

Adobe Connect chat transcript for 31 August 2016:

Terri Agnew:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group held on Wednesday, 31 August 2016 at 16:00 UTC

Terri Agnew:wiki agenda page: <https://community.icann.org/x/GBSsAw>

Terri Agnew:member page: <https://community.icann.org/x/3iWAAw>

George Kirikos:Hi folks.

Jay Chapman:Hi everyone. Hey George

Vaibhav Aggarwal:Hey Everyone Greetings from New Delhi

George Kirikos:Hey Jay. How's it going?

George Kirikos>Welcome, Vaibhav.

Vaibhav Aggarwal:Hey George

Vaibhav Aggarwal:thnks

Paul Tattersfield:Hi All

Paul Tattersfield:Is Delhi hot?

George Kirikos:Hi Paul.

Maxim Alzoba (FAITID):Hi All

Vaibhav Aggarwal:Nope Paul Infact

Vaibhav Aggarwal:I have a Jeep here and went for a Drive in 50% visibility

Vaibhav Aggarwal:it rained today

Philip Corwin:Hello all

Vaibhav Aggarwal:whole day and its like Air conditioned with Mellowed Humidity

Vaibhav Aggarwal:You guys will love it

Paul Tattersfield:One day haoepfully Vaibhav

Paul Tattersfield:hopefully

Vaibhav Aggarwal:I'll be the host

Vaibhav Aggarwal::-)

Vaibhav Aggarwal:promise

George Kirikos:Echo.

George Kirikos:Under the "broken" rule, Apple would never release an iPhone 7, as the iPhone 6 is 'good enough'.

Maxim Alzoba (FAITID):4 was enough

George Kirikos::-)

Petter Rindforth:Just a note that I thank the Co-Chairs for their Memo, and fully agree.

Jeff Neuman:For the record I disagree, but I will explain

Jeff Neuman:I think the wrong question was looked at

George Kirikos:If it wasn't obvious by my earlier metaphor, I agree with the memo.

Darcy Southwell:My apologies for being late.

George Kirikos:The "rule of law" is the PDP Charter.

Caroline Chicoine:Agree with Petter, and think the PDDRP is a bit unique since we have not yet figured out why no one has used it and think it is wise to not necessarily assume that lack of complaints means no issues/problems.

George Kirikos:(which was broad in scope)

Lori Schulman:Sorry I am late.

David Maher:@jeff +1

Kristin:Agree with Jeff. How will we know if mediation in the PDDRP is a good solution if we haven't identified a problem.

Kristin:We need to start with looking for a problem. Perhaps the subteam can start on that?

Petter Rindforth:the problem is that this system is not used. Would initial mediation solve this, and make it more useful?

Paul Tattersfield:Couldn't we aim to develop a generalized process for topics like mediation that will work across all RPMs?

Jeff Neuman:Petter - Why is that a problem?

Jeff Neuman:If we found evidence that there were a lot of bad actor registries and abuse is rampant AND the PDDRP was not being used...that could be a problem

Caroline Chicoine:Also, I apologize but cannot always keep track of this stuff, but didn't the survey we are sending out have questions that might shed light on what potential problems there might be with PDDRP? If so, when are those results expected?

Kristin:The hypothesis is: unused PDDRP is a problem. Ok, let's investigate that. How can we learn more. Is the unused PDDRP a problem? Data? Anecdotes?

Statton Hammock:Lack of use of the PDDRP does not suggest a problem with this RPM.

George Kirikos:I think the 'problem' was already identified earlier, as J. Scott pointed out last time, i.e. costs (overall costs, not just fees) being a consideration for why the PDDRP might not have been used. And mediation is one way to reduce costs, for all sides.

Jeff Neuman:but stating alone that the PDDRP is not being used...that is not a problem

Georges Nahitchevsky:The problem is that the PDDRP has not been used. there are reasons that have been discussed about this and perhaps mediation would make the procedure more useful

Kristin:Also, sorry, some sort of glitch: I'm Kristine Dorrain - Amazon Registry, for the record.

