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ICANN Transcription

IDNs EPDP F2F Workshop PM Session

Wednesday, 06 December 2023 at 06:00 UTC

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DAN GLUCK: All right. Good morning, good afternoon, and good evening. Welcome to session three of the IDNC PDP call taking place on Wednesday, the 6th of December, 2023. All members and participants will be promoted to panelists. Observers will remain as attendee and will have access to view chat only. I think we can skip the statement of interest part for time. Again, during the sessions, request that questions are asked verbally to signal you have a question or would like to speak. If you're in the room or online, please use the hand raise function in the Zoom toolbar. If you're in the room, please join this meeting without audio, or if you do join with audio, please mute your microphone and speakers as the audio is taken care of through our meeting AV support staff in the room. When called upon, you'll be given permission to unmute your microphone. Kindly unmute your microphone at this time to speak. Please state your name for the transcript. And as a reminder, those who take part in the ICANN multi-stakeholder

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process are to comply with the expected standards of behavior. Thank you. And over to our chair, Donna Austin.

DONNA AUSTIN:	Okay. Thanks, Dan. Welcome back, everybody. We're going to try to keep on time every day because I'm very conscious that we do have remote participants and it's not a great time for them. So we're just going to try to start on time for all of our sessions. Steve is our, well, today he's our primary note taker. So I'm just going to ask Steve if we can do a little bit of a recap of where we got to in our conversation this morning, and then we'll start the next part of the day. Thanks.

STEVE CHAN:	Thanks Donna. This is Steve from staff. Primary note taker for that particular session, we're sharing the [inaudible] all day so we don't burn ourselves out. So yeah, we talked a little bit about trying to make sure we're all on the same page. So I think where this group ended up during this first couple of sessions is that there's agreement, and I think Donna alluded to this, that the TMCH matching rules as they are, seem to be fit for purpose and do not require adjustment. And in particular, there does not seem to be issues with sunrise. There may need to be more procedurally related changes at the registry operator level probably related to claims. And more or less the group would wish to affirm or confirm what the RPMs group agreed to in respect of, well, it's still on the screen, what's captured in registry agreement spec seven. So what form that might take is to be determined, but more or less agreeing that the status quo should be applied looking forward.

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And so those I think are the high level agreements. There may be a couple of potential open issues that the group will want to look at. I had mentioned a potential action item about trying to confirm what implemented IDN registration policies means in practice. And so I think this goes to the concerns Sarmad had about the differentiation between allocatable, blocked, and how that might or may or may not have implications on a registry.

And then the last thing I think where we left off is a potential open issue about whether or not the group thinks it's a concern if the sunrise and claims periods for variant TLDs overlap. And I think that is where we ended up. Thanks.

DONNA AUSTIN: Okay. Thanks, Steve. Does anyone disagree with that recap or think we've missed something? I can't see any hands at the moment in the room. So I think we're okay. All right. So Ariel is going to take us through part two, whatever the next bit is.

ARIEL LIANG: So I just want to confirm if there's agreement with what Steve recapped. Is that an action item for staff to start drafting draft text along that line? And then basically just to confirm, we don't have a recommendation, but we will have a response to the charter question basically to F1. And I'm going to quickly go to the slide where we have F1 discussion questions. So we are going to capture the response to F1 and include the rationale and the deliberation of the group. But we also need to do some investigation about what Sarmad said. And then maybe after that,

we will bring the findings back to the group and see whether any additional thing we need to do with regard to developing recommendation or implementation guidance were just a response to the charter question.

Okay. So we can go to the next charter question, which is D6A. It says, "Should transfers ordered by the uniform domain name dispute resolution policy, UDRP, or any other dispute resolution mechanisms be treated the same way to follow the same entity requirement?" So it's a kind of loaded way of saying this question, but it's actually related to the lifecycle question that we dealt with a while back. And so this is one of the sub questions associated with that. And basically, we're asking whether the same entity should be followed for transfer order as the outcome of a UDRP proceeding. And so basically, that's what this question is asking. And I just want to quickly pull up the recommendation that's already developed by the group that covers the aspect of transfer. And I want to make sure we already have a recommendation on that. And does that mean this is sufficient to cover this topic? So this is the preliminary recommendation seven. And in the recommendation, we said, in the event an inter-registrar transfer process is initiated for a domain name, which is a member of a variant domain set, the process must encompass all of its activated variant domain names, if any, together. The grandfathered variant domain names pursuant to preliminary recommendations three are exempt from this requirement. And I just want to note there's a word activated in this recommendation. And we said we will confirm whether that's still the correct word, whether we need to use some other word because we'll have this terminology discussion during our workshop too. So that word

may change, but the substance of the recommendation won't. It basically says transfer need to follow same entity principle. But the grandfathered domains, they don't have to because they're grandfathered. And then I want to also note this rationale portion of this recommendation. So we did address the involuntary transfer and the EPDP team noted that there may be circumstances where the sponsoring registrar must deny an inter-registrar transfer per the requirements of the transfer policy, e.g. court order, pending UDRP proceeding, etc. This may affect the registrar's ability to transfer all of its activated variant domain names from the same variant domain set together. So basically we noted some caveat, maybe same entity principle cannot be followed precisely because of things out of our control, our external factors, and then UDRP could be one of this. So that's what is noted in the rationale. So I just wonder whether the group believe this recommendation is enough to address the charter questions. So I'm just going to put on this screen. So D6A, do you believe preliminary recommendation seven is adequate to address charter question D6A? If not, what additional recommendation or implementation guidance may be required? So that's a question to the group.

DONNA AUSTIN: Edmon?

EDMON CHUNG: Edmon, speaking personally here. So I think we still should say something here and are somewhat open to the results, but I'll state my preliminary view first. First of all, the one before is a

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general recommendation on transfers. Here we're specifically talking about UDRP. And noting earlier, Ariel, you said that the phase two of the RPM group is now ongoing and it will be talking about UDRP, I think we should at least come to have something to say about it, which could then literally be the input into the UDRP. And in my view, if UDRP doesn't change as it is now, then the answer to the question would be that the same entity principle should apply and the entire set should be transferred by default. That is by default. If and only if the UDRP changes to be able to have a nuance, should we relook at it. But we should also state more clearly that at least my current view is that the principle of the IDN variants is very important for the security and stability part of things. And kind of fragmenting a particular IDN variant set is not something that we should defer to a panel whose competence is on trademarks and that kind of thing without technology specialist input. So without the root zone generation panel input, they should not do that. And the UDRP and the RPM group should know this part before they complete their considerations. So, yeah.

DONNA AUSTIN: Thanks, Edmon. Michael?

MICHAEL BAULAND: Yeah, basically what Edmon said. I agree that in all standard general cases, even in UDRP, those variants should not be separated. The same entity must be upheld all the time.

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DONNA AUSTIN:	All right. So what I'm hearing is we need a separate recommendation that is specific that any transfer as a result of a UDRP where that domain name is part of a variant set, then the consequences are the same. The set has to go together. So usually with the UDRP, what are the possible actions as a result of a successful UDRP? Sorry. Maxim?
MAXIM ALZOBA:	UDRP is a registrar process because registry do not interfere in it. And basically, the domain is transferred to the winning party if it was a complainant. If not, it just returns to the previous state. And speaking about UDRP, it's the theme in addition to URS, which might have some strange consequences, because in trademarks, two parties can have basically rights for the same set of primary string and its variants in different services and situation in which they had rights in the past and still have rights for this set of strings. But one of the parties got primary and another party got, for example, one of its variants. To understand who is going to win, why, and it's not easy because we actually invented some rule which never existed in the past. So at least we need to consider the option of inherited domains shouldn't be treated under this rule until the situation resolves due to one of parties seizing control or whatsoever. Thanks.
DONNA AUSTIN:	Thanks Maxim. Abdulkarim?

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ABDULKARIM OLOYEDE: I just wanted to clarify that. In the case of there's a dispute using UDRP and it is resolved against the other person. So which IDN table is applicable? Because I think that would also probably be a factor.

DONNA AUSTIN: So I guess, so a UDRP action is generally bought because somebody believes they have rights over a name that somebody else is using. So whoever, the registry that owns the TLD would have the IDN table, but as Maxim said, it's the registrar that holds the name. So that's where the kind of transaction or the disagreement is. So the consequence of that, if the UDRP is successful, the registrar has to transfer that name accordingly. So I'm not sure that the IDN table is actually a consideration in this only to the extent that if the domain name in dispute has variants attached to it. So what happens to those variants? And that's the question we're trying to answer here. So applying the same entity principle rule that we have adopted at the second level would mean that if that domain name is part of a set, then wherever that disputed name is transferred to, then the others have to go there as well because of that same entity requirement. So I'm not sure that the IDN table is part of the consideration.

ABDULKARIM OLOYEDE: My question is, because the is the registrar that keeps the IDN table, which would vary from one registrar to the other.

DONNA AUSTIN: So the registry holds the table and the registrar implements whatever the requirements are in that table.

ABDULKARIM OLOYEDE: Yes. So if you are transferring from one registry to the other, then—

DONNA AUSTIN: So the domain name is actually transferred between registrars. So it stays within the same TLD. So it's the same top level domain. It's the second level domain that is controlled by the registrars that is transferred. So it doesn't go from one registry to another, goes from one registrar to another. So Edmon, Ariel, Hadia.

EDMON CHUNG: Edmon here speaking personally. I put my hand up to add a little bit to what Maxim said and maybe what Ariel wants to say as well. But in terms of UDRP, I understand that it could be a transfer and it could be a delete as well. So the name could be deleted and that doesn't trigger any particular discussion. But as Abdulkarim was talking about it, I think there actually are things that we need to think about. So there could be a scenario where let's say a cyber squatter comes in and registers the name with the intent to hold a particular variant and hold a mark owner ransom, for example. So the UDRP might have a problem. So the current UDRP, I don't know whether it will be able to handle this, but in the future they should be able to handle whereby an abusive registration comes in with the primary domains that seems to be going for this. But knowing that a trademark is actually in the

variant set, they can then hold the trademark owner ransom. In those cases, the transfer might happen, whereas first of all, the entire string is transferred, but then it gets updated to a different primary and potentially utilizing a, which will come out with a different even language tag or a set of variants. So there is a potential, the set of variants is still supposedly going to be the same if everything is harmonized. And I know that we were going to talk about the harmonization part, but if it is a case like this, then the IDN tables or the LGR could potentially play a role both in the consideration of the UDRP itself, of course, that's beyond our competence to talk about, but maybe this is information that that group needs to understand. And also how the transfer happens and what may or may not be done immediately after that particular transfer. So hopefully that adds to what was brought up.

DONNA AUSTIN: Ariel.

ARIEL LIANG: Yeah, I've raised my hand because I did prepare a few slides about the background and some good to know information. And I was just not sure whether it's useful for the entire group, the room, because it seems everybody has certain level of knowledge of UDRP, but if not the case, I'm happy to go through some basics so we really understand what we're recommending and maybe we can spot any gaps. I don't know whether that's helpful.

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DONNA AUSTIN: I'm happy to do that. And I think the other thing that's important here is, and this is for my own personal clarity, this is about transfers ordered as a result of a UDRP. So it's not about bringing the action, but it's actually if the outcome of the UDRP is a transfer, what's the treatment? Does the same entity requirement apply? So just to be clear about what the question is and what we're looking at here. But if folks would like Ariel to go through the UDRP, just so we understand what process we're talking about. I'm seeing nods. So yeah, let's go. Thanks Ariel.

