS thing we have going on, so that'll continue. Next topic is use of stolen or fraudulent credentials. And let's see if we have anything on our sheet. But I do recall that Rod has been interested in this topic.

((Crosstalk))

Greg Aaron: Yes, why don't you go ahead Rod, because I don't think we have anything on the sheet.

Margie Milam: All right, can you come - sort of back (unintelligible) in a couple minutes? I'm in an inconvenient place to do that right now.

((Crosstalk))

Greg Aaron: Okay. All right we'll come back to that. Let's see domain tasting is on the list still, and that's of course use of the add grace period to test the marketability of a domain. Now since we've put this on the list, we've seen the results of the new excess delete policy come into effect. And there are some numbers published by the staff that show that the tasting has been virtually eliminated. James?

James Bladel: Yes, much the same. Just wanted to echo what you were saying or about to say there Greg, is that this is one of the those few areas where I think ICANN can point to and say that they've achieved an unequivocal victory over a problem. And I think that while it should be continued to be monitored in case they find some new way around the existing excess deletions policy, we can call this (dragon dead).

Greg Aaron: Yes I think this might be one where there's actually a policy in place now and it seems to be working. Is anybody else have any comments? If not maybe we can move on then to kiting, which - let me find that on the sheet. It's on here. I don't know this was on the sheet but it came up at some point.

Mikey O'Connor: No it's on there.

Marika Konings: It is on the list. It's under...

Greg Aaron: Oh, is it on here.

Marika Konings: ...offensive category and just above domain tasting.

Mikey O'Connor: It's on Page 4 Greg.

Greg Aaron: Page 4, oh okay domain kiting. I'm sorry. Okay (unintelligible) five day grace period to register, delete, and immediately reregister a domain. I actually looked at this issue in my own registry once, and I didn't actually see it occurring in (dotINFO).

And I assume the reason is that it's too difficult to hang onto a domain name for any period of time if there's actually anybody remotely interested in it, because the domain actually becomes free every four to five days. James?

James Bladel: Yes Greg could you provide a definition when you say you looked at this, and this being kiting? Can you just tell me - maybe you...

((Crosstalk))

Greg Aaron: Yes, kiting basically is you register a domain name delete it some time during the grace period. If you delete a domain in the add grace period in the registries, it immediately gets deleted and become re-available in the pool of available names. So if somebody's kiting, they go and they just register it and then they delete it then they re-register it over and over again. You're basically getting a free domain name.

Now what I did about a year or so ago was I was curious and just - we looked at - to see if there were any names that got deleted and reregistered in grace period multiple times and really didn't find any. My assumption being that one, if the name's worth anything somebody else out there in the world is probably interested in it and there will be contention for the name.

Second, domain names at this point are pretty cheap and why go through the trouble and the risk of losing the domain if you could just pay a few dollars for it. Does that outline it?

James Bladel: Well for - thanks. That helps. And I think from a definitional purpose are we talking about the name as being repeatedly deleted and re-registered at the same registrar or different registrars by the same registrant or different registrants? I'm just trying to put some meat around what this term means from an operational standpoint.

Greg Aaron: I can tell you what I did. I just looked for domains that have been registered and re-registered a lot. I didn't look to - I didn't exclude it if it was different registrars or registrants. Of course some names are picked up once or twice after deletion -- that's not unusual -- but the questions you ask I don't think we've actually put enough definition around it.

Mikey O'Connor: To - this is Mikey. Just to gently tweak James, I think that Bob Parsons invented this term. Might want to ask him...

((Crosstalk))

Mikey O'Connor: ...about it a couple three years ago. And I think that's where it came from.

James Bladel: Well I've heard the term used both internally and in the ICANN community and I've just never been able to necessarily, you know, make sure that we can paint it into a narrow enough corner that we can actually put but under a microscope and figure out what we can do about it.

Greg Aaron: Actually I just looked this up. I'm on the...

