

Michelle DeSmyter:Welcome to the IGO-INGO Access to Curative Rights Protection Mechanisms Working Group call on Thursday, 03 August 2017 at 16:00 UTC for 90 minutes

Michelle DeSmyter:Agenda wiki page:

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_eAghB&d=DwICaQ&c=FmY1u3PJp6wrcrw113mSVz_gfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWGlBLwwehFBfjrsjWv9&m=mSyjWjx9LKBqkMGsGWFrMzE-hElWi0XKYZyvReFn03k&s=KTD6GuB0QH032M1N02XB_MpQwh03nLyhGbdN-WTn81A&e=

George Kirikos:Hi folks. (just stepping away for a few minutes) bbbiab

George Kirikos:Let the trumpets sound, for I have made my triumphant return! :-)

Philip Corwin:Hello all. I am participating by Adobe only from a remote fishing village in Maine. Was just on BC call and my audio stopped working twice, so let's see how this one goes.

Petter Rindforth:Michelle, can you send a reminder of this meeting

Michelle DeSmyter:absolutely

George Kirikos:Welcome, Phil and Petter.

Mary Wong:Hi Phil, all - Phil, hope you are having a wonderful and relaxing time, thanks for calling in!

Philip Corwin:No cell service in my cottage, and no land line, just pokey wifi. Forces me to be on vacation ;-)

Mary Wong:Great arrangements! :)

Philip Corwin:Let me know when there is audio so I can see if I'm hearing it. And thanks Mary

George Kirikos:Mary is speaking.

Mary Wong:@Phil, can you hear us? (thanks, George!)

Philip Corwin:Audio silence here.. I'll reboot adobe and see if that helps

George Kirikos:Are there any plans for ICANN to ditch the Adobe software, given that it needs Flash? Flash is being phased out by Adobe in the next few years.

Philip Corwin:Now I hear you

George Kirikos:4 participants (removing staff)

George Kirikos:5 rather

George Kirikos:Oops, back to 6 now, lol.

Paul Tattersfield:Sorry I'm late

George Kirikos:Is Paul Keating coming, to speak about his Option #5??

Philip Corwin:And we have Jay on audio only

Mary Wong:@George, we pinged Paul K but don't believe we heard back

Philip Corwin:George, I noted your email the other day

regarding whether certain provisions in UDRP providers' Supplemental Rules went beyond permissible scope. That is an issue that I wish to see investigated by the RPM Review WG when it gets to UDRP next year. That doesn't prevent this WG from making a policy recommendation on the issue raised by Paul, although we are somewhat handicapped in considering his proposal absent his direct participation.

Philip Corwin:Paul K, to be clear

George Kirikos:Right, Petter.

George Kirikos:Some still need to be fully fleshed out, too.

George Kirikos:Paul K's suggestion is to do nothing. :-)

George Kirikos:(but, the premise is possibly faulty)

Philip Corwin:I have lost my audio feed :(

Mary Wong:Oh dear, Phil - I guess we can't do a dialout to you if you don't have cell service or a land line

Philip Corwin:That is correct

George Kirikos:Perhaps try Wifi phonecall, and not use the Adobe aspect? (i.e just voice, e.g. Whatsapp, etc?)

George Kirikos:Or Skype.

Mary Wong:I was just asking if the WG would mind if staff referred the options to ICANN Legal, not to make a recommendation, but to see what process, costs, and feasibility issues may arise by pursuing any of them.

Mary Wong:One thing I forgot to add is that having experienced legal process folks go through the options may be very helpful for the impact analysis as well.

Mary Wong:@George, won't there be a concern with jurisdictions that don't recognize one of these legal basis (in rem, quasi, personam) for domain names, so we may be inadvertently favoring some jurisdictions over others?

Philip Corwin:Even though Adobe says my connection status is excellent I still have no audio, even after two reboots. I'll wait a few minutes and see if it returns.

George Kirikos:@Mary: possibly, it depends where the respondent (domain name owner) sues, i.e. if it's at the location of the registrar/registry, then the courts would have jurisdiction.

Paul Tattersfield:its ok here Phil

Mary Wong:OK thanks Petter - we will contact Legal and let you all know the result

George Kirikos:Only option #6 has yet to be discussed.