ARIEL LIANG: Okay. Some basics, but for the expert is probably very basic, but I think it's still good just to refresh it. As I noted earlier, UDRP is the longest standing ICANN consensus policy that was adopted in October, 1999. So I guess at the time of ICANN's inception, it's kind of there. And what it does is it sets out the legal framework for resolution of disputes between a domain name registrant and the third party over the abusive registration and use of a domain name in all gTLDs. And some ccTLDs, they have voluntarily adopted this policy, but it's not a mandatory thing for ccTLDs. And we also have providers that are administrated, the UDRP is administrated by providers that are accredited by ICANN. So one of the most well-known ones is WIPO, it's the World Intellectual Property Organization, part of the UN, I believe. And also there are two sets of documents that governs UDRP. One is the UDRP policy that sets out the scope, the relief and the basis for the proceedings. And then the second document is the UDRP rules that sets out the procedural requirements that the proceeding must follow. So this is the general what is the UDRP. And in terms

of who can use the UDRP, basically any person or organization can file a domain name complaint concerning a gTLD using the UDRP or concerning a ccTLD that have actually voluntarily adopted UDRP, so any person or organization.

And in terms of the type of disputes, so the only available type of disputes is concerning alleged abuse of a domain name registration. So it's domain name registration specific dispute resolution procedure. And also it must meet several criteria. The first one is the domain name is identical or confusingly similar to a trademark or service mark. So here you will note that when we talked about TMCH and the services it provide has to be identical match or exact match. But for UDRP, the criteria extends to confusingly similar. So I guess variant could be a consideration there too. And then the second criteria is the registrar has no rights or legitimate interests in respect of domain name in question. Although this part I probably will need to rely on some expert in the room in terms of the rights. But I guess it's mainly about trademark rights and legal rights and that kind of thing. So that's the second criteria. And then the third criteria is that the domain name has been registered and is being used in bad faith. So a clear case of infringement, for example, and you can actually show the website associated with a domain doing that kind of violation, then that's a kind of evidence and can meet the criteria. So these are the three pretty important criteria to keep in mind.

And then there are basically five stages of the UDRP procedure. The stage one is a complainant files a complaint with the UDRP service provider, that's stage one, file complaint. And then second is that the filing of a response by the person or entity against

whom the complaint was made. So if the complaint is against certain entity or person, then that is a respondent, basically, the respondent have to file response to that complaint. And then the third step is the appointment by the chosen dispute resolution service provider of a panel of one or three persons who can decide on the dispute. So the panel can vary in sizes. So one person or three persons. And then the fourth stage is the issuance of administrative panel's decision and the notification of all relevant parties. So basically, the panel decide on the outcome of this proceeding. The last stage is the implementation of the panel's decision by the registrar concerning, concerned should there be a decision that the domain need to be canceled or transferred. So basically, registrar plays a pretty big role here in terms of implementation of the panel's decision. And then the last part of this slide talks about what decisions can a UDRP panel take. So there are actually three possible outcomes. So the first one is the panel deciding favor of the person or entity that filed the complaint and order that disputed domain name be transferred to the complainant, basically. So it's a transfer that we just mentioned. And then the second potential outcome is that the panel still decides in favor of the complainant and order the domain be canceled. So that's the second potential outcome. And the third is the panel decides in favor of the current domain name and so basically the respondent. So the complainant didn't win the case. So the domain still remain as is to the current registrar. So that's three possible decisions the panel could make. And in terms of a registrar's role, that we mentioned registrar play a key role here. They actually have three different roles. First is to provide the requested information to the dispute resolution provider

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because they have a direct relationship with the registrant and understand the information regarding the domain name registered under. So first possible information is confirming the disputed domain name is registered with that registrar. Second type is confirming it is registered by the person or entity identified as the respondent in the complaint. And then the third kind of responsibility is to provide the respondent's contact details when necessary, the registration agreement and associated documents. So it's basically help gather the evidence with regard to the registrant that's subject to that complaint.

The second responsibility or role that registrar play is to prevent the transfer to a third party of the domain name registration after the proceeding has commenced. So basically once the proceeding happens, the domain is kind of cannot be transferred to anybody else. It has to kind of stay in that status until there is a outcome issued by the panelist. And the third responsibility is to implement the panelist's decision. So basically what we mentioned, if you need to transfer and you need to do that, if the domain needs to be canceled, you need to follow that panelist's decision as well.

And the last bit of this slide talk about, is the UDRP the only way to resolve that kind of domain name lawsuit? It's not. So basically one can still go to the court if you use the UDRP. There are a couple of things I want to mention. So it's possible for a party to start a lawsuit in court before a proceeding is commenced. So before the proceeding happens, it's definitely okay to start a lawsuit. And also a party can commence a lawsuit after the proceeding is concluded if it is not satisfied with the outcome. So it

seems to me that UDRP is not the decision is not the end of the day, I guess, for the parties involved. They can still use the court option to revisit the issue. And yeah, so that's some basic information.

And I just want to show everybody some statistics regarding UDRP. And those numbers were actually gathered by my other ICANN colleagues. They did a UDRP policy status report, which is something the GNSO Council requested kind of in before the consideration of the phase two kind of launch. They want to understand whether there's already existing data that can assist their consideration for launching phase two for the RPM PDP.

So the data is relatively recent. The report was done in September 2022. So here we go. So the total UDRP cases filed ranged from 4,157 cases in 2013 to 6,271 cases in 2020, with a total of 38,349 UDRP complaints. And then those complaints involved 67,318 domain names filed with UDRP providers. And I saw some hands up in the Zoom, but I will just quickly go over the rest of the slide. I think that's the last one. And then we can go to questions. And then between January 2013 to December 2020, there were over 32,000 UDRP decisions rendered and complainants succeeded in obtaining the domain name in about 78% of the cases. So that means most of the cases, the complainant won. And between 2014 and 2019, the number of UDRP related tickets received by ICANN has slightly gone up. And ICANN has received 8,056 UDRP related inquiries. Around 61% of these inquiries involve issues related to trademark holder, alleging cyber squatting or IP infringing domain name registrations. So I guess they do complain to ICANN. They believe there may be some kind of bad faith

activities by trademark holders using UDRP to grab domain names. But I don't know the exact details, but this is what I read from the report. So I will stop here, and I think AK and Satish.

SATISH BABU: First of all, this has been very useful, and thanks for that, Ariel. Secondly, the current UDRP process is unaware of variants. So how do we incorporate the concept of variants into the UDRP process? And third is what happens if either through the UDRP or through the court, some of the labels are acknowledged as that the complainant is right. And in particular, what happens if the primary label gets awarded to the complainant and the variants are left behind? Thanks.

DONNA AUSTIN: So I guess that's kind of what we're discussing, Satish. To some extent, what we're discussing is the result of the UDRP. So we're not actually discussing the process for how a variant might be considered by UDRP panel. So it is just an individual domain name and it doesn't account for variants. Sadly, well, not sad. I don't think that's within our remit at the moment. We're just looking at the outcome. But your question about if one is if it's only about one specific domain, then maybe some of the variants are actually in use and not at issue. But is there a consequence with transfer? If the same entity principle applies, then it means that they all have to go to whoever won the dispute. So I guess that's a question we're trying to answer. Hadia?

HADIA ELMINIAWI: Thank you. This is Hadia for the record. So two possible outcomes is the cancellation is the first one and the transfer of the domain is another. In case of cancellation, I think there is no problem here because we are talking about second level domains. And even if it was cancelled, the variants and the other variants and primary can still exist.

DONNA AUSTIN: We should hold that thought. So that's an assumption and I don't know if it's the right or wrong one. But yeah, so continue.

HADIA ELMINIAWI: Then the difficult part, of course, is the transfer one. So one is transferred and what about the others? Right. So the and here we are splitting the concept of same entities. So why? Why would if we actually intend to keep the same entity uphold it? So why is it one registrant gets one variant and the other gets all the others and not vice versa? Right. And just commenting on Abdulkarim's part, I think we have agreed on harmonized IDN tables. So I don't think that this is an issue. Thank you.

DONNA AUSTIN: Thanks Hadia. Michael.

MICHAEL BAULAND: Yes, Michael, for the record. Regarding those two cases, when the cancellation occurs, I think it's up to the registry policy whether the whole set is deleted together with a variant or whether they

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allow the set, the already activated variants to continue to be. And if so, maybe change the primary if that would become necessary. But I guess this is the same situation as if a registrar or registrant wants to delete one of the domains within a variant set. And that's up to the registry to decide how to handle this. And for the transfer part, I think it's quite clear that if the UDRP outcome is to say that a certain domain name needs to be transferred to some other registrar and or registrant, that then the whole set also has to be transferred at the same time with this domain name. The potential problem would only be if there were to be two UDRP cases or one case regarding one domain and the other one regarding a variant. So if the losing entity then starts a UDRP case regarding one of the variants that got transferred in the same situation and they win that case, then the whole set would have been, would need to be transferred back to the one and then the original case might be opened again. So I think that may be the only case where separation of variants might be required if by law those variants have to belong to different entities. But unless such a ruling occurs, the set should always belong to the same entity. Thanks.

DONNA AUSTIN: And then the, if the decision is a transfer, then that the same entity principle would mean that it all stays together. Yeah. Hadia.

HADIA ELMINIAWI: So yes, I do understand that if the decision is to transfer, this whole set would be transferred, but then consider you have entity A, entity B, entity B holds the one case and now needs to obtain the or acquire the domain name and the other one still holds, for

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example, the primary and another variant. So now this has one and this has two, but this, but A needs to transfer the two to B because B won one. And then, and then it goes. And so, because this has one and this has two, the two are transferred and this one holds three. What would make this entity, the first entity not dispute the transfer of two of its domain names to the other entity, just because it won, it did win one domain. And yes, we could just leave it like this and say, iif the registrant actually files a UDRP, then we have an issue there and we split it. But like, I don't know if this is the right thing to do.

DONNA AUSTIN: I think potentially we're getting into corner cases, but we'll see how this goes. Nigel.

NIGEL HICKSON: I see a problem here because given what you were talking about earlier in terms of the variants potentially looking quite different— Sarmad gave us an example of how variants could look quite different. So you could have a variant which clearly did infringe an existing right, and then the other variant didn't. And therefore the UDRP was just giving a judgment on one particular variant, whereas the other variants were not considered a problem. So how, how does that work with the splitting? It does seem to be a problem here. Thanks.

DONNA AUSTIN: Thanks Nigel. Abdulkarim.

ABDULKARIM OLOYEDE: Sorry, just a follow up. And to ask Michael, he was talking about the deletion that it's now up to the registrar to take a decision. So what would happen if there is a judgment on one and the registrar says, okay, I'm going to keep—the other ones that has been activated for the other. So what's going to happen? Because I think that's my understanding of what you said.

MICHAEL BAULAND: For the deletion part, you mean?

ABDULKARIM OLOYEDE: Yeah, for the deletion.

MICHAEL BAULAND: If the UDRP says that one domain name needs to be deleted, then the registrar will have to delete it. And it's up to the registry policy just with any other deletion, whether this means that the whole set of activated variants is deleted at the same time, because only the whole set could be deleted if the registry wants that, or if it's just a single domain and the other variants may remain existing. So I think this is a standard case that could also occur without the UDRP and the behavior should be the same.

ABDULKARIM OLOYEDE: What I'm trying to say is if it's a variant, and probably it's the primary domain that has been deleted, so what happens to the variant?

MICHAEL BAULAND: Yeah, that depends on the registry. If they allow primary domains to be deleted, then the variants can keep existing and another primary will have to be selected by some means. But if the registry says no, for example, what we previously called the variants as attributes model, where the variants are just attributes of an existing primary domain name in that context, if the primary has to be deleted, the whole set would be removed.

