**Inter-Registrar Transfer Policy Part B PDP
Transcription
Tuesday 29 September 2009 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Inter-Registrar Transfer Policy Part B PDP call on Tuesday 29 September 2009 at 1400 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-irtp-b-20090929.mp3
On page:
http://gnso.icann.org/calendar/index.html#sep
(transcripts and recordings are found on the calendar page)

Participants on the Call:
Michele Neylon - RC
Kevin Erdman - IPC
Barbara Steele - RY
James Bladel - RC
Anil George - IPC
Paul Diaz - RC
Chris Chaplow - CBUC
Mick O'Connor - CBUC
Eric Brown – gTLD Registries

Staff:
Olof Nordling
Marika Konings
Glen de Saint Gery
William McKelligot – Compliance staff

Apologies:
Baudoin Schombe
Berry Cobb
Alaine Doolan

Glen DeSaintgery:We have on the call -- good morning, good afternoon everybody – Michele
Neylon, James Bladel, Barbara Steele, Anil George, Paul Diaz, Kevin
Erdman, Eric Brown, Chris Chaplow, and Mikey O'Conner. And for staff, we
have Marika Konings, Olof Nordling, and Glen DeSaintgery, myself and we
have apologies from Baudoin Schombe, Berry Cobb.

Michele Neylon: Okay, thank you.

Marika Konings: I also have apologies from Elaine Doolan.

Glen DeSaintgery: Elaine Doolan. Thank you Marika.

Michele Neylon: All right. Thank you. James, are any of your sidekicks joining later?

James Bladel: I think - you mean Tim?

Michele Neylon: Yes.

James Bladel: I believe so, but...

((Crosstalk))

James Bladel: Yes. I'm not aware. I assume so.

Michele Neylon: Okay. Right. The - please be aware that today's call is 60 minutes because there's another call that some people have to jump onto at the top of the hour.

Okay, then the - shall we just kick off. Does anybody have any other matters they want to bring to attention before we move onto the agenda?

No? Deathly silence. Fine. Okay. Our IPC proxy public comment period updates?

Marika Konings: Yes. This is Marika. I just wanted to note that (not all of you will have seen this). Sorry.

Man: Oh dear.

Marika Konings: The public comment period is up and running. We've also sent out and announcement to the subscribers in the different languages of the policy update to do a bit more proactive outreach on this issue, as well as spreading the message to our global partnership team, with the questions to especially target those in other countries are using different languages to take advantage of this opportunity to submit comments in one of the five UN languages that we're running the public comment period in.

And my question is if anyone's interested to get that email announcement in one of those languages, just drop me an email and I can forward it if you want to send it further around.

Michele Neylon: All right. Thank you. So, we've had a couple of comments already, I see.

Marika Konings: Yes, but none in any of the UN language. Other languages, yes. And what I've seen from a quick glance, they were specifically related to the charter questions that...

Olof Nordling: But they very much concentrate on WHOIS and the pros and cons of doing various with WHOIS.

Michele Neylon: Oh, well. At least there are comments.

Marika Konings: Yes.

Michele Neylon: I mean come on. It could be worse.

Michele Neylon: Even if the comments are irrelevant, they're comments.

Marika Konings: (Unintelligible) before.

Michele Neylon: So, okay. So, the email announcement text is available in the other languages, is what you're saying?

Marika Konings: Yes, because we've used that - we have a policy update that's also available in the different UN languages, and we thought in order to be a bit more proactive about and target those people that might be interested in submitting comments. To use the opportunity to send a note to them saying that, you know, this opportunity, (unintelligible). So, we've developed an email to that end. It basically just translates the announcement, and you know; it provides a link to where they can submit the comment.

Michele Neylon: Okay. Perfect. Good. I personally welcome this idea. I'm very happy about it. Hopefully, it'll - somebody will - some people will take advantage of us. At least, they'll have the opportunity.

Anybody else have anything else to say about the public comment period.

Are all the North Americans still fast asleep?

Kevin Erdman: Well, here's a question from North America. Not exactly on the public comment period, but I - and I don't want to take too much time out of today's discussion, but I had an email exchange with the President of the IPC constituency. And he - well, I'll just say that the discussion was about whether working group members should participate in the drafting of advocacy positions by various constituency groups. And I didn't know if anyone on the call has a view towards what the policy is on that.

Glen DeSaintgery: Sorry, this is Glen. Could you please say your name when you speak, because this makes the transcript easier to read? Thank you.

Kevin Erdman: Yes, this is Kevin Erdman from North - one of the waking North Americans.

Michele Neylon: I see Marika's got her hand up, and James. As Marika's a lady, we'll let her go first.

Marika Konings: Well, thank you. Although, I think James had his hand up first. Just a note. I think from the staff perspective, there's no procedure or policy on that. And, I know that some of the constituencies actually request that the people that are involved in the working group contribute, or would like them to contribute of course, because then they have already some inside knowledge and exposure to the issues that are on the table. So, that's you know, just what I can share from my perspective.