James Bladel: Okay.

Greg Aaron: ...Bob Parsons blog.

James Bladel: Okay.

Greg Aaron: And what Bob was talking about was, he - what he called domain kiting would be what I think the community has started calling something else. I mean he was talking about basically to make - tasting.

James Bladel: Okay.

Greg Aaron: He was saying, you know, out of 35 million names, 32 million were part of the kiting scheme. But what he was really talking about was domain tasting.

((Crosstalk))

James Bladel: So we don't have those kinds of numbers to support kiting?

Greg Aaron: Well what he was calling was really what everybody else calls tasting now, and the tasting issue has gone away.

Marika Konings: Okay, but I think there is a distinction that he was trying to make, correct -- between tasting and kiting?

Greg Aaron: No, I don't think so. He was basically saying it's an abuse of the add/drop period, which they both would be. Right.

((Crosstalk))

Rod Rasmussen: This is Rod...

Greg Aaron: He called it domain kiting takes advantage of timing and the domain name system in an abusive and improper way to generate cash. The - people put up many Websites loaded with search engine links and then they keep the ones they want. So that is tasting.

James Bladel: Well I think the distinction - and I guess where I'm going with this is the distinction is that tasting would be - you would do this to a large number of names and find out if any of them had any viability and then keep the very, very small percentage that did. That has some viability and a PPC context.

And then kiting would then possibly come in after that where you were saying, "Now that I have identified the .0001% of the names that I have tasted, now I'm going to try and figure out a way to get them for free as opposed to paying \$6."

So I think that the two are closely related and they compound each other, and I think that we've put a stake through the heart of tasting for the most part. But I'm just trying to put a pretty clear boundary on where one begins and where one ends, that's all.



Greg Aaron: Yes. Now I posted the link to the Bob Parsons blog. Now Marika has posted a little clip in the chat window about basically criminals getting domain names and then they use them within the grace period after which they can be deleted and - for a refund. So basically use of a domain name for free in the add/grace period for some sort of a criminal thing. I personally have seen that done with - for spamming.

Spammer buys a bunch of domain names, they send out their spam, and then the registrar may delete those. Now the registrar could be the one getting it - taking advantage of there as well, because they're caught - they're stuck with the - if a fraudulent credit card was used then they're stuck with the bill. They can delete the names but they might everything hit by - for an excess deletion.

Mikey O'Connor: This is Mikey. That's a third definition because that's...

Greg Aaron: Yes.

Mikey O'Connor: ...one time use.

Greg Aaron: That's one time, yes.

Mikey O'Connor: Yes.

Greg Aaron: I see Margie's hand raised.

Margie Milam: Yes I just wanted to provide my understanding on the difference between domain tasting and domain kiting. Kiting as I recall was the practice where it's - not that it was registered and dropped within five days, but it would be picked up immediately by the same party or party affiliated with, you know, like an affiliated entity in order to never let the domain name get into the

hands of someone else, and to avoid, you know, detection on who was actually the registrant.

So I think that was - as I recall the difference between the kiting and a tasting as opposed to just having some, you know, names switch hands for five days and somebody else would own it. It was having the same party registered over and over again to avoid, you know, detection.

Greg Aaron: And how would that avoid the fee, Margie?

Margie Milam: Well sometimes the WHOIS record wouldn't be updated in that situation, and it was really meant to own the name without having to pay for it. So, you know, it's the same party doing it over and over again for, you know, consecutive five day periods you could own the names for a month. And so it was just a little bit different than domain tasting where it could theoretically be random people picking up the name every five days.

Mikey O'Connor: This is Mikey. It seems to me, looking forward to a PDP, that there is an interesting conversation to be had here on two lines. One, nailing down a definition because it sounds like there are several. Seems like a useful thing to do. And the second would be to conduct some research sort of along the lines of what you did Greg, but more broadly, to determine to what extent this is a problem. And I think James added an interesting wrinkle.