DONNA AUSTIN: Edmon.

EDMON CHUNG: Edmon here, speaking personally. Of course, I'm not a lawyer, but if you look back at what Ariel just presented, the case is that there couldn't be a situation whereby a panel would award a splitting it up because we are talking about one registration, right? I mean, this is an entire set. If the actor or the registrant is considered to be an abusive registrant, which is trying to use the domain in any way, shape or form, then the current UDRP, as far as I read it, currently has to mean that the entire thing gets transferred. If in the future, that is adjusted and nuanced to take into consideration, then we may have a different situation. As I mentioned earlier, in that case, then we need to warn them as they go through that process to take this into consideration. Because today, as it is that I read and what Ariel just mentioned, it will look at the entire set to make that determination already. The panel is obliged to actually do that. What maybe we need to talk about is that this is our

current understanding. Maybe we should go and ask WIPO, we should ask the experts how they would interpret the current writing of the UDRP and given the variant policies. Because from my reading, they cannot split up, they will have to consider that the actor actually abusively created a registration and therefore the entire registration, whatever it is, should be transferred. Now, that's one thing.

The second thing is just adding to what I mentioned previously as well, the terminology here probably is important. I generally don't care so much about terminology, but the terminology about delete or cancellation of the name because it's used in the UDRP will become critical. The way I see it is that what we discussed is that it is possible to deactivate a particular primary domain, but if you delete the entire registration, the entire package should go. If you deactivate the primary, you must put another primary in place because without a primary, the registration doesn't make sense because you cannot calculate what the allocatable variants are and you cannot calculate what other activated variants could be. So you must identify the primary. If you take away the primary, another domain must be appointed as the primary without which the entire set needs to go. That's why the difference between deactivation and deletion in my mind, deletion is you delete the entire package. So yes, I think we can allow the primary to be deleted. And in the future, if the UDRP does allow such a nuance, maybe you can deactivate the current primary and reactivate a different primary. But I think that is something that at least isn't contemplated in the current UDRP process, but I still think we should ask the experts maybe.

DONNA AUSTIN: I don't know that variants existed 20 years ago. And if this policy hasn't been updated in 20 years, then I suspect that it wasn't a consideration. So maybe if the RPMs is going to consider UDRP, we could flag that as a potential issue. We've got Hadia and then Michael. I want to try to draw a line under this. The charter question is pretty specific. It's about what happens in a transfer situation as a result of UDRP and the applicability of the same entity principle. So it is pretty specific. So maybe we can draw a line under this after Michael, and then we're going to have a dreaded icebreaker and then we're going to come back and pick this up again. So Hadia and then Michael.

HADIA ELMINIAWI: Thank you. This is Hadia for the record. So I do agree with Edmon that UDRP, when actually it makes a decision of transfer. So the decision is because of one of three things. So the first is that the domain name is identical or confusingly similar to a trademark. The second is the respondent has no rights or legitimate interest in respect of the domain names. And the third is bad faith. And if a decision has been made with regard to a variant because of one of those three, then it does make sense that this applies to the entire set. However, we have nothing in the UDRP that says so. And there's the problem. So yes, we can say that it should apply to the entire set, but can actually the UDRP according to its current rules do so?

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DONNA AUSTIN: No, I don't think so. Anyway, Michael.

MICHAEL BAULAND: Yeah, just have a question regarding something Edmon said that if the primary domain is deleted, the whole set must go. Have we decided on the thing that a primary domain name must be active? I think we discussed also to leave it open to the registry that they say that a registrant may register certain variant domain names, but have the primary domain name not even activated. But I'm not sure yet. I want to check that.

DONNA AUSTIN: Yeah, I think we'll have a look at that recommendation. But I think my understanding is primary means it's been registered. So that's the first registration. So I think it's a bit if you delete the primary, I think it's a bit hard to pick another primary from within that variant set because once you change the primary, you change the variant set. So I think there's a consequence there of doing that.

MICHAEL BAULAND: Yeah, but at least we said that this should be up to the registry. If they want to allow to change the primary, then they should be able to do that. I think we explicitly decided not to enforce the deletion or to say primary can't be changed.

DONNA AUSTIN: Okay, we'll double check that, Michael. Quick, Hadia. Really quick. I'm losing it here.

HADIA ELMINIAWI: Yeah, it's really quick. But I just wanted to know that it is much easier and does make sense also for the UDRP policy to be adjusted in order to include the variants. In order not to fall into the trap of having the registrant like losing one, filing another UDRP.

DONNA AUSTIN: Right. But when you say it's easy to change the UDRP, that's not a simple process. So I'll just qualify that. Yeah, yeah. Okay. It hasn't been touched in 20 years for very good reason. Okay. So Steve, I'm going to throw to you for an icebreaker and sanity check for me.

STEVE CHAN: Yeah, thanks. This is Steve. I got voluntold to manage the icebreaker process. Happy to do so. But this one was telegraphed. I'm just going to stick with the one that Donna talked about. So rules of the game. We're going to keep it voluntary. I think we just want to break like, say, five minutes or 10 minutes. Yeah. Stand up. Stand up. Stretch. We'll keep it voluntary for now. You just raise your hand and share the information if you wish. If we do not get volunteers, we'll find another method. So the first question is the last book that you read and just maybe briefly what you thought about it. I'll go first, because I'll admit I haven't read a book from start to finish in a very long time. So it's embarrassing fun fact. I'm in the midst of a book right now, but it's an audio book because that's so much easier. It's Malcolm Gladwell. It is Bomber Mafia. And the next book in my queue, which I hope to read, it

was Crying in H-Mart by Michelle Zauner, more popularly known as the lead singer for Japanese Breakfast. So over to you.

DONNA AUSTIN: So I can't remember the name of the last book that I read, but I have started reading a lot more female authors recently just to get a little—a spy novel. The hero is the woman, not necessarily James Bond. So I'm just rolling through female authors at the moment.

UNIDENTIFIED SPEAKER: I guess I'm currently rereading Henry Kissinger's World Order because it's useful to refresh my mind again because he is important. What? Stop. And then my next book, when I go to different places, I like to buy local authors. So when I came to KL yesterday, I went to Kinokuniya and bought a book by a Malaysian Chinese author called Tash Aw, and it's called We the Survivors. And the blurb looks really interesting. It's about a Chinese Malaysian man who's a laborer and it's a whole thing about how and why he murdered someone. And it kind of goes through the whole social order of I think this was the 1960s. So it seems really interesting. I like to go and buy local authors when I go places.

MICHAEL BAULAND: I had to look it up because I forgot the title, but the last book I read was The Quantum Curators and the Missing Codex. It's a kind of science fiction fantasy book where multiple versions of the earth exist that develop in different directions because certain things happened differently at some point in the timeline. And so it's an

alternative version of earth. And for some reason, some of these are technologically more advanced and are able to travel to those other earths. But instead of asking what the last book was, we could also check what the last board game was you played, but maybe that could be left for the next break. Thanks.

HADIA ELMINIAWI: Okay, so I was reading this book about multi-stakeholder capitalism, and it's actually talking about the four types of multi-stakeholder capitalism. And I don't think any of them apply, of course, to ICANN. I tried to find a relationship between maybe merging two types into one. And another book that I was reading, I did not finish, it's about blockchain basics. Boring, right?

DAN GLUCK: So I'll mix it up here. The last book I read, it was from a comedian from Boston. It's called Raw Dog. She got paid to go around the United States eating hot dogs and writing about the different types of hot dogs that are in the United States and a little bit of socioeconomic commentary in there. You know, there's hot dogs from here and they're working class, there's hot dogs from here and they're posh. But yeah, no, it was a really funny book and no one else had any other funny books, so I might as well give them one.

NIGEL HICKSON: So are posh hot dogs better than working class hot dogs?

DAN GLUCK: Unequivocally, absolutely not.

DONNA AUSTIN: Maxim, "Still listening to the translator, Journey to the West by Wu Cheng'en. Thanks, Maxim.

ARIEL LIANG: Journey to the West. I know, it's classic. It's about a monkey and a pig and a monk and another monk. I appreciate Maxim's appreciation of Chinese classics literature. It's basically like the Lord of the Rings version of China, but it's very funny because the lead character is a monkey and then he knows like, I don't know, 360 different kinds of magic. And then he's defending this bodyguard of this monk that went to India to get the scripture back to China. So they encounter a lot of monsters along the journey and really, really fun. I love, I love that classic. Yeah. Thank you, Maxim, for appreciating this.

DONNA AUSTIN: Thanks everybody. It was nice to break things up a little bit. All righty. So where are we? So on the charter question ...

ARIEL LIANG: So we had a lot of discussion about UDRP and I probably just want to go back to the charter question and get the general sense where the direction the group wants to go. So I did hear some comments about memorializing the same entity principle for UDRP remedy and make it clear that the default would be transfer

of one domain means transfer of the variant domain set. But at the same time, UDRP will be reviewed by the RPM PDP phase two. So that this will be an input to the group for consideration. But I just wonder if we do make that recommendation. I don't know if the group, they do review this and decide maybe that's not the right way to go. Maybe they could challenge this recommendation. But at the same time, I just wonder like whether there's a way to avoid a situation where the experts of UDRP think that's not the right direction. And I don't know what's the best solution is. But at the same time, we do have maybe action item to check with the experts. And we know there are WIPO representatives in the ICANN world. Actually, I worked with one is Brian and maybe can just kind of get a sense of what he may think if this is the right approach, and he doesn't see problem with that, it's probably okay to make the recommendation. But if the experts do see concerns, maybe that's something to be brought back to the group for consideration. And another point I just...

DONNA AUSTIN: Ariel, we've just... Personally, I don't have any concerns with us moving ahead with the recommendation on this. And also, whether we flag it in some way in our report. But I think we do need to highlight the fact that from a group perspective, we think that this is the treatment of variants and the applicability of the same entity principle should be considered in the context of UDRPs. I don't know that going to an expert and one person and getting their view is probably the right approach to this. So, I think we, as a group, need to reflect this in our report in some way, and perhaps draw it out when we put it forward to the council for when

the UDRP comes up for review. So, I got Satish and then... Sorry, before that, did you have something? Yeah, sorry, Ariel hadn't completed her thought.

ARIEL LIANG: Just one point is, actually, I was reading the WIPO's guidelines about UDRP and they mentioned there is a way to challenge a panel's decision. The respondent can file a lawsuit, for example, or complain if they're not satisfied with the result. And also, UDRP doesn't preclude other court actions. Like, also, I think I mentioned that earlier, the court can play a role before the proceeding, after the proceeding. So, and in our preliminary recommendation seven, we did mention the caveat maybe there's some external factors that will kind of prevent the registrar to transfer the domain altogether. Court order could be one of that. So I just think there are some things may already be covered and maybe we don't need to overthink too much if we do want to go that direction and recommend UDRP transfer the whole domain set and yeah.

DONNA AUSTIN: We've got Satish, Sarmad and Maxim.

SATISH BABU: Thanks, Satish, for the record. I think it's completely fair to mention something about bringing in what is non-negotiable for us, that is the same entity principle into these recommendations, whether or not we're going to consult an expert. We might want to consult an expert and then change the wording, but I think it should be there. And it did come back in the public comments.

Then we'll see what to do with it. And also, it is fair to ask for policies that have to evolve. If something has been there for 20 years, obviously, that's not going to work for the next 20 years. So, it's important that we flag it. Thank you.