Woman: Right.

Marika Konings: But, I would hope that, you know, James and some of the other members of constituencies are able to share a bit more how the process works in their constituencies.

James Bladel: Yes, and this is James. I just wanted to mention that I think each constituency has their own internal procedures on how formal or how coordinated their constituency statements are. Whether it's a formal statement or whether it's more of an informal document. And yes, I think that whether there's a designated person who's representing that constituency on the group, or whether it's just a coming together of various folks who have participated on the group and wants to have some input into the statement, I think it's really up to the individual constituencies.

But, my question is, is there - was the (IPC) concerned that that was some sort of a conflict? Or, I'm trying to understand what the concern was.

Kevin Erdman: Well, I - you know, I don't really have much of a feeling either way, except in the case - you know, for example, if a member of the working group was representing a party that had a real interest - you know, an economic or a legal interest in getting a policy crafted one way or another, I think that would pose some difficulties at - you know, being part of the working group.

I mean I think whenever we get into discussion and a party - you know, one of the members is involved with a party that does have some sort of real vested interest in the discussion, we'll disclose that as part of their, you know, discussion. But I - you know, I would be disinclined to say that -- well gee, if I represented -- let say -- Microsoft, and Microsoft definitely wanted to do XYZ on this policy, and I crafted and I wrote, you know a position paper that they submit as - you know, for whatever their constituency was, you know I wouldn't feel that would be appropriate to then be a part of the, you know, working group panel that considered that position statement.

That was my - that's my only concern about it.

Michele Neylon: Sorry, I'm trying to -- this is (Mikaeli) here. I'm trying to follow the logic here, and I'm getting a little bit confused. You're suggesting thus people have some form of interest in the policy shouldn't be on the working group. Is that what you're saying?

Kevin Erdman: Yes. Basically.

Michele Neylon: Okay, so how would you expect there to be a functioning working group if people don't have a - have some interest in the policy?

Kevin Erdman: Well, I'm not saying that they don't have some interest, but what I'm saying is that you know, from my perspective -- this is again, Kevin Erdman -- just to - say from my perspective, if you are in position of advocating a resolution of a policy item, then it doesn't seem to me that you should be on the panel that's making the adjudication on that item.

You know, to the extent that you have experience in it and you can, you know, comment on why things might be smoother or not smoother, better or worse. But, if you have a - you know, if you'd taken a real, you know, economic commitment to get it resolved, I think that's what I'd consider the differentiating factor. So, that you can have - I mean obviously, everybody

who's involved in the business of registering, transferring, owning domain names has some sort of an interest in the, you know, functioning of the system.

But to the extent that you have - you or your organization that you represent has a (real) conflict on the resolution of a particular on it. I feel it's not appropriate then to be part of the panel making that decision.

Michele Neylon: Okay. There's several hands up here. I'm going to take - I'm not too sure which order people put their hands up in, so I'm going to choose people at random. So please, don't be offended. We'll take Mikey, Anil, James. And, Marika is your hand back up again, or did you just forget to take it down the last time.

Marika Konings: No, I put it up again.

Michele Neylon: Okay. I let you go first time, so this time you're last. Sorry.

Marika Konings: Okay.

Michele Neylon: Who should I say was first? Anil I think, didn't I?

((Crosstalk))

Man: Anil.

Anil George: This is Anil.

Michele Neylon: Anil, sorry. Sorry.

Anil George: No problem. I'm a rep for the IPC here. I just differ with Kevin's point of view. I was on the email exchange with Kevin, and I think it's more - I think his personal reflection on the issue, which I respect. I think from our perspective,

or at least from the President of the IPC, I think his point of view was more consistent with James' earlier point, which was we have a certain insight into the issues that we're dealing with. So, if you're on the working group - I mean your involvement to that extent that you have knowledge about the real issues there is helpful.

Michele Neylon: Okay. Thank you. Next up we have Mikey.

Mikey O'Conner: This is Mikey. I guess - I bet Marika's going to explain this to us in a minute. But, I assumed that when I fill out the statement of interest that I'm disclosing those conflicts. And that once disclosed, then I carry on in terms of - you know, I'm with (Mikaeli) on this one. I think if you don't have an interest in the policy, then you're probably not going to be terribly effective as a workgroup member. That's the whole point, to have that (unintelligible).

Michele Neylon: Okay, thank you. And James.

James Bladel: Yes, thanks (Mikaeli). This is James, and I just want to - because I think there might be a danger that we could go off track - off the agenda on this, and I just wanted to make a couple of quick comments. The first being that you know, we are not referring necessarily to the various factions or subdivisions of the GNSO as constituencies. We are calling them stakeholder groups I think for a reason, because the folks participating in these working groups have a stake in the outcome, whether it's a business stake or a stake in privacy advocacy, or whatever the particular stakeholder group is advocating. I think that rather than try to eliminate that, I think it's best to be transparent about that, and that's why we have the statements of interest and the constituency statements, et cetera.