Kristine Dorrain:George: hypothesis: The cost of the PDDRP is a problem. Investigation question: Is the potential cost of a PDDRP (range from \$1,500 to \$\$\$\$\$) a problem? Data? Anecdotes?

Maxim Alzoba (FAITID):@Georges why do we need to make it used? Do we have any solid evidence that it needed?

Georges Nahitchevsky:That is the problem. Why have a procedure that no one uses. Perhaps the procedure is useless. So why not look at the underlying reasons and options such as mediation

Kurt Pritz:I would phrase the rule more positively. RPM modification requires (and this is really rough and needs work): (1) Full understanding of why the existing method is in place (e.g., why wasn't mediation included in the earlier round) (2) Evidence that the existing RPM requires improvement in some way (e.g., evidence of bad behavior that the introduction of mediation would cure a problem) (3) Consideration of negative impacts (e.g., costs of mediation and mediation requests)

Petter Rindforth:@Jeff: The question is if we shall keep the PDDRP. Is it necessary? Is it useful? Initial mediation can be one solution, or we come to a conclusion that there is no need (for that specifically, and/or for PDDRP as such...) Too early from my point of view to draw any conclusions.

Statton Hammock:+1 Jeff. Let's identify what abuse might be occurring and see if there is truly a failure.

Statton Hammock:The PDDRP may not be being used because Registries are toeing the line on their contractual requirements.

Jeff Neuman:And some people would have chosen to change their answer to that question

Susan Kawaguchi:@ Statton not all of them!

Jeff Neuman:I would like to see that survey question redone

Brian Cimboric:I can tell you I would answer it differently today

Denise Michel:I agree with the Co-Chairs position as articulated in this memo

George Kirikos:It's not clear to me how optional mediation is so controversial. A party vehemently opposed to it could simply decline to mediate, and go on with the usual procedure. It's just like no one is compelled to settle a case -- they can let the panel (or judge in a court) decide.

Statton Hammock:@susan - then you can lame names and explain the violations.

Statton Hammock:"name names"

Susan Kawaguchi:.xyz, .top and more I am pretty vocal about these

Susan Kawaguchi:no problems with your company

Jeff Neuman:Lets look at the issues that susan is talking about....not online mediation ??

Statton Hammock:@ susan :-) Thank you!

Susan Kawaguchi:.xyz should implement your AUP

George Kirikos:@Susan: how do you feel about the latest fee reductions by Donuts, though, where older registrants pay their higher original fees, forever? (i.e. it penalizes rightsholders who 'bought in' early on)

Statton Hammock:I am fine with having Susan and others explain what .XYZ and .TOP did that would arguable be a contractual violation subject to PDDRP

Kristine Dorrain:How do we know brand owners would use mediation against...let's say .xyz since it's named....if there was mediation? Does it solve the problem of why no one has filed a PDDRP against them. If not, we're chasing mediation as a solution that doesn't even fit the identified problem.

Jeff Neuman:+1 Kristine

George Kirikos:(see the 2nd last paragraph of <http://domainnamewire.com/2016/08/31/donuts-lowering-prices-business-company-domain-names/> although it was discussed on DomainIncite.com a little while ago too).

Brian Cimboric:@George - isn't that the benefit of the bargain - if they had raised prices, wouldn't the registrants similarly benefited by having lower prices for the duration

Susan Kawaguchi:.xyz cramming domain names into registrant's accounts with no fees but placing our company's information without consent into the Whois

Susan Kawaguchi:then overwhelming push and notices to renew the domain names after a year

Susan Kawaguchi:it felt like harrassment

Kristine Dorrain:We want to solve the problems, if there are any. Let's get behind that. Find the problems, root them out. Investigate them. No one here hates mediation. We just want to find the right solution to whatever problems we find.

Jeff Neuman:this is setting a really bad precedent for this group moving forward....it sets the precedent that everything is open for discussion for all RPMs regardless of whether there is an issue. I will state that for the record and still have my objections

George Kirikos:@Brian: In my view, there shouldn't be any discrimination at all by creation date. The language of the Registry Agreement with ICANN is unclear if this is even allowed, or was contemplated. I think it was contemplated that prices would be uniform, except for "premiums" who explicitly agreed to a separate pricing schedule.

