

**Transcription ICANN Singapore  
Inter-Registrar Transfer Policy (IRTP) Part D  
Saturday 22 March 2014**

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Jonathan Robinson: And then if we could commence the recording immediately again for the next session?

Thank you, we're good to go. So this next session is the work that's going on on Inter Registrar Transfer Policy, so called ITR – and I can't even – IRTP. And this is the fourth in a series of such known as IRTP Part D. And we're going to hear from, I guess, James and Mikey together, the co chairs of the group. So over to you guys.

James Bladel: Sure. Thanks, Jonathan. James speaking for the transcript. And, Lars, are we queuing up slides or are we just – can provide a quick overview and some background on this?

And, you know, I will preface it by something that I say at all the IRTP Council updates which is that transfer policies are not the most exciting thing in the world to talk about in ICANN circles but they are critically important.

The ability for a registrant to take a domain name registration from one registrar to another is the underpinning of the competitive marketplace and allows registrars to compete for new customers, you know, and allows registrants, excuse me, to vote with their feet if they're unhappy with the service or price or whatever level of responsiveness they're getting from their service provider.

So with that said this is the fourth in a series of never-ending IRTP PDPs. Fortunately we were getting – I think we thought ahead by giving them letters so we knew we could only have 26.

But the fourth instance was the – was meant to be the caboose of this series of PDPs and that all remaining items, including a couple of items that were uncovered in previous PDPs, were moved to the charter of this working group.

So can we go to the first slide? Thanks. So this working group had – Mikey, I'll maybe hand off to you here I'll just introduce the first charter question and then we'll just throw over to Mikey as well.

We've just completed our initial report, it is out for public comment. And we were addressing several charter questions, many of which revolved around the TDRP – it was Transfer Dispute Resolution Policy which is an even more obscure suburb of an obscure policy.

But, again, critically important if you have a business or service built around a domain name and someone were to take it from you I think, you know, the TDRP would suddenly become a very important part of your life.

So – but the first charter question dealt with specifically reporting requirements relative to that policy. And it was I think found during the course of our work that we really did not have a lot of statistics or a lot of data to base our deliberations on this particular policy.

So the first recommendation – preliminary recommendation is that there would be some reporting requirements for dispute providers built into the policy that would be consistent and allow future policy work or really any type of ICANN work to have a solid basis of data on how often this policy is used and also to establish for dispute resolution providers some base of precedent so they can use this consistent standard over time.

So that's our first recommendation. Mikey, you want to...

Mikey O'Connor: Thanks, James. It's Mikey. The next one that we – oh okay we'll stay on this one for a minute. Let me just amplify something that James said and come at this. There's two sides to this IRTP stuff. There's the competitive side but

there's also the security stability resiliency side and that's always been my strongest interest in this is how can we make the process of moving with your feet, voting with your feet if you're a registrar – a registrant – how can we make that process safer so that – because it turns out that the transfer between registrars, especially in the early days, had some holes in it. And it was possible for things to get lost into those holes and it was also possible to exploit those holes to steal domain names from people.

And a lot of the questions that this final IRTP is dealing with were – all of the questions were written back in 2007 so you're going to see that some of them have been overtaken by events. But this one wasn't. This is essentially directed at the dispute resolution providers of that dispute resolution process and saying, "Hey, you providers, why don't you let us know your decisions?"

And you'd think that that would be pretty straightforward but it wasn't included in the policy and our recommendation is that it be included in the policy from now on. Almost all of the dispute resolution providers do this. We especially were interested in the model that was created in Asia for this. And we're – in the details of the report we're sort of aiming people at that model.

So these were recommendations that weren't terribly controversial in the working group; there's very strong consensus around this. And I think, Lars, with that you can take me onto the next question.

The next one is one that's – it dates back to one of the very first SSAC reports. I can't remember if it's SSAC 4. If I could channel the spirit of Dave Piscitello he could tell us the exact number. But the SSAC in one of its really early reports wrote about domain name hijacking. And there are a lot of – and this was in the very early days like 2002 or '03 – '06? That late.