And then the final thing I wanted to mention was just that I don't feel that working groups or PDPs, at least the ones I've been involved in up to this point, are adjudicating or deciding on policy necessarily so much as crafting policy recommendations to the GNSO Council, which then I think ultimately

has the final - at least opportunity to make a decision on whether or not that's - that policy goes forward.

So, I don't really see us necessarily as a group of stakeholders coming into write our own regulations, or whatever the word might be. I just see us as coming together as bringing a disparate and diverse areas of expertise into a form where we can craft recommendations to the counsel. So, that's just my take on that.

Michele Neylon: Okay, thank you.

James Bladel: But, I don't mean to take us off track, so I apologize.

Marika Konings: Yes, this is Marika...

Michele Neylon: Marika?

Marika Konings: I think most of what I wanted to say has already been said by James and by Mikey. Just one point to add. I know that one of the things that's being discussed currently, as part of the whole reform process of the GNSO, is as well a requirement to have a disclosure of interest at time of vote or decision making processes.

And that might address part of that concern where, you know, people clearly state, which they should've already done as well in their statement of interest, when certain decisions are taken that they clearly state whether they have a specific interest in the outcome of that. And that is clear and obvious for everyone where everyone stands and that you know, have a transparent process.

Michele Neylon: And Mikey. You held your hand up again.

Mikey O'Conner: Oh, no. I'm sorry. I forgot.

Michele Neylon: More coffee. More coffee. Come on there.

Mikey O'Conner: I'm drinking the stuff with caffeine in it and everything. I don't know what's wrong.

Michele Neylon: Is there any other kind of coffee?

((Crosstalk))

Michele Neylon: Has anybody else got anything to say on this slight side topic before we move on?

I'll take the silence to be no.

Okay then. Next item on the agenda. Finalize initial discussion on Issue A, whether process (of urgent) returns/resolution of the domain name should be developed as discussed within the (unintelligible) report. So, any comments, thoughts, or views?

Okay, Paul Diaz.

Paul Diaz: Thanks, (Mikaeli). Just a question. When we say finalize, I mean I assume we're just - that the focus should be on initial discussion, right?

((Crosstalk))

Paul Diaz: We're not closing anything off, because...

Michele Neylon: Oh, no.

Paul Diaz: ...it seems...

Michele Neylon: (Unintelligible).

Paul Diaz: Okay. Understood. I just wanted to make sure because it seemed that a lot of our discussion to date was in fact talking about the transfer dispute resolution policy. We kick that around a lot, and that wasn't necessarily explicitly cited in a charter, but it seemed a natural flow from this particular issue. And personally, I'm not sure if we really had a very robust discussion about a specific (urgent) return policy. We were talking about potentially tweaking another existing one.

I just wanted to make sure that we're, you know moving forward. That we can certainly come back and more fully address these issues, in particular, after the initial public comment is received.

Michele Neylon: Okay. Mikey.

Mikey O'Conner: I guess my question is do we have - the word finalized sort of tweaked my attention as well. Do we have a draft that we're working from? I'm a little - I think maybe it's just the coffee today. Who knows. But, I'm not feeling like we've really had that discussion or gotten anything down on paper, but it just...

Michele Neylon: I think this is partially my fault because I was sent a draft - agenda for today, and the word finalize didn't really upset me. I'll be more careful in the future. I'm going to let Marika jump in there, because I have a sinking suspicion she's going to say something pertinent to this.

Mikey O'Conner: She's pretty smart. She usually does.

Marika Konings: Yes. Correct. The reason why I put finalize initial discussion is that on the last meeting, we briefly discussed whether the group already wanted to talk about recommendations at this stage, or whether, you know they would prefer to go through to different questions and have initial discussions, and then follow a

public comment and a constituency statement, then have the more in depth discussion and move more into the direction of discussing potential recommendations for each of these issues.

So, that's why I put there finalize initial discussion. You know, as Paul took it as, you know, just wrapping up the initial exchange that is not yet the in depth discussion that is probably needed to come to some kind of recommendations or conclusions on it, which hopefully, will follow following the public comments and the constituency statements. That was the idea behind it.

And apologies if that caused any confusion.

Michele Neylon: All right, Marika.

Mikey, does that kind of answer your question?

Mikey O'Conner: Well, you know, I guess I'm going to leave my hand up on purpose this time. I guess I've got sort of a process question. You know, we're sort of climbing a mountain, and it's kind of nice to drive a stake in the ground at certain stages up the path. And the initial discussions that we've had have been pretty wide ranging, but I'm not sure I understand how we're capturing those, and doing...

If you view sort of a rough draft as a stake in the ground, are we producing rough drafts along the way, or are we just having conversations at this point?