Caroline Chicoine:We are still finalizing follow up questions to Compliance and one of them is what action other than a formal PDDRP complaint can be taken if anyone/working group discover activities by registered parties which are perceived as abusive or beyond the scope of the contract by the community.

Terri Agnew:finding the line

Susan Kawaguchi:.top increasing the sunrise fee for Facebook.top because we are a famous trademark

Darcy Southwell:@Susan, is the XYZ example you give - is that even something that is subject to PDDRP?

George Kirikos:lol J. Scott.

Susan Kawaguchi:@Darcy at this point I cannot weigh in on that

Statton Hammock:@ susan - Is .XYZ's cramming domains something that the PDDRP aimed to cover? PDDRP has to deal with trademarks - not registration tactics

Maxim Alzoba (FAITID):@Susan , is .top doing TMCH sunrise and flat prices?

George Kirikos:@Statton: there's probably a high correlation amongst the tactics, though.

Susan Kawaguchi:@ Statton it appears that .xyz has targeted famous trademarks for abuse

Jeff Neuman:I do believe we should resend the question with the note specifying it is with the PDDRP.
George Kirikos:It's like if I target a certain price to "those wearing makeup" -- am I really targeting "make up wearers", or am I really targeting women?

George Kirikos:(since most makeup wearers are female)

Jeff Neuman:In the future more care needs to be taken with drafting doodle polls as to know what the ramifications would be of answering in the affirmative (or negative)

Laurie Anderson:+1 on repeating the doodle poll

Brian Cimboric:@JScott I think that's a good approach

Mary Wong:@Jeff, the poll specified the TM-PDDRP and was sent out as follow up to a WG discussion on this topic.

Kristine Dorrain:Agree J Scott. I think we need to set up a protocol for how we work. I think we're really excited to get moving, but we're getting ahead of ourselves. Let's set up a checklist. 1. problem list 2. solution set 3. vet problem/solution dynamic.

susan payne:@JScott i think the "what problem" approach would be very helpful for the future

Jeff Neuman:@Mary - with all due respect the question was very short and no one knew the ramifications of answering the question (namely setting up a group to talk about devising a process)

George Kirikos:"Flaw" can be interpreted broadly, though. e.g. policies that omit "modern standards" (of which mediation might be considered a "modern standard") could be considered 'flawed'.

Maxim Alzoba (FAITID):Could we clarify which kind of problem is that ?

Mary Wong:@Jeff, understood - but the group idea was based on subsequent WG discussions following the support demonstrated by the poll.

Darcy Southwell:@JScott - agree with identify problem(s) and come to consensus on the problem(s) and agree with Kristine we need a standard mechanism to collect data, evaluate, recommend solution(s). Because that will be the case with all RPMs.. Not just this first one.

Jeff Neuman:@Mary - not exactly. I missed one call....that was the one that said there should be a doodle poll.

George Kirikos:I think "lack of use" wasn't the "problem" -- it was symptomatic of a problem, and "cost" was raised as one of the potential problems.

Lori Schulman:Perhaps I am "mis-recalling" but I thought that cost of PDDRP was identified as a problem.

George Kirikos:+1 Lori

Edward Morris:Lori, I share the same "mis-recalling"

Lori Schulman:So offering an alternative lower cost option would be a remedy to problem.

Darcy Southwell:Is there data to indicate that the cost of PDDRP is a problem, or is that a perception or guess?

Statton Hammock:That would be an extremely helpful list as a starting point, Jeff.

Lori Schulman:My members have told me anecdotally that PDDRP costs are potentially prohibitive. Outside counsel don't recommend it. Inside counsel don't use it.