When a person might move the name around between a group of affiliated folks across various registrars, again it would be easier to see this. This is back to the conversation we had last week where this behavior would be easier to see at the registry than it would be at the registrar. And all apologies to James for the little tweak - this is an interesting topic and I would support recommending that ICANN take a look at it.

Greg Aaron: Okay. James?

James Bladel: Yes, I agree Mikey. And I think part of the point about exercise and asking some of those questions is that I think that there are as a lot of variety in the definition of what kiting means to different individuals and organizations. So I think that before we can say yes, it belongs here or no it belongs - no it doesn't belong here or it should be referred to some other group or whatever or point to tasting. And say that we've fixed it and we fixed kiting too, I don't know that we can have those answers with any degree of confidence until we have a robust definition that we can work with.

Greg Aaron: Okay. Yes, it sounds like we have at least three different definitions. And then the question after that becomes do we have any data, which we might not. Now does anybody want to take a crack at definitions?

Rod Rasmussen: Greg this is Rod. I don't want to take a crack at definitions, but what I might - what I'd like to do is suggest that we check with the - where the working group has already worked on this stuff in the domain. And there was a tasting group within ICANN, if I remember correctly, and I believe that there's been follow on studies at least to look at what the levels are. I think they may well have definitions and data already in play, and we can probably answer this question if we just get the information from those groups.

Greg Aaron: Okay. Well the tasting group's report would be out there because they shut down a while back. Their report would contain anything of interest I think. And then the only - let me ask our staff members. There was something published by the staff in the spring is my recollection about the tasting levels. Has there been any further study or statistics since then?

Marika Konings: This is Marika. I think another report is supposed to come out relatively soon, but again I think that focused specifically on domain tasting. I think Mike Rodenbaugh was closely involved in the domain tasting working group, so he might be the person to ask whether they looked at kiting and had some further information. I'm happy to check with him and also to see if any other ICANN staff might be aware of any information on this issue if you like.

Greg Aaron: That would be wonderful if you could make the inquiries. May I put you down for that action item?

Marika Konings: Yes that's fine.

Greg Aaron: Okay super. Thank you for volunteering. Okay well we'll circle back to that one then as we get more information. Now Rod are you back with us?

Rod Rasmussen: Yes I am.

Greg Aaron: Okay. So let's circle back to you -- so stolen or fraudulent credentials. I recall that you had some interest in this topic.

Rod Rasmussen: Well sure, because I mean that's how most criminals get a hold of domain names to use them. In fact pretty much - I have yet to meet a criminal or find a criminal who puts their own name and uses their own credit card other than like I said, extremely rare cases, to set up a phishing (site) or something like that.

But I think that the - I think there'd be a fairly large consensus that this is inappropriate behavior at registration time. The question becomes more operational as to what do you do about it.

And I think that this area kind of gets into, you know, just a general abuse of registration systems. And are there ways that ICANN and ICANN community can work together either via policy or creating an environment where information can be used between different members of the ICANN registration community on various activities that are going on across the board not just in - from one registrar to the - internally.

And I think that's kind of what I was thinking this area could be looking at as, you know, those kinds of mechanisms and those kinds of policies or

procedures that would allow better information sharing across the industry to curtail these, you know, this central form of abuse.

Greg Aaron: Okay. Thank you. Mikey has his hand raised.

Mikey O'Connor: Yes this is Mikey. I am an enthusiastic supporter of pursuing this. I would throw out a couple of legs on the stool, one would be policy, one would be controls, and one would be information sharing as mechanisms to mitigate these risks. And I think all three of those at least go together nicely.

With the extent that, you know, in the policy arena ICANN can make those policies, but in the information sharing and in the controls, ICANN can play a leadership role although they may be inappropriate for ICANN to actually do those things. But I think to the extent that ICANN could convene interested parties, work out a formal or informal agreements between them and facilitate the - (unintelligible) more difficult for criminals to do this sort of thing, then that's all a very good thing. So I'd be...