George Kirikos:If Phil is typing something long, he can hit "return" and split it into 2 parts.

Philip Corwin:Skype not working, says it can't access my sound card. Maybe Adobe is causing that.. Anyway, I will try one more hgard reboot of Adobe and if that doesn't work I shall give up

George Kirikos:<http://mm.icann.org/pipermail/gnso-igo-ingo->

crp/2017-July/000811.html

Philip Corwin:Sorry but that's not working. have a good call; I'll review the transcript. Bye

Mary Wong:@George, thanks - yes, I was wondering whether that would mean we are restricting the jurisdictional options as a result.

George Kirikos:A court would have authority if it's the court in the jurisdiction of the registrar/registry, yes.

George Kirikos:So, if we want to cover ALL the bases, we'd need to remove the language in 4(k) and allow for those jurisdictions, and not just the mutual jurisdiction agreed by the IGO (perhaps just for IGO disputes).

George Kirikos:).

George Kirikos:Exactly, the 10 days.....although, the lawsuit might happen even before the UDRP is decided, etc.

George Kirikos:So, it's very poorly worded.

George Kirikos:+1 Petter

George Kirikos:Arbitration costs can be very high, by the way (e.g. ICANN's own arbitrations in relation to the new gTLDs have been in the 6-figures, etc.)

George Kirikos:Not necessarily cheaper than the courts.

Mary Wong:I can ask but I'm not sure they will feel equipped to comment

George Kirikos:See

https://urldefense.proofpoint.com/v2/url?u=https-3A_www.icann.org_resources_pages_policy-2D2012-2D02-2D25-2Den&d=DwICaQ&c=FmY1u3PJp6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=mSyjWjx9LKBqkMGsGwFrMzE-hElWi0XKYZyvReFn03k&s=pzH1DeNWIpWuyR9a4eL1bIWdvbdrfp4xXjSx1IFjX3k&e= (para 3(b))

Paul Tattersfield:I would guess 4k was simply to try and stop the registrant trying to bring an action against ICANN, UDRP provider, the registry, registrars etc.

George Kirikos:Right, in rem or quasi in rem would simply determine the rightful owner of the domain name, and not other aspects (e.g. damages against the IGO, etc.)

Mary Wong:The UDRP does not speak to whether domain names, in court proceedings, will be treated as in rem property.

Paul Tattersfield:I think the damages is being overplayed they are only waiving immunity from jurisdiction

George Kirikos:@Mary: yes. At that time (1999), it didn't contemplate whether domains were property, etc.

Mary Wong:Unfortunately, even today, it is not clear in many jurisdictions whether they consider domain names as property, as that has not been tested in court.

George Kirikos:@mary: for the most important disputes (.com, at the registry level), it is property. And it is in Ontario, for my domains. :-) [although, I have no domains conflicting with Article 6ter names, so no potential conflicts I ever see]

Mary Wong:Hi George, I'm just saying that, outside the US and Ontario, it really isn't that clear.

George Kirikos:Option 4 relates to option #1, though.

George Kirikos:i.e. default is option #1, but option #2 for some names. :-)

George Kirikos:Yes.

George Kirikos:Maybe someone should phone Paul K?

George Kirikos:(if he wants to get it done by the weekend?)

Mary Wong:We will follow up with Paul, and ask for a response to the WG by Monday.

George Kirikos:Option 6 relates to option #3, too.

George Kirikos:Next meeting in 2 weeks? Or was it 3?

Michelle DeSmyter:August 24th

George Kirikos:So, we'll have a draft final report the week of August 17th, and then a call to discuss it on August 24th.

Mary Wong:@George, that's the idea ... we'll do our best to get a document out in good time before the 24th

George Kirikos:Consensus.

Mary Wong:We will do an alternative timeline, with either no or a shorter public comment period?

George Kirikos:<http://mm.icann.org/pipermail/discussion-igo-rc/>

George Kirikos:June 19th was the last email to that mailing list.

George Kirikos:No, this is the other small group, with their separate mailing list.

George

Kirikos:<https://mm.icann.org/mailman/listinfo/discussion-igo-rc>

Paul Tattersfield:bye all

George Kirikos:Bye folks.....have a nice 3 weeks. :-)