Well and I don't feel quite so bad. Anyway it's taken us this long to – a little more history about the multistage IRTP working groups. When we wrote these questions and then divided them into chunks back in 2007 or '08 we took the hard ones and we put them consciously at the end because we felt it was

important for the working group to get comfortable and good at dealing with these issues.

And back in those days this was viewed as a pretty hard question. What happens when a domain name has gone across several registrars, it's basically in the process of being hijacked, and what can we do about that?

Time has sort of overtaken this a little bit and so these recommendations don't sound as sweeping as you might think but it's mostly because other things have happened in the meantime that improve the security of this process.

But in the TDRP – and remember there's the IRTP that is the main policy, the TDRP is what happens when the registrars can't work it out between themselves basically – there are some things that we're suggesting we do.

The first one is the Recommendation Number 3 is that we – well actually 3 and 4 are together – is that when a transfer has occurred like this that the domain name go back to the originating destination.

In other words if a domain name has very quickly traversed two, three, four, five registrars and this gets resolved in the TDRP, which is probably where it would get resolved, if it couldn't be resolved between the registrars, then the name go back to the place it started. It's common sensical but it's not in the policy and so we're, you know, really Recommendation Number 4 is the payday recommendation there.

The one that's highlighted in yellow is the first of a few recommendations that we really want to call your attention to because one of the things that we're suggesting is that the statute of limitations for the TDRP be extended from 6 to 12 months. There are a whole bunch of reasons for that. But we really want to hear from the community both the Contracted Parties and the Non Contracted Parties on the advisability of doing this. So that's the reason that this one is highlighted.

The working group is in – pretty near total consensus on this. We've got some issues – a few minor issues to work out. But, you know, we're leaning pretty strongly this way. We want to hear from the community on this particular one.

And then the final one, again, we're solidly in consensus on is if a request for enforcement is initiated under the TDRP the relevant domain name should get locked while that is being worked out. And again that's pretty strong consensus in the working group unlike the one immediately before it which is pretty strong consensus but if you read the report and the details behind this you'll see that there are some questions that we'd like to hear from people on.

James, you want to take the next one?

James Bladel: Just, yeah, sure if I could just kind of put a button on this one. And this is, you know, we like to I think come to ICANN meetings in nice hotels and have very rational reasonable discussions but we should remember a few things is that domain names have value. Some of them are incredibly valuable and there bad people out there trying to do bad things with domain names. And I think that we sometimes lose track of that, you know, at this level.

So the key things here is this idea of laundering a domain name which is taking a transfer and then transferring six times in the span of 24 hours to obfuscate where the domain name came from and where it was and then try to thwart efforts to recover it.

And the other idea of course being this idea of a statute of limitations; I think this is something that we really are looking for community feedback on because this could have significant implications for the domain name aftermarket for people who are in good faith selling a domain name or buying a domain name and then later finding out that what they were dealing in was, you know, stolen property for lack of a better term and then later someone else is going to come and take that back from them.

So these are tricky issues. It's not something where they lend themselves to immediate – to immediate resolution. And, Jonathan, I'm seeing a couple of hands go up. You want us to just kind of manage a queue over here or you want us to throw it back to you?

Jonathan Robinson: We could take questions now if that's fine. In fact...

James Bladel: Okay.

Jonathan Robinson: ...you guys can just respond to them, that would be great.

James Bladel: Okay. I just saw Thomas. I saw anyone else but Thomas.

Thomas Rickert: Thanks, James. And thanks to the working group for the excellent work that you're doing. With respect to the extension of the statute of limitations from 6 to 12 months can you elaborate a little bit on why you chose 12 months? Just looking at it from a practical point of view I've seen cases where domain names were hijacked but the DNS was left as it was so it was only until such time when the domain name needed to be renewed that the registrant found out that he or she was no longer the registrant.

