



The Intellectual Property Constituency of ICANN's Generic Names Supporting Organizations

Record of IPC Meeting

Cartagena , Colombia, 7 December 2010 at the 39th ICANN Open Meeting

Chair: J Scott Evans, President, IPC

Vice Chair: Steve Metalitz, Vice President of the IPC

Attendees

Paul McGrady, Greenburg Trauig
Kristina Rosette, Covington & Burling
David Taylor, Hogan Lovells
Nick Wood, Valideus
T Barratt, Encirca
Mark Kudlacik, CheckMark
Kristine Dorrain, NAF
Colleen Askvig, NAF
Andrey Vorobyev, RU Center
Sergey Gorbunov, RU Center
Gretchen Olive, CSC
Moonchul Chang, KISA
Faisal Shah, MarkMonitor
Fred Felman, MarkMonitor
Fionn O'Raghallaigh, Managing IP
Martin Sutton, HSBC
Steve Miholovich, Safenames
Gabriela Szlak, Latin American Ecommerce Institute
Paul foody, Registrant
Jonathan Robinson Valideus
Stuart Lawley, ICM Registry
Russell King, ICM Registry
Karla Valente ICANN
Rod Rasmussen, APWG
Lucas Vall, Brights Consulting
Hyesun Kim, Brights consulting
Alvaro Ramirex, B&R Latina
Andy Coombs, IACC
Sylvain Hirsch, IPTwins
Hugues chevalier, IPTwins
Juan Daniel Melo, Munoz Abogados
Bart Lieben, Crowell & Moring
Vicky Folens, Deloitte
Diane Duke, Free Speech Coalition
Jeffrey J Douglas, Free Speech Coalition

Johannes Lenz-Hawliczek, dot Hotel
Liz Oliner, Trademarkia
Brian Winterfeldt, Steptoe & Johnson
Claudio di Gangi, INTA
Michael Adams, Mayer Brown

By telephone: Adam Scoville, Stacey King, Ellen Shankman, Doug Isenberg, Anne Aikman-Scalese possibly others who did not identify themselves.

Disclaimer

These notes are prepared as a record of the IPC meeting not as verbatim minutes. Any errors or omissions can be attributed entirely to the scribe including mistakes in the names of attendees who may not have completed the Attendance Sheet. Contact nick.wood[at]comlaude.com if you wish to correct any matters set out below.

ICANN Compliance

Stacy Burnette and Pam Little from the ICANN Compliance Team gave an update on ICANN's contractual compliance Programme:

57 Registrars Terminated or Non-renewed from 2003-2010

Between August – November 2010 the total number of Enforcement Notices Transmitted was 1,588

An audit of the Inter-Registrar Transfer Policy (IRTP) Audit is underway with the aims of:

- gaining a better understanding of transfer problems encountered by consumers;
- gauging level of registrar compliance;
- raising registrar awareness of their obligations to improve overall compliance
- to assess effectiveness of the existing policy

An audit of Port 43 Whois access is underway:

- ICANN is committed to enforcing its existing policy relating to Whois
- ICANN has developed a beta version of an automated port 43 monitoring tool
- Currently tuning the monitoring tool to more effectively capture data necessary to audit registrars' Whois service
- ICANN sent 6 compliance inquiries based on the first round of monitoring.
- ICANN issued two breach notices based on registrar failure to provide Port 43 Whois service.

Enhancements are being made in regard to WDPRS (Whois Data Problem Report System)

- Automated Message RE: Invalid Reports i.e. suspended, deleted or expired at the time of submission
- Registrar Action Message after 15 days includes multiple choice options to demonstrate what action was taken:
 - a) registrar verified contact info is correct
 - b) domain suspended, deleted or expired (system automatically closes ticket)
 - c) contact info updated
 - d) more time requested (one time option)
- 45 Day Automated Compliance Notice for Failure to Respond or take any action regarding a Whois inaccuracy claim

In regard to the staffing of the compliance Department, Ms. Burnette reported that there are three open positions including for a Senior Director, a Compliance Manager and a Senior Auditor.

Ms. Burnette and Ms. Little answered a number of questions, explaining that the role of the Compliance Department is not to terminate registrars but to bring them into compliance.

Steve Metalitz asked why registrants are given 45 days to correct whois inaccuracy rather than 15 days. Ms. Burnette invited the IPC to make a recommendation to her. The meeting felt that 15 days was long enough and also asked for ICANN to place a button on its Home Page for the public to report Whois inaccuracy.

Ms Burnette refuted a suggestion that ICANN only takes enforcement action against registrars when the registrars do not pay their fees to ICANN. Ms. Burnette explained that failure to pay fees was one indicator of problems within a registrar.

Paul McGrady spoke for the meeting when he thanked Ms. Burnette and her team for their work under pressure.

.XXX RPM

Jonathan Robinson of Valideus gave an update on the proposed measures to protect IP that .XXX operator ICM Registry hopes to implement if/when .XXX launches. He explained that Valideus has been appointed as the sole validation agent and that the key innovation from ICM will be the opportunity extended to rights owners from outside the adult industry to reserve and therefore block names at the .XXX registry so that they cannot be used as conventional web addresses.