Marika Konings: I'm taking notes.

Michele Neylon: She's taking notes. (Unintelligible)?

Marika Konings: I'm happy as well to - you know, to put some notes down, you know, on each of the subject that we cover that the group can then use, you know, for the next phase to go back and see what did we talk about again, and then what

were some of the ideas that came up. I'm happy for example to create some Wiki pages for each issues so members have as well an opportunity to add anything, you know, I might've forgotten, or ideas they come up with and want to park somewhere for when we come back to the issue, if that will be helpful.

Mikey O'Conner: You know what; I think all of that would be helpful, so that then when we get to an agenda item like this one, we can take a look at something and see sort of the ground we've already covered, and you know, tidy it up I guess. Thanks. That would be great. Great.

Marika Konings: Okay.

Michele Neylon: Okay, and the - so, there's another hand up there. (Chris Chaplow.

Chris Chaplow: Thank you. Yes. I was just wondering if one stake that we could put in the ground or at least throw it on the table, looking at the word urgent return resolution, could that be defined as if the DNS has been changed? Is that something that we can focus on, or can ask what people think about that?

Michele Neylon: Can I say one thing from my own personal perspective? I wouldn't see the DNS as being the only issue for a matter of urgency. If somebody were to change the details of a domain belonging to me personally or to my company, the DNS resolution would be the least of my concerns, personally - speaking personally.

((Crosstalk))

Chris Chaplow: If the DNS doesn't change, then it's sort of still a (diminishitive) problem, isn't it. The moment the DNS changes, then it becomes a real practical problem and urgency's required.

Michele Neylon: I disagree with you, because if the contact details on the domain change to that of a third party, then I lose control of the domain. I can't make any changes to it. And by the time - so, if I don't do something about that when I notice this, what am I going to do then, because I'm completely snookered.

Chris Chaplow: Then you can use the policies that are already in place.

Michele Neylon: Yes, but I think you're missing my problem. I can change DNS servers on a .com domain a couple of hundred times per day without very little effort.

Chris Chaplow: Yes.

Michele Neylon: So surely, if the details of the domain change without the DNS being affected, that should be enough to cause me a major headache. Because once the - it's very easy for somebody to change the DNS backwards and forwards. You mightn't even notice that it's happened.

Chris Chaplow: But, if we're looking at the transfer combined with the change of DNS, is that not the event that could trigger a new policy?

Michele Neylon: I don't have an answer for that one. Mikey?

Mikey O'Conner: I think maybe you're confusing - I'm with (Mikaeli) on DNS is the right target, and I think (Mikaeli), the words you used were contact information. I think it's the change in the information about the control of the domain, not so much the DNS. The DNS is sort of a...

Michele Neylon: Well, yes. This is the other thing. I mean, how - which is just coming back this thing on the DNS. What are you referring to in DNS? Do you mean A records, X records, or named servers? Or, do you mean all of them? Or, do you only mean one of them?

Chris Chaplow: I suppose I would mean all of them, because it means either the email or the Web site has been hijacked.

Michele Neylon: Well yes, but - okay, if I - let's say for example, if I were to insert say 25 A records for a - for the - for a particular domain name, and I was to drop the (TTL) on the zone file down to say 60 seconds. I would then effectively, be able to round robin the Web site via multiple (places).

I could probably do it in such a manner that it'd be almost impossible for you to notice that I've done it. Because all I have to do is put in say if I put in say 100 A records, I can put in say 85 to 90 that are valid and put in one or two that you might notice that are actually invalid.

Chris Chaplow: Yes.

Michele Neylon: And how are you going to monitor those?

Chris Chaplow: I don't know. I was just thinking of - we're looking to cite - do we need a policy above what we've already got? I.e. the registrars talking to each other, or the (inter-register) transfer to transfer policy? I'm just looking for a definition. Something to trigger that we should actively come up with something. That was all.

((Crosstalk))

Chris Chaplow: You know I'm just trying to throw something in there to try and help us.

Michele Neylon: Oh yes. No. No. Don't worry (unintelligible). That's just like where we came from. Mikey, thoughts. You're hand's up. (Unintelligible).

Mikey O'Conner: This is Mikey. Yes, I did actually put my hand up again. I think that the key phrase that just popped out, which is what if anything is the trigger or the need for an urgent return? That's part of the...

Michele Neylon: Okay.

Mikey O'Conner: ...reason why I was scratching my head earlier about the notes, because we've talked a fair amount about this, and I've forgotten which parts of it we've talked about, and I've forgotten the process that we described. You know, James, and Barbara, and Paul can help me out here. There are several things. One is we have to be careful not to jump outside of our scope. We're really only talking about the inter-registrar transfer process, not all hijackings.

And I think that by stepping back from (domains and servers), as the thing to focus on, but rather to brainstorm a little bit about what the trigger would be that we might be able to get something. But, I can't even really remember where we got to in the previous discussions about the need for a policy at all. That's part of the reason why I think that notes would be so helpful.