DONNA AUSTIN: Thanks Satish. Sarmad?

SARMAD HUSSAIN: Thanks. This is Sarmad, not heeding to Ariel's advice and overthinking. Is it possible for you to go back to the slide where you were showing the earlier recommendation on transfer and there was a discussion around the court order, right? So, what I've been at least listening is that one of the ways this is implemented is not by registration, but activation, which means that inherently in the zone file, there is only one domain name, which is actually registered to represent multiple activations or variants. And in that case, even a court order cannot technically allow the registry to actually register different domain names because they're all tied up with the same, the activations are tied up with the same single registration at the back. So, technically, it's sort of not feasible. And so, I was actually wondering whether even in the rationale, something like that should be pointed out that depending on the actual registry technical setup, some of that may actually may not even be possible. Thank you. Sorry for overthinking this.

DONNA AUSTIN: Thanks Sarmad. Maxim?

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MAXIM ALZOBA: Maxim Alzoba, for the record. Actually, there is an issue, not an issue, but just the process. Since registrars and registries are entities of some jurisdiction, whatever court decides in that jurisdiction, they have to do. It's not a matter of policy or not, ICANN contract or not. If they don't do, there is a thing called law enforcement. And they will just regret and revert their action to whatever court forced them to do. And they do not care about variants, sets, etc. And it will take quite a long time for the idea to propagate the practice of courts, which is important. And even in the middle of UDRP, if the court forces one of the registrars to do something with domain, they will do it. And even in ICANN contracts, the local law prevails. So, we need to be careful with that. Thanks.

DONNA AUSTIN: Thanks Maxim. Hadia?

HADIA ELMINIAWI: Thank you. This is Hadia for the record. And of course, we're not disputing any court orders, but we're discussing what happens to the rest of the set. As per Sarmad's comment, well, my understanding there is that there would be a difference between EPP create domains and EPP update, right? So, if the variant exists through an EPP update, then this split would not be possible. But if it's existing because of an EPP create, then the split would be possible. But we're not talking about any split, right?

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DONNA AUSTIN: I don't believe we are. Okay. All right. So, I think where we are is for the charter question. So I think that the same answer applies to a transfer. If there's a UDRP decision that says a name must be transferred, that as part of that transfer, the same entity principle applies and all of the set goes wherever the contested domain has to go. But we recognize that there is a bit of a shortcoming in the UDRP itself in that it doesn't account for variants and that we will make a suggestion in our report that this should be addressed. We won't make any recommendation about how it should be addressed, but we'll just flag that we think there is a shortcoming there and it should be addressed. Is that fair? I thought you were looking at me like you didn't. Okay. All right. Maxim, is that in your head? Sarmad, is that in your head? Okay. Sarmad?

SARMAD HUSSAIN: Just to reconfirm that when we are saying variant set, it includes variants, both at the second level and the top level. So the whole set means the variant at top levels will also be moved.

DONNA AUSTIN: I was using it only at the second level.

SARMAD HUSSAIN: So the same entity requirement goes beyond just the second level and across to variant TLDs as well. Thank you.

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DONNA AUSTIN:	So when we're talking about this particular charter question, is this a second level or is it the full?
ARIEL LIANG:	Actually the variant domain set definition, we need to talk about it because previously when we talked about it, we said the set is determined by the primary or the source domain name and a source domain name is defined per TLD. That's what the group talked about, but we haven't fully fleshed out whatever TLD has a variant TLD, what is the set then? If we say a source domain per TLD, does that source domain also apply to the variant TLD? It depends on the IDN table. If the IDN table is the same, then maybe if different, then probably not. So I think it's a discussion we kind of slated for day three of the workshop to flesh out the definition. But Sarmad, please go ahead.
SARMAD HUSSAIN:	It has actually an implication here, right? Because SubPro suggests that S1 under T1 and S1 under T1 V1 has to be the same entity. So if we transfer S1 under T1, then S1 under T1 V1 also would need to be transferred based on that recommendation. Thank you.
DONNA AUSTIN:	Okay. As Ariel said, we need to have some further discussion on that. Michael?

MICHAEL BAULAND: Yeah, okay. We can postpone that to the later discussion, but generally I agree that the variant set should contain all labels, the variant top and second label. And in such cases for transfer, the whole set needs to be transferred and that includes variants regarding top level domain variants.

DONNA AUSTIN: All right. Okay. So for this purpose, variant domain set means top level, second level and across the variant combinations. Okay.

ARIEL LIANG: Yes, that's my cue. And I just want to know that Edmon put something in the chat about suggested terminology. So I'm just making sure we're going to capture that in the node and we can go back to that when we talk about the set definition. So the next question, I'm going to go to the slide, is D7A. And it's a sub question with regard to suspension of domain names. So this one is particularly pertaining to the uniform rapid suspension system, the URS, because the remedy of URS is the suspension of the domain name. So basically the question is asking whether the same remedy requirement needs to be followed for URS suspension. And so it's in a similar vein. I'm wondering, just get a sense from the group, do everybody wants a kind of refresher on URS and what it does, how it works and what's the responsible parties and such, or should we just go straight into discussion? Okay. Let's just do the background, which is fun.

So the basics, it's a little briefer than your UDRP. The purpose is to provide trademark owners with a quick and low-cost process to

act against those clear cut cases of intellectual property rights infringement and to combat cybersquatting. So there are a couple of key phrases I boasted here, so clear cut cases and quick and low-cost process. And it's created to complement UDRP. This process is supposed to be rather straightforward and UDRP can be drawn out. So it's to complement that. And also the substantive grounds upon for filing a URS complaint are essentially similar to UDRP. So the criteria we talked about that apply to URS. And I think there's one thing I think Hadia said earlier about meeting one of the three criteria, I think is you have to meet all three criteria. Like the domain has to be registered and it's the registrar has no rights. And also it's abusive, like bad face registration. So all three criteria needs to be met. And then in terms of the fees, because we said it's low cost, it ranges from 300 to 500 US dollars per proceeding. So I guess relatively low cost. In terms of the procedure, it's kind of similar, but basically it's three stages as noted here. So the trademark holder files a complaint to initiate a URS proceeding with a provider. And then once the proceeding is filed, the registry operator will be notified. And then the immediate action is to lock the domain subject to the proceeding against changes. And then a provider notifies the registrar who has 14 days to submit a response. So I guess the procedure here, the three bullet points are the initial stages of the URS proceeding. So a complaint is filed, the domain is locked, and then the registrar has to submit a response. And in terms of the remedy of a URS, one is the suspension of a domain name, basically the complainant won, and then the domain name is suspended for the balance of the registration period. However, the complainant also has the option to extend the suspension period for one additional

year. So one key kind of item we want to note here is that it's different from UDRP in the way that the domain name never get transferred. It's still within the hold of the registrant, but it just gets suspended, means it still remains in the DNS, but it's no longer active in the way that has activated emails and websites and it will be directed to some pages the domain is suspended. So it still exists and still held by the same registrant. So that's a key difference here. And then the last part of the slide talk about the key differences. So I think another key difference is the standard of proof required to succeed in a complaint is quite different. So for UDRP, it's preponderance of evidence. And then for URS, it's clear and convincing evidence. Although I'm not a lawyer, so I cannot explain the preponderance in that term, but clear and convincing seems pretty straightforward is that it has to be really, really clear-cut cases, like a low-hanging fruit kind of situation to succeed in a URS. It's just blatant abuse, something like that. And then in terms of remedy, we talked about that, for UDRP, it's either a cancellation or transfer for a successful complaint. And then for URS, it's suspension of the domain name was the option to extend the suspension period. And in fact, there's a pretty well-written staff paper on URS, UDRP, and there's an eight-page or nine-page table that talks about all the differences. So this is not a comprehensive list here. There is a much more thought-out, comprehensive list of differences, but I don't think we have to go into that detail.

And here are some basic statistics I want to share with the group. And although I don't have the data with regard to IDNs, but maybe this is something we can check with our colleagues and see whether they have any data that we can share with the group

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later. So here, I found this on the ICANN website. Unfortunately, it's only have data from 2014 to 2018 with regard to the number of UDRP and URS cases filed and also the UDRP-, URS-related complaints that was filed to ICANN, basically, I guess, queries and tickets and such. And the key I want to mention here is that it seems UDRP is much more frequently used compared to URS. URS, the cases in the hundreds and the low 200, 100, something, but for UDRP, it's 4,000 something. So that's some kind of general big picture understanding of the usage of these procedures.

Yeah, so these are the background. And any questions or comments so far about the background before we talk about the relevant recommendations? And I saw some comments, but I wasn't able to follow in the chat, but not seeing comments, I guess we're okay. I see Maxim has put some additional information about URS in the chat.

So I think we can probably talk about the recommendations. So if you recall, when we talked about the domain name lifecycle related to the question, we did talk about lock and suspension. These possible actions domain name could experience. And for recommendation six, that's our principal recommendation. It basically says that the same entity principal must be adhered to in all stages of the domain name lifecycle of the activated variant domain names. So the activated, this word, we still need to kind of fine tune. But basically, it just says the same entity principle must be followed.

And then in the rationale for recommendation six, we talked about what's the implication of lock and suspension. So what we wrote here is that lock placed on one domain name does not necessarily

mean the other activated variant domain names have to be locked at the same time. However, the lock will likely disable transfer of the affected variant domain set, because we have the recommendation seven about transfer. And then in terms of suspension, what we mentioned is kind of in a similar vein that suspension placed on one domain name does not necessarily mean the other activated variant domain names from the set have to be suspended as well. So that's what we wrote for recommendation six. And then if we go back to try to question D7A, it's basically we're talking about suspension. So I guess the question for the group is, do you believe what we wrote for recommendation six and the rationale already cover D7A, or do you believe we should develop a separate recommendation to clarify the remedy health, URS and what it means for the variant domains? Yeah.

DONNA AUSTIN: Satish.

SATISH BABU: Thanks very much. I just have a clarification question. For both the lock and suspension, the domain continues to resolve, isn't it?

MICHAEL BAULAND: When the domain is locked, it continues to behave the same way it used to, but when it's suspended, it still resolves. But the name servers are changed to some predefined name servers that show a specific webpage showing that the domain is suspended. So all other services like email and stuff will stop working because the

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original zone file used for the domain is not active via the DNS anymore. Thanks.

DONNA AUSTIN: Hadia.

HADIA ELMINIAWI: Thank you. This is Hadia for the record. So my problem with the URS that I think that the suspension in many cases is based on content and I am not sure that, so do the other like variants also have the same content or we shouldn't at all like refer to the reason for which the or consider the reason for which the suspension happened? Thank you.

DONNA AUSTIN: Edmon, Nigel and then Maxim.

EDMON CHUNG: Edmon speaking personally. So I think the idea here in the UDRP approach could be very similar as in the whole principle for the URS is to suspend the domain and suspend the registration. And it's basically it's clear and convincing that the registrant was acting somewhat abusively with the registration. So the principle without further nuance in the URS system, the default action should be to suspend the entire set. That would, I think, make the most sense. Again, also when they review and if they review that, they should take this into consideration. And if they want to do more nuanced

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stuff, they should take into consideration all our conversations prior to this.

DONNA AUSTIN: Thanks, Edmon. Nigel.

NIGEL HICKSON: Yes, thank you very much. I mean, I'll defer to Maxim because he's probably going to answer the question. But so as I understand it, then so the registrant, so the use of this URS, as I understand it, is often when someone puts forward a registration, and perhaps they do it in bad faith, but perhaps they do it in good faith, but they infringe on someone's rights. And therefore that has to be suspended. But if that registrant has registered more than this particular variant, surely not all of the variants would necessarily infringe the rights of the rights owner. Because one variant could contain the necessary components that do infringe, whereas another variant might not. Isn't that possible? Thank you.