Vaibhav Aggarwal:I agree

Paul McGrady:Depends on the reason for the predatory pricing. Could be in PDDRP scope,

Vaibhav Aggarwal:to that

Mary Wong:@Darcy, all - that is something staff is wondering ie how we'd begin to get that sort of data. We can collate WG members' views of the activity that is happening (e.g. Susan K's examples) but other than that I'm not sure what else can be gathered as data.

Vaibhav Aggarwal:That is not an Allegation

Vaibhav Aggarwal:I know of it

Kurt Pritz: In order to identify cost as a problem, we need at least one party to say, "I would have filed a PDDRP except the costs were too high," + evidence that the party had a viable claim and did not just want to use low cost PDDRP as a harassment tool.

Vaibhav Aggarwal: ++Jeff

Kristine Dorrain: A few people here have a "feeling" that a non-used PDDRP is a problem. A few people here have an equally strong "feeling" that the PDDRP has been a great deterrent. Whose "feeling" wins? Absent data we're just twisting in the wind.

George Kirikos: I disagree with Kurt. We should also be looking prospectively, into the future, to look at future prospective complainants. Looking only at past potential complainants is too limiting.

Jeff Neuman: Susan/Denise - Can you please send the list of issues to this working group

George Kirikos: And for those future complainants, certainly overall cost is always going to be a factor.

Paul McGrady: Great question J. Scott.

Jeff Neuman: I believe the creation of new RPMs is within the scope

Jeff Neuman: J. Scott - An example...this group can recommend an overall blocking service or protected marks list

Susan Kawaguchi: We are replying to the survey

Mary Wong: Basic WG task, per the Charter:

"by the completion of its work, the Working Group will be expected to have also considered the overarching issue as to whether or not all the RPMs collectively fulfill the purposes for which they were created, or whether additional policy recommendations are needed, including to clarify and unify the policy goals."

Mary Wong: Oops, sorry for awful formatting

Mary Wong: And

"If such additional policy recommendations are needed, the Working Group is expected to develop recommendations to address the specific issues identified. The Working Group is also directed to bear in mind that a fundamental underlying intention of conducting a review of all RPMs in all gTLDs is to create a framework for consistent and uniform reviews of these mechanisms in the future."

Kurt Pritz: @George: that sort of prospective thinking is good but it occurred in the original development of the RPMs. To use prospective thinking across the Board would mean essentially starting over with the entire program.

George Kirikos: An online tool for Mary, to remove extra spaces: <http://textmechanic.com/text-tools/basic-text-tools/remove-extra-spaces/> :-)

Mary Wong: Sorry, Phil - document is back

Mary Wong: Thanks, George :)

Mary Wong: It normally doesn't happen so I blame occasional gremlins :)

Jeff Neuman: And if we agreed that mediation was good...then you don't necessarily need a subgroup...you could just make the recommendation

Jeff Neuman: Agree with Phil that asking whether something is a good idea vs. asking whether we should create a subteam to look at an issue are two very different questions

Mary Wong: Just a note from staff - we are not sure what kind of data we can get on this regarding a procedure that has never been used. As noted previously, we can document activity and abuses identified by WG members, but maybe not much else.

Jeff Neuman:@Mary - Here is the data I want? What are the perceived abuses that we see are being engaged in by registry operators that involve intellectual property rights

Kristine Dorrain:Agree, the providers have very little insight into how to fix an unused rpm. They can talk all day about problems with used rpms, however.

Philip Corwin:In regard to providers' views, they do not carry more weight than that of WG members. We are waiting to hear what providers believe is the import of language in the PDDRP that refers to combined actions.

Paul McGrady:at what: reducing consumer confusion and keeping prices low for consumers. Every dollar spent chasing squatters or overspending on second levels because their association with trademarks make the price go up, is a wasted dollar.

Lori Schulman:+1 to Paul.

Marie Pattullo:Another +1 to Paul.

Jeff Neuman:@Susan - Yes! +1

George Kirikos:+1 for Susan's phrasing.

Caroline Chicoine:Not sure how it will be finally worded, but I am inclined to be in favor to wait to make any decision until we get more data and then revisit mediation issue at that time.