So since most of domain names are being registered for years time I think 12 months might not really help but it should rather be 12 or 15 months or what have you in order for – to allow registrants to find out and then take the appropriate action when the domain name has renewed.

James Bladel: So that is an excellent point and one of the things that we want to cover in – and we want to tease out in the workshop and in the public comments as well as the underpinnings of why that extension. I think it's to align it with other periods that we discovered during this work.

But I wanted to point out that what you've described is a practice that we call hijacking in place where a domain name is hijacked and control is taken but the domain name is not moved until when it's aged for, you know, weeks or

months or even years in that status until it's time to do something dastardly with it.

So I don't know that this particular recommendation would go to the heart of that particular practice but it is something that we would be looking at as well. And go for it, Mikey.

Mikey O'Connor: Just to expand a little bit on what James was saying, Thomas, in direct response to your question why we picked 12 months clearly there's the tradeoff between the impact on essentially the aftermarket and this can get quite long if we – because domain names are typically now on two year, five year, quite long renewal cycles.

And so to put the envelope around the renewal cycle can get to be quite a long period of time which at the same time can have dramatic impacts other places. The reason we chose 12 months is because of the annual notification that's required where a registrant is required to update their contact information and their Whois information and so on.

And the thought is that if we can make this 12 months there's at least one clue that a registrant gets because they don't get that request for the update for their information. And so that's the underlying rationale for exactly 12 months as opposed to 11 or 15 or, you know, some other number was to get a period that's long enough to pick up that one minor reminder to a registrant that something's not quite right with their name.

Now I saw Volker with his hand up but I haven't seen anybody else. Does anybody else want to jump in the queue on this? And – okay so Volker and then Marie.

Volker Greimann: Actually, Mikey, you said what I wanted to say so I want to point out the reason for the 12 months was being the reminder sent by the registrar and giving the registrant a chance to see the chance something has changed so that was the underlying thought behind that.

Mikey O'Connor: Perfect. Maria.

Maria Farrell: Yeah, I've got two questions. Sorry, Maria Farrell here. First I think one of the triggering factors for the PDP was that more people were not using the original transfer dispute resolution policy, is that the case and if so why? And will this help more people choose it?

And secondly, as a follow up on that question in terms of the tradeoff between the, you know, allowing there to be an aftermarket so people can know what they're buying and people, you know, finding out a year or two years later that their name wasn't renewed is there a way for somebody who is buying a domain name to positively determine the pedigree of that name so to, you know, to make a positive determination as to whether there have been any disputed or should have been disputed domain name transfers along the way so that they could have some idea of what they're actually buying?

James Bladel: So I'll take a swing at those. The first thing is that we discovered fairly early on that registrars – in the event of a hijacking, the domain name is taken, the harm can be measured sometimes in hours particularly for a high traffic ecommerce Website.

So what we found is that registrars had developed a number of ad hoc procedures amongst themselves working relationships where they could pick up the phone and I could call Volker's team and I could say, "Look, I got a problem here. I think this one looks a little suspicious."

And even though we are competitors we could say, okay, let's set that aside because tomorrow it could be Volker picking up the phone so let's work out a reasonable standard of – or trust level to work quickly to reverse any transfer where it's obviously on the space, it's, you know, it's been a hijacking.

I think that what we found was that the formal process, the TDRP formal process, is used very infrequently. Was it – the number was 70 times over the

last 10 years; most of them occurring in just one or two registries. So it is incredibly rare and that will come up again here in later charter question.

To your next question I think that that is something that a lot of various third party services are attempting to construct and there are a number of tools available on the Internet. But right now I think for folks who are heavily involved in the domain name aftermarket as a vocation are doing that level of research and analysis on their own to ensure. And I think that a number of the aftermarket marketplaces, platforms, will do that on the intake of domain names to make sure that their inventory is on the up and up.