DONNA AUSTIN: Thanks Nigel. I think it is possible, and that's what we're trying to unpack, I think. Maxim and then Michael.

MAXIM ALZOBA: A few items. First of all, during URS suspension, the name server redirected to the website, which is, for example, for [inaudible], which says that this particular domain was lost in URS and nothing more. Also, many companies and organizations, they

have misconception that it's a cheap replacement of UDRP. And I personally saw a situation where one of the large companies, they had the name frozen for a year because they just haven't realized by the time that it's a bad idea to gain control over the domain by suspension. So also the URS rules, they have the registry operator and it means only one registry operator per process. So potentially it could be up to 15 domain names for the fee, but in the same TLD. And the last thing, we cannot grant rights for something for which the third party or participating in the process doesn't have trademark rights. So for example, if a company had a trademark in a primary label, it doesn't mean that they will be granted trademark rights by URS. It's not designed for that. Thanks.

DONNA AUSTIN: Thanks Maxim. So we'll go to Michael and then we have a break scheduled. So we'll break after Michael.

MICHAEL BAULAND: Okay, Michael for the record. So if I understand Maxim correctly, you say that regarding this question, only the domain, which was actually, which has the URS case should be suspended and not the whole set. If you say that, I agree with you also because the entities starting the URS, they have the opportunity to put the variants also into this URS case because they can have multiple domain names. So if they think it's not just related to the single variant domain name, they just add all the variants to that and then have the whole set suspended. Of course, this might be problematic if the variants set of allocated variants is larger than

15 because then it doesn't fit in the URS. But in that case, I guess they just have to create a new URS and somehow related to that or whatever.

DONNA AUSTIN: Okay, thanks Michael. So we're going to take a break until the top of the hour. So we'll see you back in here then.

DAN GLUCK: All right. Welcome back everyone to day one, session four of the IDNs face to face. And to get started, I'll pass it over to Donna.

DONNA AUSTIN: Thanks, Dan. So we are getting to the hard part of the day, emotionally and physically. So look, I'm really keen to go through to 5:30 this afternoon. We have two and a half days here to try to get through all of these charter questions. So I don't want to decide that we're going to wag the last part of the day. So we are going to push through to 5:30. But just to kick us off to get the brains working, our icebreaker, Steve is going to take over for a minute.

STEVE CHAN: I can't wait to assign it to someone this time. I'm just kidding. So this time, and I haven't actually not shared any of these with anyone. So even you guys are surprised and you should also feel free to join in. So this one is the best movie that you watched on the way to this SPS. And I'll start again. I might not do this entire

time, but for now I watched both Paddington 1 and Paddington 2 and they're both good. But Paddington 2 was excellent.

HADIA ELMINIAWI: So I had an overnight flight, so I slept most of the flight. However, I did watch a movie that was released 2023. It's about Blackberry. I don't know if you yeah, right. So that's the one I saw on the flight.

[MANJU CHEN:]   I watched play run in 2049. It was really good. I recommend strongly to everyone. Yes. And I have to watch the original.

DONNA AUSTIN: and I watched [Barbie.]

UNIDENTIFIED SPEAKER: Me too. I watched half of Barbie.

UNIDENTIFIED SPEAKER: I watched the full Bobby.

NIGEL HICKSON: I started watching it, but I was too embarrassed.

UNIDENTIFIED SPEAKER: I watched Shortcomings. I don't know if you've seen it, but it came out 2023. It takes place in San Francisco. My friend was in it, so I

wanted to support him. But it's about Asian Americans in the US. Randall Park's debut movie.

UNIDENTIFIED SPEAKER: I went to college with Randall Park.

UNIDENTIFIED SPEAKER: Go UCLA Bruins.

DONNA AUSTIN: All right. Yeah, that's fantastic. Thanks, Steve. All righty. So let's continue. I honestly don't know [inaudible]. Yeah, maybe, maybe. I did like the costumes, I have to admit, but I have been wearing flat footed shoes for quite some time now. So D7A, should the suspensions ordered by the URS or any other dispute resolution mechanisms be treated the same way to follow the same entity requirements? So would it be fair to say that the sense of folks is that no necessarily is the answer, that suspension is for a particular name and it doesn't necessarily impact the rest in the variant set? Feel free to disagree with me.

ARIEL LIANG: This is Ariel. So I just want to kind of confirm what we said about the same entity principle. Basically we said the domain name lifecycle in all stages, they need to adhere to the same entity principle. And that just means the same registrar, same registrar, same registry. And we already in the rationale for this recommendation, we already said suspension means it's

suspension at one domain doesn't necessarily mean suspension of the other activated variant domain of the same set. So, so basically the charter question itself is draft [inaudible] a fast, accurate way. Same entity principle doesn't mean same behavior at all. So we already confirmed that. So with that understanding, I think we would just either say we can affirm recommendation six where we can say something to enhance it. But I see Edmon has his hand up.

EDMON CHUNG: Yeah. So I don't think I agree as, as I mentioned earlier, I think the principle for, again, speaking personally here, the principle for the URS is that there is as far as I read it as there is a clear and clear and evidence that there is abuse on the use of the domain. And if you look back at the URS, the contemplation would be the entire registration because there wasn't a distinguishing between that in the past. But if you look at the, what we call the same entity principle, we're talking about the entire registration being the case. And I think if it is necessary for us to alert the URS panels, then we should, but the default process, given that it is a rapid suspension, I would guess that the approach should be by default to suspend the entire set because the registrant is engaged in a behavior that is clear and evident evidence to be abusive to the particular trademark owner. So unless the URS panels specifically say that, oh, you should just suspend this and keep the others up, otherwise, I think the default position for registry or registrars should be to suspend the entire registration, which is the entire set.

DONNA AUSTIN:	Thanks Edmon. So we've got Satish, Michael, Nigel and Hadia.

SATISH BABU:	Thanks. I have one edge case where if you're going by the per domain name suspension, if we suspend the primary domain, then the whole variant set gets destabilized. So it doesn't? Yeah, so what I was saying is that if the, we are deriving the variant set from the primary label. Now, if we kill the primary label, then the variant set, unless we permit the change of the primary, which we are still checking, the variant set will be in an inconsistent state.

DONNA AUSTIN:	So in this instance, it's not a kill, it's a suspension. There is a difference. So I don't know if that changes your thinking.

SATISH BABU:	So we're saying that suspension does not imply removal of the label. Okay, thanks.

DONNA AUSTIN:	Okay, so Michael, Nigel, Hadia and Maxim.

MICHAEL BAULAND:	Yes. No, I lost my thought. Nigel first, then me again, please.

NIGEL HICKSON:	Thank you so much, Nigel for the record. So, I mean, I just want to disagree with Edmon, not because...

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MICHAEL BAULAND: Ah yes, that's what I wanted to do.

NIGEL HICKSON: You just didn't want to say it, did you? But, because you're sitting next to him. No, but, and you know, I'm doing this from potentially a point of ignorance, but surely there's a possibility that the registrant, one of the variants is held to be contravening someone else's rights, but other variants aren't. So why should the whole set—I mean, the person that brought the action, the rights holder, one of the variants has got a symbol in or a group of characters in which stands for Mars Bar, but one of the other variants hasn't. So, I don't see why we should—Because this is a really rapid fire process, isn't it? So should everything be suspended, including the primary, because one variant infringes or potentially infringes rights?

EDMON CHUNG: No, but just responding briefly, Edmon here, but the, the URS is designed such that only in the cases where it's clear cut so those cases are nuanced cases. So that's not what the URS was designed for. URS was designed so that it is clear cut, this actor was acting abusively against and taking advantage of the trademark, and therefore it goes to suspension. If there's any doubt, then it should be punted to either UDRP or other processes, right? That's why I think the principle should be to suspend all.

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DONNA AUSTIN: Thanks, Edmon. Michael?

MICHAEL BAULAND: Yeah, I remember my thought again. Edmon is stating that in the URS case, the actor, the registrant is doing something bad. And that probably is the case, but we also don't suspend other domains registered by the same registrant, even if they have a similar label and have, but not variants, but similarly, would infringe on the same or similar trademark. So for that reason, I think the one who is complaining should add all the domains, which they think something is going wrong into this complaint. Killing all domains might be an overkill. And one reason, maybe it's not a real case coming up very often, but it might be the case that the registrant itself is not really responsible for the content, but they forwarded those domains to different entities themselves. In which case, one of the domain might be bad. And the variant is managed by other person, which is not doing something wrong. But I see this is not a real strong argument.

DONNA AUSTIN: Thanks, Michael. Hadia and then Maxim.

HADIA ELMINIAWI: Okay, thank you, Hadia, for the record. So yes, so my question here is on what ground are we extending the URS panel decision? So in case of the UDRP, we are extending their decision based on the same entity principle. But actually here, we have no ground actually to extend their decision, based on which we can extend their decision. And as Michael says, it does make sense that the

one applying to the URS or requesting the suspension would request the suspension of the other variants as well. And then to the point that Edmon was raising about infringing other trademark holders' rights, well, the decision of the URS panel could be not related to any trademark holder rights, but it could be related to, for example, some kind of hate speech or whatever. And this is bad as well. I'm not saying it's good. But again, we don't have any grounds based on which we can extend their decision. Thank you.

DONNA AUSTIN: Thanks, Hadia, Maxim.

MAXIM ALZOBA: First of all, URS locks the registrant. So if it was the, I'd say, some party doing something wrong, it's going to be frozen for one year. And also, the registrant is not changed during the process. And I think we forgot about it. Thanks.

DONNA AUSTIN: Thanks, Maxim. So I think where that leaves us, Edmon, it looks like you're kind of softening a little bit on where you were. Is that fair?

EDMON CHUNG: Just quickly add. So based on what Michael just said, I think placing the burden on the complainant is probably a fine approach. We should probably, however, maybe include in some implementation guidelines to alert the fact that this burden is now

placed on the complainant, because I think prior to this, as complainants, they wouldn't have expected that particular burden, given IDN variants. I don't know if there has been any cases. In fact, that was an earlier question, both in the UDRP and URS. Have there ever been cases on IDNs? And what did they look like in terms of the implementation?

DONNA AUSTIN: Okay. Thanks, Edmon. So data would be helpful. And I think we have an action item to try to find any data that may be available there. So I think, Ariel, going back to recommendation, that one. Yeah. That for consistency, we're saying a similar thing in response to Charter question 7. 7? Yeah. 7A. So which is basically that suspension applies only to that domain name in question and the remaining variants still have the status of whatever they had prior to that. So I think that's where we are.

ARIEL LIANG: Yeah, this is Ariel, but I do think what, oh, Michael has his hand up. Yeah, I do think what Edmon suggested is also helpful, maybe an implementation guidance that the complainant should be aware of, or at least check whether the domain question has variant domains. And if so, take that into full consideration when it files a complaint on URS. And it's the burden of the complainant to decide whether to include additional variant domains in the same complaint. So maybe that's something can be developed as the implementation guidance. Yeah.

DONNA AUSTIN: Yeah, go ahead, Michael.

MICHAEL BAULAND: Yeah, one thing I just wanted to add as a clarification, what I just said to you in the break, that even if we make the policy stating that the suspension should just be done for the domain that is actually in the, what's the word? Yeah, subject of the complaint, it may be that due to registry policies, the registry will still put all variant domains in suspension because for setups where we have variant as attributes, there is no other way, because there's just a single domain object with a single host setting. And you cannot change the host just for one of the variants, you would have to change the host for all or for none. So we would still have to leave it open to registry policy to say, we want, or we have to suspend all of the variant domains. But we in the IDN EPDP should not enforce the registries to do that, but we should leave it open to them if they want or must do this.