Michele Neylon: Marika? Since you've got a better memory than me.

Marika Konings: Yes, I don't think we really went into that in that much detail. I know that was some of the questions that staff put out in the issues report. Like how big of a problem is hijacking? Does it warrant any policy changes? And of course as well, the question how do you define hijacking, and who's in the end, you know, the judge of whether there's a need for the urgent return.

So, I think we look more at the (TRP) and seeing how that process is being used, and then discuss more issues relating to that. I don't recall that we went into great depth of discussing, you know, what event or what situation would warrant an urgent return? And would that warrant the development of a new policy? I think we had some discussion as well that, you know, a lot of these situations are currently resolved, you know, between - dialog between registrars.

So, the question there is as well - the situation where it is required, is it helped by a new policy, or might it, you know, deter or limit the availability - the possibilities that registrars have to solve these issues between them.

Michele Neylon: Okay. James?

James Bladel: Yes, I think I just wanted to echo some of what Marika was saying. That the trigger in my, you know initial take from reading this question would be - the trigger for this process would be that the registrants has contacted the registrar, believing that there has been - or claiming that a recent transfer was not authorized, and was likely hijacking attempts.

And that, you know right now, I think that there's a great deal of confidence that if this were to occur between let's say -- and I'm going to pick on Paul a little bit -- if this were to occur between Go Daddy and Network Solutions, I think there's a lot of confidence that our two teams will work together to sort that sort of thing out.

The concern is that when we're dealing with the registrars, it's either not readily compactable, or isn't responsive, or doesn't agree with that, that there be some sort of an escalation process or an alternative method to undoing that transfer that the registrant claims was unauthorized.

Now the second question is how does that differ from the (TDRP) as it exists today? And I'm afraid I don't have a short answer for that. But, that was my read on this particular question, and apologize if I'm not (unintelligible) reading that correctly.

Michele Neylon: I see another hand up there. Kevin?

Kevin Erdman: Yes, I just wanted to make the comment that - now it seems to me that the - that folks that are fairly active in the industry have a good ability to resolve some of the problems of hijacking or other inappropriate transfers. But, it's my

sense that what is trying to be accomplished is to protect the - you know, a part...

You know, let's just say, you know, that there's a big retailer that has their big domain where they get most of their traffic. And somehow something goes wrong with their domain, and it's a you know, large economic impact on them and they want to have, you know, the ability to have a quick resolution of whatever they perceive their problem is.

And, it may be a party that doesn't have quite the experience and sophistication in the technical aspects of the transfer protocols, and may in fact you know, just be a victim of a hijacking, or be a victim of some other blundering of registries. And it seems to me that's the real key to you know, whether enough of those happen that it makes sense to put forward the - you know, the extra protocol.

Michele Neylon: Okay. Anybody else got anything to add?

No. Okay. So, based on what we've been discussing so far, what we're looking for is some agreement on what triggers this. And based on what a couple of the registrars have said, the trigger would appear to be when the registrants contacts the losing registrar. Is that correct, James?

James?

James Bladel: I'm sorry. Say that once more, please.

Michele Neylon: Okay. It came out so well the first time. Based on what - we're trying to decide on what is the trigger for the - for any form of policy or any action? And what you were saying is the trigger at the moment would be when the registrant contacts the registrar. Is that correct?

James Bladel: Yes. I believe that this would be initiated by a claim of hijacking.

Michele Neylon: Okay.

James Bladel: Now, whether or not that's a valid claim, I guess is...

Michele Neylon: No. No. (Unintelligible).

James Bladel: ...yet to be determined, but it's initiated by a claim.

Michele Neylon: Let's just try and put some suggestions of something out there. We can thrash out the final details afterwards.

Mikey, do you want to argue with us, or suggest an alternative?

Mikey O'Conner: Well, I'm just wondering. You know, I'm wondering whether the trigger is that, or is it the next stage...

Michele Neylon: What's the next stage?

Mikey O'Conner: ...(of the process), which is where the registrars and registrants involved bump into a non-responsive opposite party. So, is the trigger - you know, because -- I'm going to make up numbers because I don't know (unintelligible). But, let's say that there are a thousand instances that Go Daddy and Network Solutions (bonk) into in a year, and 990 of them, they get resolved between themselves with invoking this. And that the triggering event is the inability for that informal process to resolve this.

I'm fine with James' triggering.

Michele Neylon: Okay.

Mikey O'Conner: But, I'm not sure whether we need to trigger a policy every time this happens, or whether there's - it's when escalation is required is the trigger.

Michele Neylon: James, I see your hand waving there.

James Bladel: Yes, and this is - I think that the last sentence Mikey said was the pertinent one. The word trigger to me implies an automated process. And I don't think this is - the intention was that this would be an automated process, so much as an escalation process for registrars and registries to work together, should the existing tools or options they have to recovering a hijacked name - if those were to fail, then this is another approach.