But it is a problem, it is something that I think people in all slices of the marketplace have to be diligent against. And then Mikey has some more thoughts on that.

Jonathan Robinson: It's just a quick reminder on time. I'm conscious of the need to permit questions and get through the material but we're already slipping behind schedule and we're only now in the second session of the day so.

Mikey O'Connor: Berard was ineffective in keeping me to time limits. Well, just a real quick point to Maria's and then I think we can zip on to the next one. We have another question in our charter that asks whether there should be more access to the TDRP given to registrants.

And to the extent that your question was – are registrants going to be able to get more access to that but let's hold that for that question because we tackled that one head on. Just wanted to put that one on.

James Bladel: So we can go to the next slide and we'll go into hurry up mode. Oh we have another question from Alan? Sorry, go ahead.

Alan Greenberg: Just a very quick comment. And I'll say I am a member of this working group, albeit a passive one. It strikes me listening to the conversation that if – when we were soliciting volunteers for working groups we could describe in reality

what it's about well we would have a lot more participants, because this is a rather dry subject that didn't attract all that many people but there are people who were interested in it once they know what it's really about so just a thought for the future.

James Bladel: The names are not always descriptive. Okay so we can go to the next slide here. This is whether or not that rarely used policy, the TDRP, should be accessible directly by registrants or if it should be a registrar-led policy and currently a registrant must ask a registrar to initiate a TDRP if they are concerned about a transfer.

We spent probably the bulk of our time on the working group on this question, I don't know, maybe 40% of our timeframe discussing this issue. And I think that we came up with a couple of very important recommendations the first being that we believe that the dispute resolution for the TDRP process should be left as a registrar initiated policy and not open to registrant.

There are a number of missing pieces of information that registrants may not have that the TDRP or the IRTP is the registrar to registrar policy and so registrants may not have all the visibility to all the necessary steps to effectively dispute that, they do need a registrar to initiate that policy on their behalf.

However, we have a couple of other recommendations here most notably that a previous policy, IRTP-C, had envisioned a inter registrant policy process and that that process should have a registrant-initiated dispute mechanism. And that, finally, that – and this is, again one of these complexities but there are two levels to filing disputes, the first one being at the registry so, you know, VeriSign of Afilias would have its own policy; and then that it would go to an independent policy like NAF or the Asian Dispute Center.

And what we are recommending preliminary as a working group – what we'd like feedback on is the idea that the registries should not necessarily have to be – continue to maintain that policy particularly when so many of them are not using it and it could open up to inconsistencies – potential inconsistencies

when we're dealing with an ecosystem populated by hundreds of TLD registries.

And so those are the recommendations around that charter question. And we've got Chuck at the microphone.

Mikey O'Connor: I bet the audio folks will catch up with you if you just start talking, Chuck.

James Bladel: Or maybe just grab a seat at the table.

Chuck Gomes: Having trouble pushing the button.

James Bladel: There we go.

Chuck Gomes: I'm getting old. Hey, just wanted to point out on Number 8 I thought of a couple weeks ago when talking to Barbara on your team that there's another possible reason for doing that and that is with vertical integration. You could actually have a situation where a registry is doing a dispute – serving a dispute provider for one – for themselves.

James Bladel: Good point. Maybe we need to get that captured in our comments.

Mikey O'Connor: And let me just wrap this one up real quick. I'm sort of on the consumer side of this argument. And I have been through five or six years of these working groups and was pretty adamant that registrants, you know, if a registrant is confronted by a recalcitrant registrar they ought to have the option to kick it up a level.

And I am convinced by the arguments that we've had in this, you know, arguments not in the negative sense but in the positive sense, I simply didn't understand the process correctly. And this is entirely appropriate.

So I think we can go on to the next one. And we probably – Jonathan, what's our – are we over time now?

Jonathan Robinson: I apologize. We – well we are now, we're 5 minutes over scheduled.