Darcy Southwell:@JScott - thanks for the clarification about the Doodle poll to this group. Should we wait until the survey results come back and then share that input from SO/AC members?

Philip Corwin:I would suggest that the co-chairs, informed by this discussion, frame some proposed Doodle questions regarding the PDDRP, run them past the WG to get feedback on whether they are balanced and comprehensive, and then hold the poll within this group. That will give us a sound basis for acting on whatever the results may be.

Mary Wong:We've asked for survey responses by mid-Sept, though depending on number of responses by then the deadline may need to be extended

Jeff Neuman:And there is nothing wrong with this group working on a list of "abuses" while we wait for the surveys to come back. We can then update that list to incorporate the list of abuses.

Darcy Southwell:Agree we wait. This also goes to prior points that were made to base our decisions on actual data.

Philip Corwin:I could support deferring any new poll on PDDRP until we get more data and views back. Meantime we can start getting into the TMCH

Jeff Neuman:I would love to work on a group to document and coordinate the list of abuses

Mary Wong:@Jeff, staff will create a wiki page where members can upload directly OR they can send to staff and we will add.

Paul McGrady:Happy to lead a small doodle poll team in the future if/when it comes to this.

Jeff Neuman:@Mary - Can I suggest a Google Doc

Mary Wong:Sure

Lori Schulman:Love the idea of a Google doc. I could examples that I have from my members.

Lori Schulman:I meant I could add examples taken from members.

Mary Wong:Do we have volunteers for the Google doc? :)

Lori Schulman:I volunteer for the Google Doc.

George Kirikos:We have a Wiki -- should use that, rather than separate Google Docs.

Darcy Southwell:I'm happy to volunteer as well.

Lori Schulman:Or the Wiki...whatever...

Mary Wong:Thanks, Jeff, Darcy!

George Kirikos:(Wikis can be edited by Workgroup members)

Paul McGrady:Happy to volunteer for that group as well.

Vaibhav Aggarwal:yes Me

Vaibhav Aggarwal::-)

Jeff Neuman:Denise? Susan K? Would be great to have you on that group

Mary Wong:We'll add a call for volunteers to the Action Items from today's call.

Susan Payne:there are pricing abuses. I know it is a challenging issue but there is a point at which pricing potentially circumvents the RPMs

Jeff Neuman:All - I know I have been a real pain on this issue, but this is where I had hoped we would be at months ago with this group :)

Susan Payne:I can't do tick mark on iPad

Justine Chew:I agree too.

Vaibhav Aggarwal::-)

Terri Agnew:next call: Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group is scheduled for Wednesday, 07 September 2016 at 17:00 UTC for 60 minutes.

George Kirikos:As an aside, can we do something about getting the Agenda for meetings out in a more timely manner? (i.e. more than 8 hours before the call) e.g. a goal of late Mondays, for a meeting on Wednesday?

Mary Wong:@George, we're all trying, but yeah, sometimes it's difficult to be more timely.

Susan Kawaguchi:@Jeff leaving on a sabbatical tomorrow so not volunteering at this time

George Kirikos:Thanks Mary.

Caroline Chicoine:Very helpful discussion!

Jeff Neuman:@Susan - Understood. hopefully Denise can then. Enjoy the Sabbatical :)

Susan Kawaguchi:Thanks!

George Kirikos:Bye everyone. Have a nice long weekend!

Denise Michel:thanks

Justine Chew:WG +1

Steve Levy:Thanks all

Mary Wong:Thanks everyone!

Georges Nahitchevansky:Bye everyone

Paul Tattersfield:thanks, bye all

Paul McGrady:Thanks! Great call.

Maxim Alzoba (FAITID):bye all

Darcy Southwell:Good bye. Thanks, all!

Lori Schulman:Thanking for leading an excellent meeting.

Laurie Anderson:bye !

Jeff Neuman:On the process point, I just want to make sure that the "broken" memo is not considered final at this point

Phil Marano (Mayer Brown):Bye all

J. Scott Evans:ciao

Vaibhav Aggarwal:Have a Good One Team

Vaibhav Aggarwal:ciao