So, I'm thinking that the word trigger to me implies something that's happening or that is compelled - a registrar's compelled to do or a registry's compelled to do. But, I don't think that that's really what we're getting at. We're talking about a tool or a procedural option that can be used in the event that existing tools fail.

Michele Neylon: Okay, so at the basic, we're talking about the option existing for people to take advantage of it, should they wish.

James Bladel: Now, when I say - when you say people, if you mean registrars...

Michele Neylon: Registrars.

James Bladel: Yes. I would...

Michele Neylon: I say something simple, and God, it gets out (unintelligible).

James Bladel: Well, my concern (Mikaeli) is that -- and I'm sorry, this is James speaking again -- my concern would be that a registrant would say, "Hey, my name has been hijacked," and it's now at network solutions, and I say, "Well, let me call my good friend Paul, and we'll get this straightened out. And the registrant will say, "No. I want you to - I want to tell you to...

((Crosstalk))

James Bladel: ...execute this process," and it could be longer and more expensive. Why not just a simple phone call to another registrar would've sorted it out in minutes.

Michele Neylon: That's a very valid point, and I apologize. Okay, Paul has his - had his hand up, but I think he's running away now.

Paul Diaz: No, James just clarified it, so I'm fine (Mikaeli). Thank you.

Mikey O'Conner: Yes, so did I. Mikey.

Michele Neylon: Okay, so how can we possibly word this so there's - you don't end up in a situation where registrants are - or, registrants, over paid lawyers, or whoever are wasting everybody's time and causing headaches for everybody by triggering processes or whatever that aren't necessary.

Okay. Mikey again. Kevin again. Let's choose Kevin this time.

Kevin Erdman: You see, I was just going to suggest that I think the way to keep, you know, the amount of requests for this expedited procedure to a reasonable amount, so that there's a reasonable likelihood that the procedure was actually needed, was to - would be to put up the requirements for invoking procedure to be something that's relevant to the problem, and also objectively determinable. Because this isn't a situation like the (UDRP) where there's you know, judgment involved, and it takes a bunch of time and panels and all that.

Where, you know if you want something to be done fast, then the criteria for deciding whether you ought to do it ought to be fairly objective. And you know, maybe it's not a trigger such that it's completely automated, but at least ought to be something that is readily ascertainable and not a matter of you know, judgment.

Michele Neylon: Okay. Mikey.

Mikey O'Conner: I like all of that. I think triggering is just the wrong word. We could call it, you know, circumstances or almost anything to avoid the automation thing. And I think that the key to this is some sort of documentation that reasonable prior efforts have already been made and failed, and that the process needs to be expedited. And then, I like...

Michele Neylon: Okay.

Mikey O'Conner: ...I like Kevin's notion of delineating what that description would be. I'm not sure we need to define it on this call, but you know, we can certainly come up with a list of those things.

Michele Neylon: Silence. Barbara Steele, hello.

Barbara Steele: Hi. I'm wondering if it makes sense for all registrars to have, you know, available to their registrants an escalation contact method, whether it be an email that's you know, monitored you know, very closely. I'm not sure it needs to be 24/7, but you know, perhaps it is if it's a very high value name. Or, you know, a telephone number where you know, registrants who have found the name - you know, who have been hijacked can call.

And you know, all registrars would be required to have that, and have individuals who are committed to, you know, trying to resolve the problem. Because, I really do think that this is something that is most quickly resolved, and obviously time is of the essence in this particular case at the registrar level.

Michele Neylon: Okay. I'm going to (unintelligible)...

Paul Diaz: Can I jump in and respond to that, (Mikaeli)

Michele Neylon: I was hoping - yes, please do. Please do.

Paul Diaz: Yes. It's Paul Diaz from Network Solutions. Just wanted to - at least in our experience -- won't speak for all registrars -- but I mean, we offer 24/7 customer experience - customer service I should say. All of our reps are trained to understand if somebody has a problem like this, to immediately move the call over to an escalation team. And we handle this all the time. Literally, around the clock.

And, we would not be in favor of a specific - publishing a specific escalation number, because we don't know - then everybody will call and say that their issue is escalation worthy.

Man: Right.

Paul Diaz: You know, so at least in our case - I mean, we're there round the clock, 365 days a year, and deal with these issues as they come in. I agree with Barbara that, you know, this is - registrars are the first line of defense to respond, and I would also remind folks that with the changes in the registrations accreditation agreement, registrars are required now to provide their contact information explicitly on the sites.

Anybody who's not doing that, and therefore, not making themselves available to deal with one of these urgent situations, you know I would say then it's really an issue for ICANN compliance to weigh in and to address that, because that would be a failing on the part of the registrar meeting the provisions of the (RAA).

Michele Neylon: (Chris Checklove).

