

Adobe Connect chat transcript for 17 August 2016:

Terri Agnew:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group call held on for Wednesday, 17 August 2016 at 16:00

George Kirikos:Hi folks.

Elliot Silver:Hello, everyone.

George Kirikos:Welcome, Elliot.

Philip Corwin:Hello all. I'm back from vacation in reenergized format ;-)

George Kirikos:Welcome back, Phil.

George Kirikos:Why would ICANN be handling complaints re: ccTLDs? (last sentence of document) Is that a typo?

Mary Wong:@George, no, that was in Kathy's email to the list.

Kurt Pritz:That sounds right, J Scott

Susan Payne:sounds reasonable

Dominic DeLuca(FORUM):Did anyone else just have the audio fail?

Caroline Chicoine:+1

George Kirikos:Audio fine on the telephone feed.

Mary Wong:@George, all - correcting myself; I think Kathy sent her comments only to the chairs and staff. Apologies - we should have forwarded it to the full list. In any case, that was taken from her suggestions on this topic.

Terri Agnew:@Dominic, AC audio is working, please let me know if a dial out on the telephone is needed

Alistair Payne:+1 - i agree

Petter Rindforth:+1

John McElwaine:+1

Dominic DeLuca(FORUM):Working now. Thank you

Mary Wong:Can we ask that members send possible scenarios to the full WG list? As J. Scott notes, within this coming week (before next Weds)?

George Kirikos:Looking at the actual ICANN Compliance notices archive, they've almost entirely been targeted at registrars. <https://www.icann.org/compliance/notices>

Mary Wong:@George, yes - and registries to some extent (ie ICANN Contracted Parties)

Greg Shatan:@George, I don't think .SUCKS is a ccTLD. Though sometimes I feel I live there....

Alistair Payne:yes

Susan Payne:yes

Mary Wong:@J Scott, yes from staff

Alistair Payne:old

Philip Corwin:.sucks is not a ccTLD

Kurt Pritz:It is not an obvious typo to me. Is the question writer here?

Greg Shatan:It is the ccTLD of the Land of Sucks.

Grace Mutung'u::D

George Kirikos:Instead of getting a "filtered" view of those complaints from the point of view of the ICANN compliance department, perhaps the ICANN Compliance department could mail out something to those who've contacted them, so the aggrieved companies could be aware of this PDP, and that we're collecting data, etc??

Jeff Neuman:They already publish those metrics

George Kirikos:(mail = email, etc.)

Kurt Pritz:Here is a possible addendum / replacement for Q2: From the Data Analysis written and verbal report, it was apparent that TMCH records are being downloaded for purposes other than that

required by Sunrise and Claims processes. Does / will compliance investigate these possible uses absent a complaint?

Jeff Neuman:I know at every meeting they present those. Perhaps staff can gather those reports

George Kirikos:Here are some stats: <https://features.icann.org/compliance/prevention-stats>

George Kirikos:They call them "informal complaints"

Philip Corwin:The complains about .sucks were not about direct or encouraged infringement. They were about pricing for TM holders who wished to obtain their marks to prevent prospective infringement (or legitimate criticism)

Kurt Pritz:Typo or not - I think it would be meaningful to see complaints about ccTLDs.

Mary Wong:Compliance reports and dashboard available here:

<https://www.icann.org/resources/compliance-reporting-performance>

George Kirikos:Although, data is not very detailed, i.e. "Abuse" is not specific!

Rebecca Tushnet:If no one else is willing, I'd do it as long as I had company.

Mary Wong:Thanks, Rebecca!

Caroline Chicoine:Happy to help!

Mary Wong:And Caroline!

Caroline Chicoine:Mary where are links you mentioned?

Caroline Chicoine:Thanks!

Mary Wong:Compliance dashboard (monthly): <https://features.icann.org/compliance>

Jeff Neuman:Here is a link to the presentation from

Marakash: <file:///C:/Users/Jeffrey/Downloads/presentation-compliance-registry-10mar16-en.pdf>

Jeff Neuman:oops

Jeff Neuman:I will get you a better one

Mary Wong:All reports: <https://www.icann.org/resources/compliance-reporting-performance>

Jeff Neuman:<https://meetings.icann.org/en/marrakech55/schedule/thu-compliance-registry/presentation-compliance-registry-10mar16-en.pdf>

George Kirikos:Lori has her hand up.

Mary Wong:@Rebecca, @Caroline - we will follow up with you by email with all the links

Mary Wong:Please mute if not speaking, thank you!

Jeff Neuman:Lots of static on audio

George Kirikos:We can hear you, Lori, but lots of noise in the background.

Luc Seuffer:I thought Lori was INTA not NASA

George Kirikos:lol Luc

Lori Schulman:I am INTA. INTA wrote a letter to compliance last year regarding abusive practices with specific examples. The response that we got from compliance is that there wasn't much ICANN could do other than file a suit to enforce a PIC.

Lori Schulman:Would having that letter be helpful?

Lori Schulman:I am not sure here.