Mr. Robinson explained that there will be three tracks within the Sunrise period for .XXX, two of which will be routes to conventional domain name registration by the adult industry community. The third will be a route for businesses and organisations beyond the adult industry to secure a blocked name. The three routes will be referred to as Sunrise A (Adult Industry Trademark), Sunrise B (Blocked Trademark) and Sunrise C (Current Owner or Grandfathered Domain)

Sunrise A – Adult Industry (for rights owners from within the adult industry)

This route will be available to existing rights owners operating within the adult entertainment industry sector. Names secured through this route will result in the registration of conventional, resolving domain names at the registry. Since .xxx is a Sponsored Community domain for members of the adult entertainment industry, a string applied for under Sunrise A will, all else being equal, receive priority over the identical string applied for under Sunrise B.

Sunrise B – Blocked Name (for rights owners from outside of the adult Industry)

Sunrise B is for rights owners from outside the adult entertainment industry sector. Names secured through Sunrise B will not result in the registration of a conventional, resolving domain name at the .xxx registry. Instead, these names will be reserved and blocked from live use. The applied for string will resolve to a standard white page indicating only that the string is reserved from use through ICM's rights protection programme. The corresponding WHOIS information will contain standard registry contact details.

Sunrise C – Current Owner (for pre-existing domain name owners from another TLD)

Sunrise C will be open to domain name registrants within the adult entertainment industry sector who can show that they have a corresponding registration at another TLD registry. Names secured through this route will result in the registration of a conventional, resolving domain name at the .xxx registry.

Mr Robinson then explained more about the process of applying under .XXX. All Sunrise applications must be submitted via ICANN accredited registrars. Once the contract is signed between ICANN and ICM, there will be a short interval (likely 90 days) before the .xxx Sunrise launches.

The fees for Sunrise A will feature a onetime fee to cover the submission, processing and validation of the relevant right. In addition, the standard registry fee will apply for the period or periods of registration applied for. For Sunrise B, a onetime fee will apply which will cover the submission, processing and validation of the relevant right. It will result in an indefinite reservation or blocking of the term in the registry and ICM does not envisage charging any additional fees for blocking this string over the term of their contract to run the .xxx registry. For Sunrise C, a onetime fee will apply which will cover the submission and processing of the relevant right. In the case of Sunrise C, the fee will be substantially lower than that of Sunrise A or B, reflecting the automated processes involved. In addition, the standard registry fee will apply for the period or periods of registration applied for.

Mr Robinson encouraged members of the IP community to contact him at jonathan.robinson@valideus.com with queries. There was a wide ranging discussion about the .XXX RPM which was generally supported. One issue raised by INTA was what would happen if a rights owner which is not a member of the sponsoring adult community wins a UDRP complaint over a .XXX domain as only members of the sponsored community can have live .XXX domains. Paul McGrady suggested that the solution was for winning complainants to be given the right to transfer, cancel or block.

Results of elections

J Scott Evans (JSE) reported on the results of the elections for officers of the IPC:

J Scott Evans is President and Steve Metalitz is vice President. Brian Winterfeldt is Treasurer and Stacey King is Secretary. Sam Mosenkis and Claudio di Gangi were thanked for their contributions.

J Scott urged all members of the IPC to view the new IPC website at <http://www.ipconstituency.org/> and thanked Marc Trachtenberg for creating this and the IPC's new Listserve.

Preparation for the GNSO Meeting

Kristina Rosette presented three motions that were to come before the GNSO in order to have feedback from the IPC to inform the voting position she and David Taylor would take as representatives of the IPC, namely:

1. Motion to Terminate the Policy Development Process on Vertical Integration between Registries and Registrars.

2. Motion on recommendations made recently by the cross-community working group (CWG) regarding implementation of the Council's Recommendation 6 (which formed the basis for the "morality and public order" section of the draft AGB.)
3. Motion to extend the Policy Process Steering Committee (PPSC) and the Operations Steering Committee (OSC) charters.

The meeting agreed with the proposal of Kristina Rosette that she and David Taylor should discuss these motions in more depth. (For details of these motions see <http://gns0.icann.org/resolutions/#201012>)

The Commercial Stakeholders Group

Steve Metalitz introduced the subject of who would be elected as Vice Chair of the Non-Contracted Parties within the GNSO. There was general support for the idea that (1) there should be an election; (2) that the Commercial and Non-commercial Parties should put forward a candidate each; (3) that it would take 8 out of 13 votes to elect a winner; and (4) that the losing stakeholder group should put forward the only candidate for the vice-chair position the following year. The proposed candidates were Wolf Knoben for the Commercial Stakeholders and Mary Wong for the non-commercial stakeholders.

Close of Business

The meeting closed with thanks given by JSE to all those who attended and all those who have worked for the IPC.

ENDS
30 December 2010