

RDS Purpose: Legal Actions

DT6 Answers to Questions – 3rd Draft for DT Review 5 Mar 18

From:

[file:///C:/Users/Owner/Downloads/DT6%20Deliverable%20for%20the%20Legal%20Actions%20Purpose%20\(Use%20Case\)%20-%208%20Nov%20171.pdf](file:///C:/Users/Owner/Downloads/DT6%20Deliverable%20for%20the%20Legal%20Actions%20Purpose%20(Use%20Case)%20-%208%20Nov%20171.pdf)

Definition: The “legal actions” purpose of RDS includes assisting certain parties(or their legal representatives, agents or service providers) to investigate and enforce civil and criminal laws, protect recognized legal rights, address online abuse or contractual compliance matters, or to assist parties defending against these kinds of activities, in each case with respect to all stages associated with such activities, including: investigative stages; communications with registrants, registration authorities or hosting providers, or administrative or technical personnel relevant to the domain at issue; arbitrations; administrative proceedings; civil litigations (private or public); and criminal prosecutions.

1. *Who associated with the domain name registration needs to be identified and/or contacted for each purpose?*

- To determine if a legal action may be warranted, legal entities may need to identify and possibly contact one or more of the following:
 - a. The person or entity that currently owns the rights to the domain name or the rights holder’s designated representative; this could be the registrant or the domain name’s current user as in the case of a privacy or proxy service via a relay service.
 - b. The registrar and/or reseller with whom the rights holder has a registration agreement for the domain name.
 - c. The domain name registry for the associated top-level domain.
 - d. Operator of domain name server(s)

Comment [O1]: Note that the operator of the domain name server(s) is not a currently collected data element for Whois. But name servers are collected and they can possibly be used to identify the operator of the servers.

2. *What is the objective achieved by identifying and/or contacting each of those entities?*

- The objectives of identifying any of the entities listed for question 1 above are:
 - For a: to determine who is the authorized holder of the domain name registration and what is that entity’s legal jurisdiction.
 - For b: to determine what registrar entered the domain name into the applicable top-level domain registry and what is the registrar’s legal jurisdiction.
 - For c: to determine what registry entered the domain name into its top-level domain registry and what is the registry’s legal jurisdiction.

- For d: if possible, to determine the identity of the web hosting provider associated with any content located at the domain name and what is the hosting provider's jurisdiction
- The objectives for contacting any of the entities listed for question 1 above, if needed, are:
 - For a: To provide notification of any possible legal issues affecting the authorized holder of the registration and to confirm legal jurisdiction
 - For b: To ask clarifying questions about any possible legal issues and to confirm the registrar's legal jurisdiction
 - For c: To ask clarifying questions about any possible legal issues and to confirm the registry's legal jurisdiction
 - For d: If possible, to ask clarifying questions about any possible legal issues and to confirm the hosting provider's legal jurisdiction
 - For a, b, c & d as applicable:
 - To communicate possible legal actions under consideration such as but not limited to cancelling the domain registration, transferring the domain name or removing website content associated with the name
 - To provide official notification of final actions taken.

3. *What might be expected of that entity with regard to the domain name?*

- Domain name registrants or designated representatives would be expected to do any or all the following as applicable in response to requests from legal authorities:
 - Confirm they are the authorized holder of the domain name registration
 - Identify their legal jurisdiction
 - Ask clarifying questions about issues identified by the legal authority
 - Respond to questions asked by the legal authority
 - Provide relevant information to assist the legal authority in their deliberation
 - Take other specific actions as requested or directed by the legal authority" for each of the categories
 - Appeal actions taken by the legal authority.
- Domain name registrars would be expected to do any or all the following as applicable in response to requests from legal authorities:
 - Confirm they are the registrar of the domain name registration
 - Identify their legal jurisdiction
 - Ask clarifying questions about issues identified by the legal authority
 - Respond to questions asked by the legal authority
 - Provide relevant information to assist the legal authority in their deliberation
 - Appeal actions taken by the legal authority.
- Domain name registries would be expected to do any or all the following as applicable in response to requests from legal authorities:
 - Confirm they are the registry of the domain name registration
 - Identify their legal jurisdiction

- Ask clarifying questions about issues identified by the legal authority
 - Respond to questions asked by the legal authority
 - Provide relevant information to assist the legal authority in their deliberation
 - Appeal actions taken by the legal authority.
- Domain name registrants (or designated representatives), registrars or registries would be expected to respond at their discretion to communications from entities seeking civil or prior to litigation relief. Respond doesn't mean to comply with the request, but rather acknowledge the request and let the requestor know what action, if any, will be taken.