

Minutes of the IPC Meeting

Fairmont Hotel, Singapore

21 June 2011

1 Attendees

Officers of the IPC:

J Scott Evans, President
Steve Metalitz, Vice President
Kristina Rosette & David Taylor, IPC GNSO Representatives
Brian Winterfeldt, Treasurer

Attendees:

Susan Anthony	US Patent and Trademark Office
Luca Barbero	Barbero IPC Associates LTD
Phillip Marano	IPC member
Michael Adams	IPC member
Mark Partridge	IPC member
Jonathan Cohen	IPC member
William Powland	SA Regulatory Authority
Mike Sax	Sax.net
Valery Trutunau	Individual
Jonathan Zuck	ACT-IPC
Colleen Askvig	NAF
Emmanuel Harrar	IPC member
Stephanie Tronchon	IPC member
Jannik Skou	IPC member
Xiantang Sun	CN
Maarten Simon	SIDN
Burt Lieben	Crowell and Moring
Martin Sutton	HSBC
Vicky Folens	Deloitte
Richard Schreier	Pool.com
Mark Kudlacilc	CheckMark Network
Dennis Prah	IPC - Ladas and Parry
Kieren McCarthy	.NXT
Ahu Guneyli	Istanbul Patent and Trademark Cons
Dilek Ustun	Istanbul Patent and Trademark Cons
Amy Repp	Centralnic/DotBrand Solutions
Edwin Tan	Name Depot .Inc
Heiki Tsang	NetMission.asia
Nathan King	NetMission.asia
Claro Parlade	BSA

Francine Tan	Francine Tan and Associates
Peter Ollier	Managing Internet IP
Marcus Jaeger	Swisscom Ltd
Hong-Kil Yeung	Netmission.asia
Rafael Wong	NetMission.asia
Glendoris R. Ocampo	Namazie co. - SG
Dan Chan	Refistry ASP
Low Syuk Wah	WebNic
Cyril Chua	Individual
Bryan Ghows	Unilegal LLC
Jeffrey Lim	Wong Partnership
Chung Nian Lam	Wong Partnership LLP
Sebastiano	
Rwengabo	NUS
Moonchul Chang	Prof of Law, Seoul, Korea
Kristine Dorrain	National Arbitration Forum
Lucas Vall	Brights Consulting Inc
Yoshi Murakami	Brights Consulting Inc
Matt Harper	Global Digital LLC
Russel Pangborn	Microsoft/IPC
Steve Metalitz	IPC member
Faisal Shah	MarkMonitor/IPC
PetterRindforth	F.i.C.P.i
Zechariah Chan	Lee & Lee
Claudio DiGangi	INTA
Sylvain Hirsch	IP Twins
Zbynek LoebI	Rowan Legal
Heather Forrest	University of New England
David Roche-Tayer	WIPO
Brian Beckham	WIPO
Nick Wood	Com Laude/IPC

2 Minutes

Minutes were taken by Nick Wood who reminded attendees that any errors or omissions are his responsibility and should be reported to him. Nick.wood@comlaude.com.

3 Commercial Stakeholder Group (CSG)

Steve Metalitz reported that the Business Constituency, the ISP Constituency and the IPC had met as the CSG with the Board. The discussion had focussed on three issues: 1) Accountability & Transparency; 2) the Fiscal Year 2012 Budget process; 3) The role of the GAC within ICANN decision making. In all three areas, the CSG had expressed concerns over communication and transparency and had requested more substantial information from the staff. The Board had agreed this was important.

4 Report from Financial Controller

Juan Ojeda, ICANN’s Financial Controller, who joined ICANN in 2010, presented the Fiscal Year 2012 budget to the meeting: “There have been some bumps in the road; it has not been a perfect process and having public comments and the views of constituencies will help us to improve the process for the future” he said. He explained that a bottom up process had been used to create the budget and that with requests totalling \$73m he had created a budget for Operating Expenses for \$67m and then added \$2m for anticipated sponsorships, therefore publishing a Revenue Budget for \$69m. He reported that a further \$18m had been earmarked for new gTLD activities in 2012 with \$3.9m for “Operational Readiness”.

When challenged by J Scott Evans on why the IPC’s request for financial assistance with either a Toolkit or funding to enable it to improve its effectiveness as a Constituency had been denied, Mr Ojeda said, “I was under the impression that all the Constituencies got this”.

Steve Metalitz criticised the process for the creation of the budget. “We see the changes you have made but we are looking for improvements in terms of transparency so we can give our views of the process” he said. Mr Ojeda agreed that the idea of creating a small group from the CSG to work with the ICANN Financial staff was a good one.

Kristina Rosette asked: “Do you want us to ask for funds for projects including travel?” Mr Ojeda replied, “We try to focus travel on building attendance at ICANN. We are developing strategy”. Steve Metalitz said, “The issue is that you are setting policy by finance. Why should one group be supported over another?” He pointed out that 10 requests from the IPC had been turned down. Mr Ojeda apologised and committed to looking at the issue of support for the CSG and the IPC.