Chris Chaplow: Yes. Just thinking really where we are. We're looking like we need first of all to have a transfer, and then changing control of the domain, and then the registrant contact, or the old registrant contacting the losing registrar. And

then at some point, possibly, if they're getting absolutely no response from the losing registrar, or at some point when - although the losing registrar is assuring them that they're doing everything they can to resolve this registrar to registrar, there is some form of escalation.

And how exactly that gets triggered, or if it ever happens at all, that's sort of where we are isn't it.

Mikey O'Conner: This is Mikey. I'd like to jump in on that one real quick.

Michele Neylon: Please do. Please do.

Mikey O'Conner: I think that there's really two people that escalate. One is the registrant, as you describe it (Chris), and the other is the registrar. So, the circumstance that Paul and James might describe is we've been contacted by the losing registrant, but we can't get a response from the gaining registrar. And it's not clear to me who - whether there are two initiators of this escalation, (Chris), or whether there are two different processes, depending on who's initiating.

But, I think there are two parties that might initiate this escalation, the registrar, and the registrant.

Michele Neylon: Marika.

Marika Konings: Oh, yes. This is Marika. I had a question in relation to the comment that Kevin made on you know, having objectively determinable factors in deciding whether you know, a hijacking has taken place or not. And I was wondering, like for the registrars on the call, how do you make that assessment in - you know, in those discussions you have. How do you make that assessment that it's indeed a hijacking that has gone on?

And, are there some elements that this group can take into consideration as, you know, what boxes need to be (checked) for such an urgent process to be triggered, if such factors exist.

Olof Nordling: Could I add a few words. This is Olof. To be - the certainty - so somewhere, there's a need to be certain that the transfer has happened incorrectly, and that we - to avoid that there are - well, frivolous attempts from a previous owner of a domain to get it back, even though it may be - have been - for example, we talked briefly - there's been a divorce -- for example -- and well, this has been gone to one of the parties, let's say. And the other party is still contesting it.

So, there is a need of some proof from the registrant that this is still - is valued - his property. I think that's one of the (gating) factors as well.

Michele Neylon: James.

James Bladel: Thanks, (Mikaeli), and I think part of the conversation is starting to touch in on a area of how do registrars resolve disputes between two competing clients for control of a domain name? And you know I'm of the opinion that that's not - that's starting to traipse a little bit outside of what this question is focused on.

This question to me is an indication of you know the same criteria or burdens of proof that we would use in attempting to undo any - a transfer as it stands today. We would presumably require for this new process. So, I just wanted to get that out there.

So, this is a return to a status quo prior to an event occurring, so prior to a transfer. If there's a dispute or something like that, then I think that transfer is probably the last thing we want occurring in the middle of a dispute. So we should probably, you know maybe take that off the page and say this is essentially a reset previous to a transfer. If there's any kind of a differing

claim, that those be settled as they were in the status quo prior to the transfer.

And I apologize if that didn't make any sense.

Mikey O'Conner: It didn't may any...

Olof Nordling: I understood it.

James Bladel: Okay. Sometimes I talk in circles. I'm a better writer than a talker. Sorry.

Michele Neylon: Well, I'm used to dealing with the (unintelligible), so I'm kind of used to people talking in circles.

Olof Nordling: Don't even go there, please. We'll be here all day.

((Crosstalk))

James Bladel: So, I guess my bottom line point here is that we shouldn't be looking at this as a means to resolve disputes. This is a policy or a tool, or an option to resolve transfers. And if we...

Mikey O'Conner: This is Mikey, and I just to add on to that.

Michele Neylon: (Unintelligible) Mikey.

Mikey O'Conner: This is only to resolve inter-registrar transfers. Otherwise, we're almost stepping outside our scope.

Man: Yes.

James Bladel: Absolutely correct, Mikey.

Michele Neylon: Okay, so we need to be careful. So, basically to see if I could summarize what people have said. I'm trying to keep this kind of focused and clear, because otherwise, my poor little head is going to explode.

It should be - the policy should not be abused for reasons other than for which it is designed, if such a policy is required. So, it's to do with hijacking, not with other types of disputes. So, if I have a falling out with my business partner, then it's really outside the realm of this policy. And people agree with us?

Man: Yes.

Woman: Yes.

Michele Neylon: Okay, fine. Because there are policies that exist for other types of disputes, and they should be used for that, and the people should not be trying to use - to abuse a policy which is designed for -- oh God. Okay, I'm beginning to have the same problem James is having.

((Crosstalk))

James Bladel: ...Marika writing notes for us.

Michele Neylon: Yes, exactly. Okay, there shouldn't be abuses - it's to serve a particular type of situation and not other ones. The question of course I would ask is how can you possibly safeguard against this? It's a horrible question to ask, but...

Mikey O'Conner: This is Mikey.

Michele Neylon: Yes.