DONNA AUSTIN: Okay, thanks, Michael. Okay. Just on the implementation guidance piece, so obviously we'll put together some text on that, but I guess one thing that I'm struggling with is there's a threshold for a URS request and it may be that only one of those labels is in question. So what's the purpose of including the rest of the set in the URS? So what I mean, if you have a primary and three or four variants that are attached to that primary label, the primary label is the one that is registered and is at issue. The others aren't activated or being used. So how can you prove, or do you have to prove that that those other three or four that aren't being used are

actually likely to be having the same kind of behavior? So I'm just trying to understand what the guidance is that we're providing, because I don't know how we phrase it or how we bring it up. So I'm a little bit unsure about that. So I've got Edmon and then Sarmad and then Michael.

EDMON CHUNG: Yeah, Edmon here, again, speaking personally. So I think probably the key aspect is, of course, find out what's happening today first. My guess, as Michael mentioned, is that, in fact, if it happens, the entire set is actually suspended by default. But that being said, if we go about setting now a policy that only the challenged one and successfully challenged one would be placed on the suspension, then we should alert both the panelists and also the complainant about this. And the providers should advertise this to let people know that you have to go one by one. Thereby, it potentially triggers the, it's not about us telling them how you could set your case, right? I mean, they can certainly set their case and saying, this is the key one, but they are, they can make an argument that's all the other variants are just to support this. And if the panels say okay, then the entire set is suspended. If not, then they will just maybe pick and choose a few of them out of the set. But given that knowledge, maybe they would just go for UDRP and work on it completely more holistically rather than go about utilizing the URS. So, I think there is an important difference there to be pointed out. And therefore whoever utilizes the process would understand that.

DONNA AUSTIN:	Thanks Edmon. Sarmad, Michael and Maxim.

SARMAD HUSSAIN:	It's more of a side note, but I think my understanding is that the primary label is certainly identified, but that may not be exactly the label which is registered. Internally, how that's technically managed can actually vary. Thank you.

DONNA AUSTIN:	Understood. I was just trying to explain my thought processes, which aren't always very clear. Michael?

MICHAEL BAULAND:	I wanted to come back to what you said, Donna, or what you asked. Were you referring to the variants that are not yet activated, that are just part of the variant set, but don't exist? In that case, I think there's even technically no way to suspend them, because if you want to suspend them, you have to activate them first or create them. And I think this process shouldn't create, activate new variants. So, in that context, it's always related to variants that already exist in the DNS or are activated.

DONNA AUSTIN:	Thanks, Michael. Maxim?

MAXIM ALZOBA:	Since URS doesn't change the registrant, we don't have to think about it, because what we need to ensure that the state of variant

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sets is not changed by URS. But by definition, it cannot change it. So, we care about, take care about this somewhere else. That's it. Thanks.

DONNA AUSTIN: Okay, thanks, Maxim. Michael?

MICHAEL BAULAND: One thought that just occurred to me, and I'm wondering whether we need to consider this or whether it's unimportant out of scope, is if we do decide that the whole set of existing variants is suspended together with a subject domain name, does this also mean that future variants that are not yet existing must automatically be suspended as soon as they get created? Or would it even be prohibited for the registrant to activate/create new variants?

DONNA AUSTIN: Any thoughts from anyone? Coming back to the registry policy, so I guess if there's a name that's been suspended and it's part of a variant set, and then because it's been suspended, the registrant wants to register, it will activate one of the other ones that's there. If that's consistent with the registry policy, then they can do it, I guess. But going back to Edmon's thought, I guess that's where I was getting a little bit wondering what it is we're actually trying to highlight for the URS process. But I think what I need to do is just chat to the folks here and work out what, go back through the record and see what people have been suggesting, and then we'll develop text and we can come back to it that way. Okay. Maxim?

MAXIM ALZOBA: Actually, URS doesn't provide post protection for the domain question. It was suggested by IPC/BC during the RPMs, if I'm not mistaken, but it wasn't changed as a result of the work of the group. So we shouldn't create protection here too, because URS created from the perspective of trademark rights and not from the perspective of TLDs. So I do not think we need to change the working tool at least without the consultation with those who requested it. It's IPC/BC. Thanks.

DONNA AUSTIN: Thanks, Maxim. Okay, so I think we're going to draw a line under this one. Okay. All right. So what's our next charter question, Ariel?

ARIEL LIANG: Yeah, the next one is an easy one, and I don't even know how much discussion we're going to have. So it's the last question in the RPM topic. It's basically a catch-all question. Basically, it's the F2, and what it asks is, in order to ensure the same entity principle is maintained, what are the additional operational and legal impacts to the following RPMs that are not considered in the above charter questions, which mostly concern about the outcomes and remedies? So basically, just go through the list and spot any gaps we didn't address. So TMCH, Sunrise Trademark Claim Service associated with TMCH, URS, TMP DDRP, and UDRP. So just a quick refresher that we didn't really have extensive discussion of TMP DDRP, because in the phase one

deliberation, we already talked about it, and we actually have a recommendation developed for this one. It's 7.11, and so it says, in the event a gTLD is reassigned as a result of a TMP DDRP determination, that reassignment must include all allocated and delegated variant labels of the gTLD, if any, at the same time. So basically, it's the same entity principle at the top level applies to the outcome of a TMP DDRP determination. So that's, I guess, the key recommendation with regard to that RPM. So we did talk quite extensively about TMCH, URS, and UDRP as well. So I just wonder whether there's any gap that the group has spotted that we haven't addressed. And the key here is the same entity principle. So we probably want to make sure that principle is adhered to, and in all stages of these RPMs as well, but I think we have already discussed. But Michael, please go ahead.

MICHAEL BAULAND: Yeah, just wondering what about legal court cases out of the ICANN processes? Do we have to mention that in the case some local court decides that one domain needs to be transferred to another entity, then this means that due to the same entity principle, all variants need to be transferred too? I don't know if it makes sense to mention it here, or if it's out of scope, and anyway, obvious that this is the case.

ARIEL LIANG: Yeah, so for this, we already talked about it in the rationale for Recommendation 6. There's a caveat about court case or court order may render the contracted party able to comply with the

same entity requirement, and it's also already covered in the transfer policy, so they carved out the caveat.

DONNA AUSTIN: Hadia, and then Edmon.

HADIA ELMINIAWI: Thank you. This is Hadia for the record. So yeah, I raised my hand to actually support the recommendation. The trademark post-delegation dispute resolution procedure only affects registry operators, and maintaining the same entity principle is necessary.

DONNA AUSTIN: Thanks, Hadia. Edmon?

EDMON CHUNG: Yeah, actually, Edmon here speaking personally again. I don't really have any particular to add on here, but building on what Ariel just said, I recall the conversation about the issues. But is this group a good group to recommend, actually, to ICANN, to let more people know about this situation? Because, like, for example, in the SubPro recommendations, it included that the applicant support program should be—Outreach processes should be done. So perhaps ICANN should do outreach processes to courts, to providers, to the larger community that would be coming across these issues, and more proactively let them know that when you make decisions on domain names, this is the implication. Just like ICANN needs to do outreach efforts for the

applicant support program, should do outreach efforts for the universal acceptance program. So they should also do outreach program for IDN variants, and how they impact trade rights protection situations.

DONNA AUSTIN: Any thoughts? Maxim, go ahead.

MAXIM ALZOBA: I think the outreach to GAC could be done realistically, but outreach to local courts all over the world by the party, which is basically not for profit, ICANN is not an international organization or something to which governments are going to listen. They might consult with ICANN, but not listen to. Thanks.

DONNA AUSTIN: Edmon, to your point, I wonder, and I don't know whether this is applicable or not, but the registration agreement. So if you register what ultimately is a, generates a variant label set, is there something that could be included in there about the consequence of the set in a dispute resolution process so that they can, basically ticking the box that they understand that at the time that they register the name? I don't know. And I don't know whether existing registry operators actually have anything like that about the treatment of a variant in the event that it's suspended and the consequences for the others. I don't know, but yeah.

EDMON CHUNG: Edmon here quickly in response. I think that's a great idea, actually. Because the courts will look at that document, right? I mean, the registrant agreement. And I think in multiple cases, there are requirements both on the registry agreement, as well as the registrar accreditation agreement that certain things like DNS abuse provisions that need to be in the registrant agreement and so on. That is certainly an interesting thought. Whether it exists in the policy or whether it exists in a suggestion to ICANN Org to think about including this kind of thing into agreements, it may be something we need to think through. But that is certainly a very, very good suggestion, because then that automatically triggers any court that's, well, any competent court that's looking at a case will be looking at that particular agreement. And that would essentially do the job.

DONNA AUSTIN: Thanks. Maxim?

MAXIM ALZOBA: It's competent jurisdiction, not competent court. So we can say that the particular jurisdiction is relevant because headquarters of registry is there, or maybe headquarters of registrar are there. But we cannot decide. It's not for us to decide which particular court of the jurisdiction is competent. It's in the laws of that jurisdiction.

DONNA AUSTIN: Thanks, Maxim. Nigel?

NIGEL HICKSON: Yeah, yes, thank you, Nigel, for the record. Yeah, I mean, I agree with what Edmon has said. I mean, there needs to be sort of understanding here, outreach or understanding of the issues, but I think they go beyond this one sort of dispute area. It probably needs to be for IDN variants in general there needs to be some more sort of guidance on the implications for some of the things we're doing. And I assume that in terms of the implementation of this whole exercise, that there will be a lot of guidance that comes out, presumably on the same entity principle and the implications of that, etc. So this would be part of that, perhaps.

DONNA AUSTIN: Thanks, Nigel. Jennifer?

JENNIFER CHUNG: Thanks, Donna, Jennifer, for the record. This is already my assumption, because I am assuming that the RPMs phase two, they will be working on it with the assumption that whatever we recommend as well, for a same entity, they will be contemplating it. So just kind of flagging that for us as well. And then secondly, and now I forgot my second thing. I'll remember it.

DONNA AUSTIN: Thanks, Jennifer. So I think in terms of RPMs, the outstanding item is UDRP, the review has been done of the other processes. Is that? Yeah.

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ARIEL LIANG: Yeah, it's indeed, the phase two is gonna focus on UDRP, but doesn't necessarily mean it's only UDRP. It's up to the GNSO Council to decide what to include in the charter if any additional topics that should be addressed. So I think it's not inappropriate to include things that IDN group has talked about, but has an impact on RPMs that the RPM group didn't previously consider. Yeah.

JENNIFER CHUNG: Now I remember my second thing. I think Edmon, maybe you can clarify when you were saying, putting it into contracts, when we're talking about contractual amendments, or was it Donna who suggested that to put this into contractual amendments? I guess this is something we should talk to the registries and the registrars about that because that process is, takes a while.

DONNA AUSTIN: I'm not saying the registry agreement. I'm saying the registrant agreement. Yeah. Maxim?

MAXIM ALZOBA: Actually, registries, registrars agreements, and whatever ICANN forces registrars to include in the registrant agreements, if something is deemed to be a material change to the contract, and since ICANN see any comma moved to the left or to the right, there is a material change. Most probably registries and registrars are going to do the same. It's going to be a complex process. It's not just you want to change something and bam, it happened. No, it's not that easy. And if we do not take the latest changes to the contract about DNS abuse, which were actually pushed by

registries and registrars, the average process takes three, four years. Thanks.