(in US dollars)	FY12 FRAMEWORK w/o New gTLD Launch	FY12 FRAMEWORK w/ New gTLD Launch
Traditional Revenue	68,525,000	68,525,000
New gTLD Application Fees		92,500,000
Revenue	\$ 68,525,000	\$ 161,025,000
Core Operating Expenses	51,911,000	51,911,000
Projects Expenses	11,111,000	11,111,000
New gTLD projects *	6,790,000	6,790,000
New gTLD Processing Costs	-	35,970,000
Expenses	\$ 69,812,000	\$ 105,782,000
New gTLD Application Refund	-	8,260,000
Historical Development Refund	-	11,480,000
New gTLD Contingency	-	30,000,000
Contributions to/(from) Reserve	\$ (1,287,000)	\$ 5,503,000
Investment Income	\$ 1,000,000	\$ 1,000,000
Non-Cash Expenses	\$ 2,600,000	\$ 4,000,000
Change in Net assets	\$ (2,887,000)	\$ 2,503,000

New gTLD Application Processing Launch

Table One: slide produced by Juan Ojeda, ICANN’s Financial Controller showing FY2012 budget.

Audit of IPC Members

J Scott Evans reported on the audit of IPC members undertaken by Stacey King, who was not able to attend the Singapore meeting. He urged all members to ensure Stacey had their correct contact details. He reported that all members of the IPC will be assigned to a Committee if they have not already volunteered for one.

IPC Dues

J Scott Evans reported that the membership dues of the IPC are to be increased. This will be the first increase since the IPC was formed in 1998. Jonathan Cohen has volunteered to benchmark the IPC's dues against other constituencies within ICANN and other IP organisations beyond ICANN.

IPC Budget

IPC Treasurer Brian Winterfeldt reported that the IPC has revenues of \$34,000 a year and costs of \$30,000. He reported that the proposed increase in dues will assist the IPC to be more effective and in his view will not be overly burdensome on either individuals or organisations, though there has been considerable debate about this on the IPC Listserve. He is to investigate setting up a PayPal account to make payment of dues easier for some.

UDRP Review

Jonathan Cohen reported he was chairing a session on the UDRP the next day. The purpose of the session was to explore views for and against a review of UDRP, including both policies and procedures, following a Staff Issues paper. A Public comment period on the Staff Issues paper is open until 15 July 2011.

David Taylor presented a PowerPoint summarising 11 years of the UDRP to assist attendees to understand the complexity of the issues. Mark Partridge reported on a webinar earlier in June: "What struck me was the depth of the agreement between advocates for complainants and advocates for registrants: the UDRP is fair and balanced". Brian Beckham of WIPO reported that WIPO's position is that there should be no review of the UDRP whilst the new gTLDs are being introduced "because it is the only proven rights protection mechanism". J Scott Evans supported this view. He said, "The decision to progress the new gTLDs has been made on the assumption that the UDRP is there to prevent the abuse of IP rights". It was agreed that this would be the position of the IPC in the GNSO Meeting.

Inter Registrar Transfer Policy

Kristina Rosette reported that a PDP had been started on the Inter Registrar Transfer Policy. She explained the discussion was currently focussing on a process for returning hi-jacked domains and that the idea of an Emergency Action Contact, a point of contact in each registrar to assist in such cases, had been raised. All registries may be asked to provide thick Whois. This matched the comments of the IPC and the Business Constituency on the .net contract, reported Steve Metalitz.

Report from the ICANN Compliance Team

Maguy Serad, the new Senior Director of Contractual Compliance and Stacy Burnette, Pam Little and Khalil Rasheed also from the ICANN Compliance Department gave a presentation on their work of. This covered:

The Short Term Priorities of the Department which are to:

- Support current compliance activities
- Assess current state of the contractual compliance program and identify opportunities to improve efficiency and effectiveness
- Understand the ICANN model and the interests of stakeholder groups
- Cultivate relationships with the ICANN community

Current major initiatives included:

- A Registrar Self-Assessment Tool: This will feature a mandatory requirement on registrars to complete a self-assessment questionnaire every year, using an on-line tool.
- Registry Data Escrow Audit Plan: Annual audits will be conducted of each registry operator across all the registries operated by them to assess whether their data escrow is compliant with their registry operator's contract.
- Law enforcement initiative: To formalize the processes for referring clear cases to law enforcement and receiving contractual compliance related complaints from law enforcement

Members of the Compliance team then provided an overview of Compliance Activities between January and June 2011, covering Registrar Compliance Notices, the termination of registrars for non-compliance, Registrar Data Escrow checking (see copies of slides at end of minutes) and Port 43 Monitoring.