Greg Aaron: Rod this is Greg. May I ask a question? Why...

Rod Rasmussen: Yes you may ask another.

Greg Aaron: It seems very easy for criminals to get away with it because it happens every day. And I guess my question is why is it so easy and why aren't significant numbers of these caught during the credit card validation process?

Rod Rasmussen: Well I would say that actually it depends on the company whether it's a registrar or reseller that they're using - utilizing. And we see evidence of these all the time in our work and, you know, kind of dealing with it after the fact.

And, you know, we've got a representative, one of the better companies, at detecting things on the call with James, and that GoDaddy does a rather

fabulous job of finding these things ahead of time. Whereas we have a very small reseller that happens to be, I don't know, out of Turkey or something that like that has got, you know, very, very low amounts of catching these guys and bad guys get in and they abuse them quite a bit.

And that typically comes back to the amount of credit card validation they're doing, IPG location of what people say they are versus where they are actually, a whole host of other tricks that you can do to find fraudulent transactions.

It's the same - you see the same thing in the merchant world where you have different merchants that are abused far more heavily than others and usually comes down to just the level of fraud prevention and detection that they're doing.

One thing I was going to add. I think in the case of domain registration world there's some really interesting things you can do because of the data that you're collecting to fill in WHOIS at the same time, where you wouldn't have that necessarily in a merchant world. And they can actually increase your likelihood of catching somebody who really isn't who they say they are when they're registering a domain name.

Greg Aaron: Right. James your hand's up?

James Bladel: Yes, thanks Greg. This is James. And we're still discussing fraudulent credentials. Am I correct on that? I...

Greg Aaron: Yes.

James Bladel: Okay. You know, there's something to be - I mean I think certainly no one wants to see a situation where, you know, registrants are - or accounts are easily compromised and domains are stolen, moved, or repurposed for abuse. But I think that I have a little bit of an underlying concern about ICANN

stepping in and saying that, you know, that there's ground for policy development because I think that what will happen is that ICANN will say, "This is the type of technology that must be used or these the type of procedures that must be followed."

And I think that that - ICANN has a tendency in policy development to be overly prescriptive when -- and I thank Rod for holding us up as a - kind of a good example in -- out there in the ecosystem -- is that it - that registrars can use this as an area in saying, you know, while all registrars strive for some level of security, our security is better than X.

And I think that that's a good point of differentiation and a good point of competition. And I would hate for that to be an unattended casualty of any types of good intentions on the part of ICANN in this area.

Greg Aaron: Yes. I have a - Mikey go ahead.

Mikey O'Connor: This is Mikey. I think that there's room in ICANN policy to do the same sort of thing that we're looking at in some of the other working group where we set a floor but not necessarily a ceiling for these things. And I'm also sort of drawn to the model of the credit card industry security arena where if you want to play in a certain kind of credit card arena you need to adhere to a set of physical and operational controls in order to be certified for that.

And I think that given the nature of this problem, we might want to get, you know, I'm uncomfortable stepping all the way back and saying, "Let the market prevail here," because I think that Rod's point about smaller organization in a part of the world that doesn't have the right kind of infrastructure capability got that small organization is just as accessible worldwide presents a problem that we - I don't know that I have an answer yet, but I think it's certainly worthy of conversation.

And there may even be solutions that come out of that for the smaller registrars and resellers that are fairly inexpensive. Subscriptions services for example is the way that the credit card industry has addressed this.

Greg Aaron: Yes.

Mikey O'Connor: So there are a bunch of interesting models to pursue that I'm not sure we want to pursue them in our conversation but that would be a good thing to recommend for a subsequent conversation.

Greg Aaron: This is Greg. I'll add something and then we'll go to James and then we're going to be at the end of the meeting. To an extent my impression that registrars all rely, at least to some extent, upon the credit card processors and gateways that they choose to use, whether that's run by Visa or MasterCard or whoever.