Mikey O'Connor: Okay.

Jonathan Robinson: But you guys did start late so just bearing in mind we set you off late but if you could still try to keep it as brief as you can.

Mikey O'Connor: Well I think we can – let me blast through a couple three more questions here and then I think we – take one last round so hold your questions, we'll blast through the remaining ones and then pull any burning issues out of the group.

The next one was about information available for registrants being provided clearly so that registrants know what their dispute resolution options are. And just a very brief editorial comment, the information that's on the ICANN Website is very, very good if you're a policy person and you want to understand how this policy works.

But if you're coming to the ICANN Website as a registrant trying to figure out how to get your dispute resolved, it's awful. And so these two recommendations are really just aimed at improving the way that this information is made available, the way that it's written and make – and making it clear and collaborating on ways that registrars can then help promote that information. So there isn't any controversy in these, they're not in yellow. We think they're great ideas. We all agree.

And I think with that we'll just carry on to the next item because I think we've got one more that we – yeah, I thought we had one more yellow one in here. We'll see.

The next one is about penalties. And again we are saying no, not in policy. And in fact in the second of these two recommendations we went so far as to say penalties should not be embedded in policy.

And again this is a bit beyond our mandate but back when this was written the policy itself had penalties or it was contemplated to put penalties into the policy. And with time passing and the RAA 2009 RAA 2013 having been written this sort of general notion that there isn't an all or nothing – there's now a graduated series of responses to policy violations there's a whole bunch of reasons that are all in the report.

The working group is very comfortable with the idea of no more penalties that are IRTP-related; and in fact no penalties in the policy and in fact no penalties specified in policies but that penalty structure be defined consistently across the Contracted Parties, not within policies themselves. James, you want to...

((Crosstalk))

James Bladel: ...we'll just roll through it. But just that, you know, commercial providers really need that consistency and I think it make sense. Want me to just – we can just go to the next slide. Okay, the next two are fairly quick here.

They were actually kicked over from previous IRTPs. The next one is whether or not the almost uniform – or universal adoption and implementation of EPP auth info codes has eliminated the need for FOAs, which the form of authorization for transfers. We looked at this and I think as a working group we determined that yes, 95% of domain names, maybe 99% of domain names – transfers – will not need the FOA; it is superfluous.

However, in that small fraction of transfers where something goes wrong the FOA is essential to being able to undo that transfer or to justify that it should remain in place. So we have, as a working group, we're recommending that the requirement to get an authorization remain in place. Not really controversial at this point.

Mikey O'Connor: And let me just add one thing and then we'll go onto the last question and that is that the FOA is also being a bit overloaded by certain registrars in their

internal systems. And so even if they had been totally eliminated for other reasons we left this in here for essential backward compatibility as well.

The last question and then I think we're...

Lars Hoffman: Mikey, I think this was the last question.

Mikey O'Connor: Oh it was the last question. Oh good. Well so now we can deal with all the scrunched up eyebrows around the room and see if there's a queue and if there's not we're done.

James Bladel: Chuck.

Chuck Gomes: (Unintelligible).

Mikey O'Connor: It's coming.

Chuck Gomes: Chuck Gomes from VeriSign. Let me compliment those that stuck with this group all the way through. I'll be brief on this because I know we're late. But the transfer policy goes back to way before the meeting in Shanghai when it was first initiated and it had been stuck for I think a couple years. And it broke loose there and this review is of that first policy. And several people have stuck through this the whole time so I really compliment you on that.

And then I thought I'd end with an encouraging note. I think we must be ready for another policy review for this.

Mikey O'Connor: Yeah, but we're going to do numbers the next time. Thanks, Chuck. Jonathan, I think unless there's anybody else we're back to you. I don't see any other hands, we're done.

Jonathan Robinson: Thank you. And I'm sorry I had to push you for time a little bit but well done for getting through that and taking the questions that we needed to.

So if we could stop the recording on that session now? Great.