In regard to Port 43 monitoring, Stacy Burnette reported that Out of 970+ accredited registrars, 3 registrars temporarily blocked ICANN's access to their Whois service via port 43. Claudio Di Gangi asked for information on families of registrars in future reports and Jonathan Zuck asked about patterns of behavior amongst "the same confused registrars". Khalil Rasheed said, "When we see gamesmanship, we tackle it".

Khalil Rasheed has been promoted to Senior Manager in the Compliance Department with a focus on Whois. He reported that the current tools available to the team, created in 2002, are to be updated. This will include the facility for reporting multiple Whois inaccuracy cases.

Kristina Rosette asked if the new compliance tools would be sufficiently flexible to cover the new gTLDs and David Roche-Tayer of WIPO asked how many of the 2,400 Transfer issues reported by the Compliance Team during this period related to cyberflight during UDRP actions. The Compliance Team agreed to look into this.

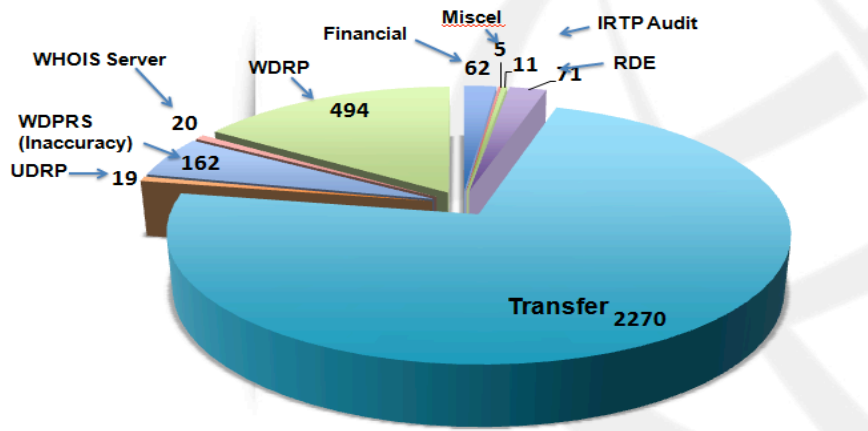
Venues

The meeting closed with J Scott apologising to attendees that ICANN had not been able to allocate a larger room with seating for everyone.

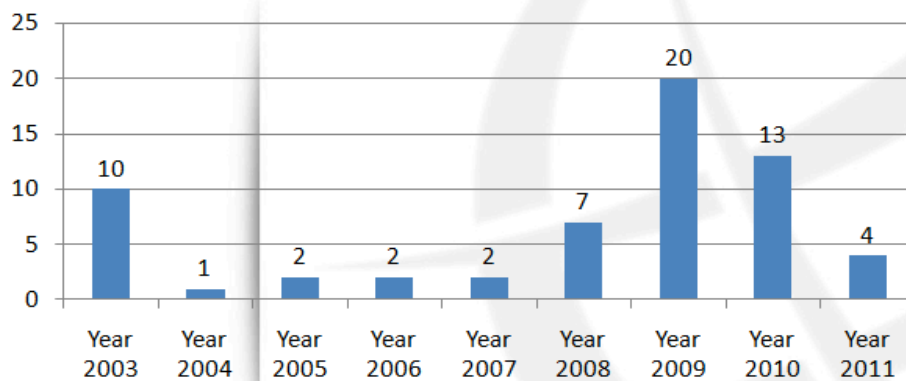
ENDS

Three Slides from the ICANN Compliance Team Report to the IPC

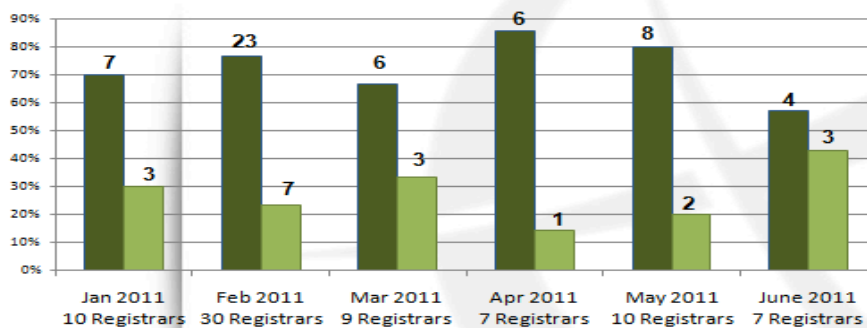
3,114 Compliance Notices Sent to Registrars
January 2011 to mid-June 2011



61 Registrars Non-Renewed or Terminated Since 2003



73 RDE Notices Sent
January 2011 to mid-June 2011



Registrars resolved after 1st Inquiry
Registrars resolved after 2nd Inquiry

Note: Between Jan 2011 and June 2011, 7 out of 73 Registrars (8.2%) did not resolve after the 2nd inquiry / follow-up required.