DONNA AUSTIN:

Yeah. Thanks, Maxim. As I said, I wasn't suggesting a change to the registry agreement. It was more the registrant agreement, which is between the registrar and the registrant. So I don't know that we'd recommend something like that, but we could suggest that that's a possibility to ensure that the registrant understands what potential consequences are of a dispute resolution process to a variant set. Maxim, is that a new hand?

MAXIM ALZOBA:

Short notice, I recommend consultations with registrars before that, because they might have ideas about the process. And I'm not sure they will like it. Thanks.

DONNA AUSTIN:

Yep. Yep. Fair enough, Maxim. And this is our first deliberation of these charter questions. We will be developing text, which will provide a second opportunity for conversation around what we're recommending or suggesting. And then so this is just our first conversation, and we'll try to document the outcome. And then we can have a second conversation to see what we agree to. And I suspect that in that period of time, everybody will go back to their respective constituencies and stakeholder groups and have conversations about this to see that we're on what's being suggested or recommended is okay. Okay. Now what?

ARIEL LIANG: So we have a choice. For the day one agenda, we have covered everything. So for charter questions, initial deliberation down. And then we have less than an hour left. We're supposed to break at 5:30. So I mean, actually 40 minutes left. So we could start on a next question. Or we call it a day early. Up to the group. Do you want to keep going?

DONNA AUSTIN: Yeah, the chair really wants to push on. Because I don't know if we're going to run out of time somewhere else. So sorry, guys.

SATISH BABU: I support that. Thanks.

DONNA AUSTIN: Thank you. I apologize, Ariel. I know you're doing a lot of the hard lifting here.

ARIEL LIANG: So we could take a icebreaker if you want.

DAN GLUCK: I do have something to say. Let's go about it. All right. We're coming up end of the calendar year. Tell me something good that happened to you this year 2023. Let's hear about that. Do

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whatever you want to say. Hadia, you want to you want to start us off?

HADIA ELMINIAWI: So I was elected as AFRALO chair. So that made me really happy.

DAN GLUCK: So everyone else is depressed? We don't have anything else good to say?

UNIDENTIFIED SPEAKER: We're out of COVID lockdown.

DAN GLUCK: It's pretty good. Pretty good. We're having a good time. I attended my first ICANN meeting this year. That was pretty fun. Cancun was my first one. I'm looking at you, Emmanuel. What do you got?

EMMANUEL ELOLO AGEBONWOSSI: My daughter has started school this year, so I can travel alone now. She used to come to ICANN meetings. So yeah.

HADIA ELMINIAWI: So my son graduated this year. So yeah. So that's also a very happy moment for me.

DONNA AUSTIN: I got an award.

ARIEL LIANG: I finally saw my parents after four years of COVID, China's like strict policies. So finally I saw my parents after four years.

NIGEL HICKSON: I chaired an ITU council working group and realized why I never really wanted to chair an ITU council working group before. I learned my lesson.

UNIDENTIFIED SPEAKER: I got selected as a UA ambassador representing Nigeria this year.

ARIEL LIANG: So we're starting a new topic. And actually, I need Edmon's help for this one. Because it's Edmon's topic. And when staff and leadership talked about it, we struggled a little about how to frame the questions. So we're hoping you could help us understand the thinking behind this. So this was brought up kind of early stage of our deliberation. And if you recall, we have a question. It's like a catch all question. It's really non-specific. But under the question, we slide it in admin's kind of topic. It's basically what should be included in the WHOIS RDAP for variant domain names, both in IANA WHOIS and the registry WHOIS. Although that's how we captured it. Probably not the most precise way of reflecting that question. So that's why we need help from Edmon to probably elaborate a bit more on this question. But from staff side, we did

prepare a bit of briefing on basically WHOIS. It's a huge topic in ICANN for decades. And there's a lot of policy effort related to that. But we don't have to be WHOIS expert. But I think we should understand the context before we recommend something concrete. However, before we do that, I'm hoping Edmon could elaborate a bit more on this one.

EDMON CHUNG: Edmon here. Sure. Happy to do so. So this was raised as this was kind of missed in the charter process. And this was raised very early on when I was still chairing the group. So from my perspective, there are really two aspects that this group should look at. One is when WHOIS or RDAP is queried, like when you make a query for an IDN variant domain, what should the behavior be? Should there be any response? What kind of response? And it's also the different statuses of the variants, whether it's activated, allocated, or blocked. Should there be a difference? Or should they be the same? This group probably does not have to specify the details, we can talk about what it might look like. But I think on a policy level, we should at least say, should there be something coming back if there is a query for an IDN variant and what might it look like?

The other aspect is the actual output. And when you look at the actual output, the key aspect to think about is when the primary domain is queried, is there information about the IDN variants? Again, there may be a difference between activated variants, allocated and blocked. But we should at least have a discussion about that. And on the reverse, when the variant is queried, and the response comes back, what information, what might be the

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bare minimum information that needs to be there, at least to identify that this is related to the primary domain, or so on. So it's both in terms of the query and also the response, the response that is received. And each side of things, there probably would be a policy level recommendation, I would see, and then also flexibility for registries to then implement. But there is something to be said, at least on whether or not it should be responded to, or it's just as not registered or whatever. Yeah. Does that help?

DONNA AUSTIN: Can I just ask you to explain what you mean by a query? So who would make a query? Is that are you just talking about general WHOIS query? Or is it something different? Is it just looking up a domain name? I don't know.

EDMON CHUNG: I mean, WHOIS or RDAP query. Just adding a little bit, if it is an RDAP query, then potentially RDAP needs to be updated as well. But that's not something we need to—Obviously, that's not what this group will talk about.

DONNA AUSTIN: But it's kind of one and the same, right? So WHOIS being retired as the protocol in favor of RDAP. WHOIS, the idea is being retired in preference to the term registration data.

EDMON CHUNG:	I think that the concept we probably should focus on is when you query for registration data, should the server or should the registry or registrar respond anything? And what might that contain?
DONNA AUSTIN:	Right, specifically for variants at the second level.
EDMON CHUNG:	As it pertains to variants, and also the behavior when the primary is queried as well.
DONNA AUSTIN:	Okay, so we've got Hadia, Sarmad, Nigel and Maxim.
HADIA ELMINIAWI:	Okay, thank you, Edmon, for this. So my initial thought would be, yeah, for sure, it does need to return an answer. We need to remember that also, we do have variants that are grandfathered, and would not belong to the same entity. And in all cases when you query a domain name, you need to have a response to some kind of registration data. And this is in accordance with the existing registration data policy. So that's the first question, whether any data should be returned for querying a variant. And then the second part you did talk about, what's the minimum set of data and whether it should also relate to the or show that this variant is part of a bigger set of domains. And also my initial thought on this would be yes, because it will be useful for those if we are talking about infringement of rights and someone wanting

to file a complaint. So it does make sense to know which other domains this domain name is part of, in order to make the decision whether to file the complaint against only maybe that domain name or maybe the entire set. Thank you.

DONNA AUSTIN: Thanks, Hadia. Sarmad.

SARMAD HUSSAIN: So teasing out a few more details, the WHOIS or RDAP query is generally about who is responsible for a domain name, not necessarily about other related domain names. So it's pointing to contact somehow. So that's, I think, one thing to consider. Then if you're trying to point to a contact, then the query can be at four different kinds of queries, one about something which is quote unquote, activated or registered. For that, one would imagine that there will actually be a contact details. So one should be able to get an answer right away, no probably changes needed. Similarly, if something is allocated, but not activated, allocated by definition means that it is pointing to someone. So that registration, that query should also result in some response. So the other two kinds of queries which are left, if somebody is querying for an allocatable variant, which is not allocated, what should be the response. And then the last kind is if somebody is querying for a blocked variant, what should be the response? So no answers, just start trying to tease out more details about the question. Thank you.

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DONNA AUSTIN: Thanks. Nigel.

NIGEL HICKSON: Yes, thank you very much. Just very briefly, I mean, where is the harm, I suppose, is a phrase that comes to mind. And from what Hadia and Edmon were saying, I mean, it seems to me that this could be useful information, perhaps not information that is vital in all cases, but useful to the person that's making the inquiry. And secondly, I just thought it would be useful to go through slide 40 on the terminology.

DONNA AUSTIN: Thanks, Nigel. Maxim and then Michael.

MAXIM ALZOBA: Actually, things related to standards and EPP is a standard, because more information you can get using EPP check usually for the registrars, who are acting usually on behalf of registrants, when they do not do something on themselves. And changing standards is not something which happens in PDP. It should go through IETF, and some EPP extension should be created most probably. Changing output of WHOIS is pointless, because it's dying standard, and it's going to be expelled from the contracts really soon. And for RDAP, I suggest we talk to contracted party house, TechOps. It's the group where tech persons from registrars and registries contact each other and try to review things going on in ICANN from the perspective of implementability from the technical perspective, because we shouldn't invent something which is not implementable. Thanks.

DONNA AUSTIN: Thanks, Maxim. Michael?

MICHAEL BAULAND: Yeah, I was just wondering if it maybe helps to look at an actual case. I could share my screen, if you like, and we can look at WHOIS run by a CORE registry, dot cat. They have variants, and I can show how it's implemented at the moment. Whether this is good or bad is out of question, and there have not been rules so far, but just to show what's possible or what we are talking about.

DONNA AUSTIN: I find that helpful. Would others? Yeah. Okay. Can we technically make that happen?

DAN GLUCK: Yeah, I've made you a co-host, Michael. You should be able to share your screen.

MICHAEL BAULAND: So, here you see it's a web WHOIS, but basically the port 43 who works exactly the same, and QRDAP would also be similar. So, if we query just a standard domain, nic.cat, domain name, we see here the domain name, and we work with the so-called canonical form, which is a basic form. Yeah. And here it's just a simple, oh, no. Something is, sorry. The Zoom toolbar was in the way of what I wanted to see. So, another example is fundacio.cat, and there you see not only the canonical form, but you also see a variant

one name, which means that this domain name fundacio.cat has one active variant, and we see the Unicode label and the A label. And similarly, we can also look for this variant and actually see the same result, but it's even also possible to search for a non-existing variant, and it would also display the existing domain name and the existing variant. In this case, the cqt registry uses this variant as attributes mode, so all the variants are just attributes of the main label. Yeah. This is one way it's currently implemented, and I think it would work the same if I use the RDAP. I can quickly check if I know the syntax, but it should be domain. There's something of Zoom in the way, so I can't see what I typed. Sorry. Oh, at some point I must have tested it. So, here you see the RDAP JSON result, and similarly, I think there should be some variant information at some point in the RDAP. It's a Unicode name here. Sorry. I'm not that fluent in RDAP in the JSON. If there are questions, maybe I can answer questions in the meantime while I look whether the variants are shown here, too.

DONNA AUSTIN: Thanks, Michael. Hadia?

HADIA ELMINIAWI: Oh, it's not a question. I just think that what we saw is actually very useful to users as well, because it avoids their confusability, so showing the variants, I find it very useful.

DONNA AUSTIN: So, Edmon, to what extent would you be suggesting something potentially different?

EDMON CHUNG: So, Edmon, speaking personally here, I think that kind of implementation is perfect, but the question is whether we want at the policy level, do we want to be so prescriptive? Could there be other implementation where if you query the variant, it just shows a pointer to the primary, for example? That's all you get. Or blocked ones, maybe just say it's blocked, and then point to the primary. I think the implementation that Michael just showed, in my mind, would be a best case, a best practice, but I don't want to say it's best. There's the argument about what's best, but that is the most clear. You list out what is the activated, and then even if you query the blocked ones, you still get the same information, and people will know it's, at least for me, it's clear enough. But there are, again, there are possible other implementations, but whether we want to be, how prescriptive we want to be is what this group needs to decide on the language for putting forward a recommendation.