Philip Corwin:Yes, that letter would be helpful IMHO

Philip Corwin:I do so agree

Lori Schulman:To be clear, not much ICANN could do and that yes. I have notes from a conversation. They would not respond in writing.

Lori Schulman:Sending letter and notes to Mary Wong now.

Mary Wong:Thanks, Lori

Lori Schulman:Sorry about that JScott. Hand is down.

Lori Schulman:Letter is for context.

Lori Schulman:No discuss of burden proof.

Mary Wong:@Jeff, yes - it was also a more general point about topics that had been discussed previously in the community during the development of the TM-PDDRP

Lori Schulman:Jeff is right.

George Kirikos:Right, I think there was some confusion re: "burden of proof" vs. "what legal test" must be met (i.e. a certain legal test must happen, and then there's a burden of proof in meeting that test).

George Kirikos:One can make a different legal test, but retain the "burden of proof" as before.

George Kirikos:I would disagree a bit with Jeff. What he's advocating for creates a bias for the "status quo".

George Kirikos:In finance, there's something called "Zero Based Budgeting", where you start from a zero base.....that takes longer, but can yield a better result.

Kristine Dorrain - Amazon Registry:George, we're shooting in the dark if we don't have a problem to solve before we try to solve it.

Jeff Neuman:Yes George. Status quo absent any evidence that something NEEDS to change

Jon Nevett:@George -- there should be a bias for the status quo unless there is consensus to change it

Jon Nevett:Good point JN!

Mary Wong:ADNDRC and FORUM provided input on remedies in their initial responses to the WG

Brian Cimboric:+1 Jeff - we don't want to create a solution where there may be no problem. We're not here to tweak/redesign just for the sake of it, if there are identifiable problems that's one thing. If there are not readily identifiable problems, we should leave it be.

Beth Bacon:=1 to Jeff and Brian

Jeff Neuman:The providers should be more specific as to what the issues are with the remedies

Mary Wong:Link to the Provider responses: https://community.icann.org/x/Gx_OAw

Jeff Neuman:I think some follow up questions are in order

Beth Bacon:apologies that was a + 1 not an =

George Kirikos:I'd not limit it to just "what isn't working" --- one should be prospective, e.g. the "limitation period" stuff contemplates problems that will arise in the future. Adding a limitation period "future proofs" the policy, as it'll help eliminate complaints that couldn't be brought before the courts.

Luc Seuffer:I agree with Jeff too. Better move on to policies which have been put to the test and actually need to be reformed

Mary Wong:@Kristine, the staff understanding of the providers' input is the same.

Mary Wong:ADNDRC, on why the PDDRP may not have been used: "the remedies available (as set out in paragraph 18 of TM-PDDRP) might not serve any useful purposes to the trademark holder harmed by a "Second Level" infringement. It might be more convenient and cost-effective to the trademark holder to take the usual UDRP or URS directly against the domain name registrant rather than initiating an action against the registry operator under TM-PDDRP."

Jeff Neuman:To be clear, I do not believe we need to look into the remedies

Jeff Neuman:until and unless there is an issue actually shown

Mary Wong:FORUM, on the same question: "Based on our general experience in alternative dispute resolution, the unspecific nature of the remedies available in TM-PDDRP could be another reason why it has not been used."

Kristine Dorrain - Amazon Registry:Agree with Jeff. We need to know FIRST if there is a problem.

Jon Nevett:I think that the registries will understand the implications of the request

Greg Shatan:Old check

Kristine Dorrain - Amazon Registry:Yes, agree that we should provide context.

Philip Corwin:Agree with jon -- registries are pretty sophisticated about the PDP

Rebecca Tushnet:Not necessarily that, but to make clear the context:

Rebecca Tushnet:are there things that need fixing in the lack of clarity.

Mary Wong:SUGGESTION on timing of Registry question - the TMCH Sub TEam may have some (different) questions for RySG as well. Can we hold this until the Sub Team confirms that they do, and send it as a single follow up/request?

Lori Schulman:Consolidating questions to registries makes sense.

Caroline Chicoine:Like that idea Mary

Susan Payne:+1 to Mary

Jeff Neuman:Agree all questions should be presented at same time

Kristine Dorrain - Amazon Registry:Yes, agree.

Mary Wong:ok thanks

Philip Corwin:+1 on a single combined inquiry

Jeff Neuman:Agree with J Scott

Jeff Neuman:same test should be applied

Caroline Chicoine:agree

Mary Wong:@J Scott, yes

Terri Agnew:Next call: Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group is scheduled for Wednesday, 24 August 2016 at 21:00 UTC for 60 minutes.

Petter Rindforth: On holdiday next week, but otherwise happy to assist on the mediation issue if we can get back on that the week after

Terri Agnew:@Petter, will not apology, have a lovely holiday

George Kirikos:Bye folks.

Laurie Anderson:bye all!

Susan Payne:thanks all

Jay Chapman:thanks, all

Petter Rindforth:thanks :-)

J. Scott Evans:Cial

Philip Corwin:Bye all!

J. Scott Evans:*ciao

Mary Wong:Thanks J Scott, everyone!