Mikey O'Conner: I think what we do is maybe we do let Marika summarize the discussion from the MP3, and to solve that one after we've seen in a little bit clearer detail what we're talking about. I think there are ways to do it, but I think it'd be good to get the underlying premises laid out first.

Michele Neylon: Okay. Any other thoughts? Oh, James and Marika's hands are up. Okay, let Marika go because she might say something really cool. Marika.

Marika Konings: There's pressure now.

Michele Neylon: (Yes. Welcome to my world).

Marika Konings: You know, listening to the discussion, it seems to come back to like can you have objective criteria with which you can identify whether it concerns a hijacking or not. And if you would be able to identify those, you can avoid abuse, because people need to tick the different boxes and I guess provide proof of those certain elements, so that you know, you can identify that as indeed a hijacking.

Of course, the big question is do those identifiers exist, and are they objective? Or, would that require you know a judgment or determination by a certain person or body, or institution that you know, can be challenged again by others? So, I think that's in the end, what the question will come down to in my view.

Michele Neylon: All right. Just on my personal thing before I let James go through. I'd agree with you Marika, in that the objective thing is going to be a lot of fun to resolve or to arrive at some kind of set of objective tests. It's like I can see that as being quite interesting. James.

James Bladel: Yes, (Mikaeli). And thanks for this. I just want to emphasize once again, that I think the question that was posed earlier, perhaps by Mikey was is it possible

to design an anti-hijacking mechanism and not have it be abused for reverse hijacking? If you're familiar with those types of terms.

And, I think that the very short off the cuff answer that I have is - again, we are talking about restoring a situation to exactly the environment that it was in pre-transfer. So, you know, I think that the lawyers perhaps on the group can help me maybe articulate this.

But, it's very similar to the concept of injunctive relief, where you want to get - you know, you believe something harmful has occurred and you want to restore it to the situation that it was prior to that harm occurring. So, I don't necessarily think that there is a concern that this would be used for reverse hijacking, because you're restoring it back to the ownership that it was prior to the transfer.

And secondly, I don't think that we need to write into the policy different burdens of proof or thresholds, or hoops that a registrant has to go through. I think that those are already in place now, and as far as I know, there's not a whole lot of controversy over this. Is it that a registrant had an account with a registrar, they had a domain in their account, and now it's gone. You know, I think that's a fairly objective level of proof there.

So, just putting that out on the table for discussion.

Michele Neylon: Kevin.

Kevin Erdman: Yes. My thought on the injunction aspect is we aren't - I don't think the purpose of this procedure is to restore - necessarily restore. I mean that may be the ultimate objective of the party requesting the process, but I think the objective of the quick resolution is to maintain the status quo to allow for the correction if there is - if a correction is appropriate.

So, it seems to me that the procedure would really be two steps, which would be - say the first step, which is to - for the recipient of the -- for lack of a better word -- of the request to be able to determine if the criteria that we're going to, you know, put in our recommendation - that that criteria has been met. Prevent further, you know, work on - you know, any further processing of that domain.

And then have a stage two, which to then see if everything else is in order to grant the request, and then return things to the status quo. Because - unless we can set forth a criteria which - just that requires absolutely no consideration, and would automatically return the domain to them, then we're really - and maybe that's a question that we need to resolve here first, which is, is it a one step process which is you meet the criteria. Everything gets pushed back to where it was before. Or, number one, you meet the criteria, and everything gets frozen, and then there's a process to make sure that - you know, if that's the correct result, and the reverse the answer and return the status quo.

Mikey O'Conner: This is Mikey. I want to jump in real quick on this one.

Michele Neylon: I think I'm going to have to - you're going to make it really, really, quick, Mikey.

Mikey O'Conner: I just want to highlight that this is urgent return, not urgent freeze. I really don't want to see us freeze this, because then the person who needs their domain back really quick could wind up losing it for months. That's it.

Michele Neylon: Okay, that's a good point. Guys, time wise, we're a bit - well, we've run out of time. If people want to follow-up with any other points on this, could they please do so via the mailing list.

And the next call is when, Marika? Next week (unintelligible), or two weeks?

Marika Konings: In two week's time, in principal. We said bi-weekly unless people would like...

Michele Neylon: Yes.

Marika Konings: ...to change to a weekly schedule.

Michele Neylon: Okay. Now, if people feel that we need to move to a weekly schedule, just shout now, or forever hold your peace.

Man: No one ever holds their peace in working groups, do they?

Michele Neylon: You know, I've kind of noticed that. But then I can hope.

Okay, so in two weeks. Again, if people have anything else, could they please post it to the mailing list? And, Marika is going to do some wonderful things, and we think she's wonderful. And I'll speak to some of you probably later on the call - on another call today. Okay, thank you Marika. Thank you everybody.

Marika Konings: Thank you.

Barbara Steele: Bye.

Man: Thank you.

Glen DeSaintgery: Bye.

END