Then on top of that there - there are other things that the registrar can also do. Some of the cross referencing for example that Rod mentioned, you know, does the IP, you know, match the country that the cardholder is apparently and those kinds of things.

So some of this - it - I'm asking is some of this within - some of this is within a registrar's 's control. Some of it is without their control because they have to relay on a credit card processor. Some of what you're also talking about is resellers. I know that some reseller systems use a credit card processing gateway provided by the registrar.

Other resellers don't; the reseller is responsible for obtaining their own credit card transactional processing through whoever they want to use I guess. So there's a variety of models and there's several moving parts it seems like.  
James?



James Bladel: Yes, thanks Greg. Very briefly, I think that Mikey and Barry and some others and I have talked about this -- a minimum baseline of security requirements that could included in registrar contracts.

And I think I'm for the most part not completely opposed to something like that Mikey. But again, I think that we have to - the frustrating I think paradox is that we have to make sure the they're not overly prescriptive and they don't say something like "You will use Technology X in Process Y," or something like that, because - for a couple of reasons.

One is that it's too limiting for those registrars who already have good systems in place, and two it basically providing would-be abusers and criminals with a blue print on not how to hack one registrar but how to hack all registrars.

So I think that, you know, it's important to set that baseline, keep the language general, and allow, you know, the market players to innovate above that to create diversity and differentiation throughout all the different providers.

Greg Aaron: Okay. Mikey you're going to be last.

Mikey O'Connor: I love being last. This is Mikey. That's part of their - James that's part of reason that I - when I kicked off my comments I said I thought this is probably a three-legged stool. I agree that policy is often a pretty large blunt instrument that (unintelligible) this kind of problem, sort of drawing on my years as a controller of a Big 10 university.

And there are two other legs that I think ICANN could lead in. I think one is this notion of information sharing and facilitating that, and the other is in sort of booming in a community and focusing on control structures. Controls are long topics that are way more than the ten seconds that I want keep talking,

but my main point is that I think that this is worthy of subsequent discussion without trying to find what the outcome of that discussion is.

Greg Aaron: Okay. All right well we're coming up at the end of the meeting. Sounds like we'll need to have some further discussion about this one. To - one of the things I see developing is, you know, Rod is pointing out an issue which enables a lot of malicious use. You know, so looking at what the criminals are doing in order to carry out those malicious uses. And one way to strangely that is by paying more attention to the fake credentials and how they get a hold of those dominions in the first place.

We - something that came up in the discussion was the issue of minimum requirements for registrars -- that issue of there always being a weakest link somewhere in the world or in somebody's system, et cetera. So let's come back to that.

Just briefly we had to doodle up for the next meetings, and it looked like there is pretty much universal agreement among those who filled it out, that continuing meetings every week at the same Monday time was going to be the best option. So what that means is we would have December meetings on the 7th, 14th, and 21st at least. So those would be our next three meetings. So we'll send out a reminder about that, but it - if at all possible put those on your calendar now.

And next meeting will certainly back to uniformity of contracts and so forth. Barry, I know - I didn't get a chance to go over your document in markup over the holiday. So yes I'm going to plead the turkey. Tryptophan is my excuse, but I owe you those. And let's put that near the top of the agenda for next week and then we'll pick up these remaining issues, including credit cards and so forth. Does that sound good?

Mikey O'Connor: Works for me. Mikey here.

Faisal Shah: Sounds good, Greg.

Greg Aaron: Okay. Excellent.

Man: Yes.

Greg Aaron: All right well I'll send out some notes from today's meeting. We do have a few action items and please plan on a meeting at this same time next week.

Mikey O'Connor: Thanks Greg.

Greg Aaron: Good meeting everybody. Thanks so much for your great discussion. Take care.

((Crosstalk))

Marika Konings: Bye.

Mikey O'Connor: Bye.

Faisal Shah: Bye-bye.

END