DONNA AUSTIN: Okay, thanks, Edmon. Sarmad?

SARMAD HUSSAIN: A quick question for Michael, just to understand that. So, there is just one record for WHOIS for the entire variant set which gets pointed out? Is that how this is implemented?

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MICHAEL BAULAND: Yes, at least for this registry, it's just one record because it's also just one domain object, or the variants are just attributes of this domain. So, whatever variant you query, you will always be forwarded to this domain object. In a registry where we have variants as objects, we have several domain objects with their own life cycle, own expiration date, and possibly some different properties, while the registrant contact needs to be the same due to the same entity principle. Those variants may have different billing contacts or whatever. So, in such a registry, you wouldn't always get the same result because if you query one of the variants, you would get a different expiration date, for example, than querying another one.

And one point, firstly, thanks to Edmon for the compliment, but I also agree we shouldn't be this prescriptive and leave some freedom to the registries how they want to implement this. But, I also think that there should be a way to find out about the variants, at least about the existing variants, whenever you query one of the domain names. This also helps, for example, for the URS case we discussed earlier. So, you see that there's a problem with one of the domains, but you can easily check in the WHOIS which variants exist and thereby add them to your URS case.

DONNA AUSTIN: Yeah, thanks, Michael. That was something that Hadia noted as well, and I thought it was good connection back to the conversation we had about the dispute resolution processes. So, if there's a reasonably easy way to find out whether something is part of a variant set, then that's really helpful for those dispute resolution processes as well. So, I think we've got a good use

case to support why we'd have this kind of recommendation as well. So, we've got Edmon and then Satish.

EDMON CHUNG: Edmon here. So, just a clarification, Michael, you mentioned that there is the other approach that you've worked on. You touched on this, but I just want to be very clear that in those cases where it might be slightly different, there is still information about the other variants, right? Is that correct? Because I think that's the key point is that if you query one, you can kind of discover the others.

MICHAEL BAULAND: Yes, I think so. I hope so. I can just check, for example, I looked in our database and [inaudible] should have a variant domain name. And yeah, here we see domain name [inaudible] and this is a variant and you see the expiration date is 21st of December, 14:40. Let me now check the other one and I hope, yeah, you see now it's a different record. It says this is a domain name, oh, it's again German, but I guess you can manage. It's not so different from English with the technical terms. We just use the same ones mostly. And here you see the variant is the original one, but it has a different expiration date because it's a different first class domain object. And the same would be visible in RDAP. So I just leave it at the web because it's easier to see the records.

DONNA AUSTIN: Thanks, Michael. So the variant is determined by the registry's IDN table.

MICHAEL BAULAND: Yes, the potential variants. The variants listed here are just the existing, the activated variants.

SATISH BABU: I think there are multiple use cases for a tool like this, which will list out all the activated variants and perhaps even the blocked variants. And I also agree that we should not over-prescribe and we should leave the implementation to the registries. But I have a concern though, if every registry is going to create its own tool, it becomes a little more harder for users, especially who are actually parsing it automatically, to use this information. So it would have been very nice if there was some standard way of putting this information out, either through APIs or through some common interface. Because otherwise we'll find that every registry has its own way of doing things. And for the end users, that may be a little bit of a problem. Thanks.

DONNA AUSTIN: Thanks, Satish.

MICHAEL BAULAND: I agree that at least for RDAP, we or some other entity like CPH TechOps should create a standard in the syntax, in the JSON format, how variants should be reported. Because mostly this is meant to be processed automatically and you wouldn't want to have different schemas with different TLDs. But I think that's out of scope of our IDN EPDP.

DONNA AUSTIN: I guess we could have a recommendation with implementation guidance that a standardized approach would be beneficial or something along those lines. Are we okay?

ARIEL LIANG: Thanks very much for the examples, Michael. And thanks for Edmon for clarifying the question. I think it's so much better after this that we know what we're addressing. And I think it's probably a prime time to look at the discussion questions. Because I think that can help us potentially develop high level policy recommendations. So yes. Thank you, Michael. Just going to share my screen quickly. Yes. So this is our discussion question. So question one, are there any additional data elements needed with respect to variant domain names? So I think based on what we discussed, I think the agreement is if you query one domain name and if that domain name does have variant domain names because of registries' IDN table calculation, then the response should include the other variant domain names from the same set. And also their associated status means whether they have been activated or registered or allocated or allocatable or blocked. Is that what the group is trending towards? So not only what are other variant domain names in the set, but also their status? Yeah. Michael?

MICHAEL BAULAND: Yeah, I'm I think that's might be a bit problematic if you want to list all variants, even the not activated ones, because as we know for

some scripts, particularly Arabic and certain domain names, you might end up with millions or even more billions of labels. And I don't think all of those should be listed with such a query that would cause problems, both in the registry software and in the client software processing it. So maybe it makes sense to stay with the registered or activated variants or maybe optionally for registries to also list the other ones if they have a script where just four variants are possible, then why not? And leave them the opportunity to list all of them, but I wouldn't want to force this in the policy to list all.

DONNA AUSTIN: Thanks, Michael. Sarmad and then Hadia.

SARMAD HUSSAIN: Thank you. So at least what I saw from the demo, which Michael shared, one could query any variant, but it will list out only those which are activated and not list everything. And that's at least what was being shown, unless I misunderstood. And I think that seems to work well, I guess at least we have a working example. A question to Michael and others. This is, I guess, a domain we probably haven't gone into earlier. But now we also got variant TLDs. So I guess the question is, how could such a model be extended to not just second level variants, but also variant TLDs or should that even be extended to variant TLDs even though those are of course part of the variant set? Thank you.

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DONNA AUSTIN:	I put that down as a trick question for today. Michael, do you want to?

MICHAEL BAULAND:	Since Sarmad asked me directly, just a quick answer from my perspective, it should be handled in the same way that the system would list all existing variants. And it makes no difference whether the variant is due to the fact that the second level label is a variant or whether it's a variant because the TLD is a variant. At least, that's how we would implement it to list all of the variants. And in that case, it wouldn't make a difference whether you query the WHOIS of the one TLD or the WHOIS of the other TLD, it both show the same results.

DONNA AUSTIN:	Hadia.

HADIA ELMINIAWI:	Okay, thank you. So first, I agree that we don't need to be too prescriptive about the implementation and to leave it to the registries. However, I do find a benefit in listing those domain names that are not registered, but allocatable or withheld same entity. Because when a registrant is trying to register a domain and it's not allowed to because it's withheld to the same entity, then the registrant doesn't know why it's not able to register it, though it appears to him it's available. But anyway, it's just a thought. Thank you.

DONNA AUSTIN: So did you have anything else you wanted to add, Ariel?

ARIEL LIANG: We have six minutes left. So yeah, we're doing a great job here. And I think just to kind of recap, what we said is at a minimum, the response must include the variant domain names that are activated and or registered. So that's at a minimum. And then in terms of allocatable, I guess that could be a should or to be further considered, because I'm just thinking out loud is that registrant can encounter several scenarios, they can't register a domain name, not just because of withheld same entity issue, can be other issues too. So do they need to know every single reason why they can't register a domain name? So yeah, but yeah, Michael.

MICHAEL BAULAND: Yeah, exactly. Regarding the last question from Hadia, I think the WHOIS or the RDAP is not the correct place to find out information about what you can register or why you can register it or not register it. This is actually part of the EPP protocol where you do the domain check command. And that should be the source where you find out whether it's registrable and if not, why not? And if yes, under what circumstances, maybe some special things. Of course, a registrant does not have access to RDAP. I know this won't help the registrant directly, but this is then something that the registrar would have to forward to the registrant. But I wouldn't make the WHOIS RDAP, I said RDAP, EPP was the last word I meant. This is something for EPP and not

for RDAP. RDAP should just be for getting information of what is currently the state and not what is possible.

DONNA AUSTIN: Thanks, Michael. So we got Edmon and then Maxim.

EDMON CHUNG: Yeah, Edmon here and speaking personally. I actually quite agree with Michael, although some registries might decide to provide additional information and then that's totally up to them. That being said, though, it might be useful for us at a policy level to not directly RDAP or WHOIS, but that registries should provide a way for end users or whoever is looking at it, a way to discover with a primary name, they've now seen it to discover all the variants. And that's of course the LGR or the table. And this recommendation could exist somewhere else than this was, but there needs to be some way for end users to be able to discover the entire set somehow.

DONNA AUSTIN: Is there a way that that happens now that's not public? So does the registrar hold that information of what's in the variant set?

EDMON CHUNG: Quickly in response to that, Edmon here, I guess right now the unfortunate and even at .Asia, we would point to there's our table, calculate it. It's not the best. We probably should have a tool of different sorts, but in reality, that's probably what happens today.

But that is the bare minimum. We should discuss a little bit further whether that bare minimum is susceptible or not. But yeah, that's what's happening now, I would say.

DONNA AUSTIN: Okay. Thanks. So Maxim and Michael, and then we're going to wrap for today.

MAXIM ALZOBA: First of all, registries do not talk to registrants. It's a job of a registrar because registries just don't have enough staff to talk to all the persons or parties who want to register something. The second thing is that in the current situation, if registrant doesn't understand something, they usually talk to their respective registrar or maybe to a couple of those or a few if they don't trust the particular one. So, and in this case, registrars, first of all, they try to do EPP check command to understand what's going on with a particular domain and where registry provides them with way more information. And if this doesn't work, they contact the registrars, contact a registry. Registry will not talk to registrants. It's not possible. Imagine thousands of registrations and how much stuff do you need for that? So, and the way to do it, it's EPP command for registrars and RDAP for registrars and end users or registrants. That's it. Most probably RDAP should contain something like this cannot be registered or this domain can be registered by a particular party. Talk to the registrar. That's it. Thanks.

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DONNA AUSTIN: Thanks, Maxim. Michael.

MICHAEL BAULAND: Yes. To what Edmon just said, the registry could possibly offer separate tool to help registrants. I could also give a very quick example of what has been done by CORE for the .bazaar Arabic script registry. They have such an external tool, which helps you realize what variants exist. If you could let me share. Okay. So, they have the so-called virtual keyboard, which not only combines all the characters, which are available at the registry, but when you type some label, you also see there's an area called variants where you see which variants exist. And due to the fact that these can be quite a lot of variants, we did not put every single label there, but for each character, we put the possible variants for that character in this situation because the characters have different variants depending on what other characters are around this. So, this is not perfect. There could be a lot of ways to make this better, but this is just one example of how a registry could have some additional tools for customers to be made available for a certain label, what variants, variants labels could be activated for it. Thanks.

DONNA AUSTIN: Thanks, Michael. So, we are at time for today. I think this has been a good discussion this afternoon, and we may have solved a couple of different problems. So, we'll recap on this tomorrow morning to Maxim and I'm not sure that Farell joined us this afternoon, but thanks for sticking with us, and I hope it's a bit, well, it's not going to get any warmer, so stay warm. So, thanks for

joining us, and hopefully we'll see you tomorrow. Dan has some logistics for our dinner this evening, so if you can just stick around for a couple of minutes, and Dan will tell us what the plan is for tonight.

DAN GLUCK: Cool. First, I'm going to stop the recording and say thank you to our wonderful AV tech for the day. Thanks.

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