

Registration Abuse Policies Final Report

Greg Aaron, RAPWG Chair

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Background

RAP Pre-PDP Working Group launched in March 2009.

Charter:

- Scope and definition of registration abuse: “define domain name registration abuse, as distinct from abuse arising solely from use of a domain name while it is registered.”
- “identify which aspects of the subject of registration abuse are within ICANN's mission to address” and which are within GNSO policy-making scope.
- “Include an illustrative categorization of known abuses.”
- Perform additional research and identify concrete policy issues: understand what problems may exist in relation to registration abuse and their scope, and fully appreciate the current practices of contracted parties.



Background

- Information and consultation sessions held at the ICANN meetings in Sydney, Seoul, Nairobi
- Initial Report published February 2010.
- 11 Comments received as part of public comment forum (see <http://forum.icann.org/lists/rap-initial-report/>)
- WG reviewed and analyzed comments received and updated report accordingly
- Final report published on 28 May 2010



Registration Abuse vs. Use Abuse

- Agreements generally limit Consensus Policy-making to core *registration* issues.
- Are *uses* of domain names subject to Consensus Policy-making? ICANN General Counsel's office: "...policies involving the use of a domain name (unrelated to its registration) are outside the scope of policies that ICANN could enforce on registries and/or registrars. The use of domain names may be taken into account when establishing or changing registration policies. Thus, potential changes to existing contractual provisions related to abuse in the registration of names would be within scope of GNSO policy making. Consideration of new policies related to the use of a domain name unrelated to its registration would not be within scope."



Registration Abuse vs. Use Abuse

- WG had very thorough discussion of the policy issues, including definition of registration; examined Issues Report, contracts and picket fence, ICANN history, etc.
- Some WG members are of the opinion that ICANN cannot and should not regulate uses of gTLD domain names unrelated to registration issues, nor should it regulate content.
- Some WG members of the opinion that that ICANN can regulate potentially any use of gTLD domain names, and “uses of domain names unrelated to registration issues are an area in which ICANN can impose mandatory practices upon contracted parties.”
- GNSO Council and/or ICANN Board may be called upon occasionally to make judgements about which view is correct.



Final Report Recommendations



Cybersquatting

Unanimous Consensus - Recommendation #1

The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate the current state of the UDRP, and consider balanced revisions to address cybersquatting if appropriate. This effort should consider:

- How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process.
- Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated.



Malicious Use of Domain Names

Unanimous Consensus



The RAPWG recommends the creation of non-binding best practices to help registrars and registries address the illicit use of domain names. This effort should be supported by ICANN resources, and should be created via a community process such as a working or advisory group while also taking the need for security and trust into consideration. The effort should consider (but not be limited to) a number of subjects [listed in the Report].



WHOIS Access

Unanimous Consensus - Recommendation #1

[Issues of whether WHOIS data can be accessed--nothing to do with WHOIS accuracy. WHOIS has a bearing on a number of registration processes/problems.]

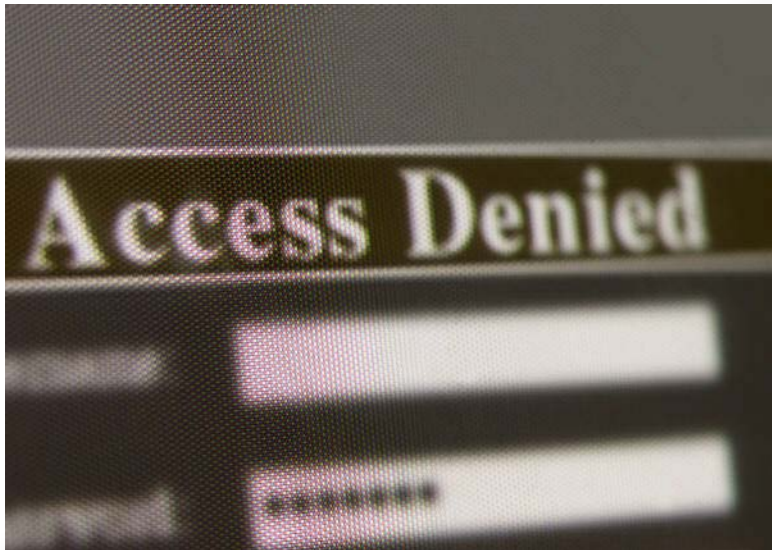
The GNSO should determine what additional research and processes may be needed to ensure that WHOIS data is accessible in an appropriately reliable, enforceable, and consistent fashion.

The GNSO Council should consider how such might be related to other WHOIS efforts, such as the upcoming review of WHOIS policy and implementation required by ICANN's new Affirmation of Commitments.



WHOIS Access

Unanimous Consensus - Recommendation #2



The GNSO should request that the ICANN Compliance Department publish more data about WHOIS accessibility, on at least an annual basis. This data should include a) the number of registrars that show a pattern of unreasonable restriction of access to their port 43 WHOIS servers, and b) the results of an annual compliance audit of compliance with all contractual WHOIS access obligations.



Fake Renewal Notices

Unanimous Consensus

The RAPWG recommends that the GNSO refer this issue to ICANN's Contractual Compliance department for possible enforcement action, including investigation of misuse of WHOIS data.

The following recommendation is conditional. The WG would like to learn the ICANN Compliance Department's opinions regarding Recommendation #1 above, and then Council could consider Recommendation #2:

Recommendation #2 The RAPWG recommends the initiation of a Policy Development Process by requesting an Issues Report to investigate fake renewal notices.



Cross-TLD Registration Scam

Unanimous Consensus

The RAPWG recommends the GNSO monitor for Cross-TLD registration scam abuse in the gTLD space and coordinate research with the community to determine the nature and extent of the problem. The WG believes this issue warrants review but notes there is not enough data at this time to warrant an Issues Report or PDP.



Uniformity of Contracts

Strong Support, Significant Opposition

Strong Support

The RAPWG recommends the creation of an Issues Report to evaluate whether a minimum baseline of registration abuse provisions should be created for all in-scope ICANN agreements, and if created, how such language would be structured to address the most common forms of registration abuse.

Significant Opposition

Opposed to the recommendation above, for reasons listed in the Report.



Cybersquatting

Split Opinion - Recommendation #2

View A *(endorsed by half of WG)*

The RAPWG recommends the initiation of a PDP by requesting an Issues Report to investigate the appropriateness and effectiveness of how any Rights Protection Mechanisms that are developed elsewhere in the community (e.g. the New gTLD program) can be applied to the problem of cybersquatting in the current gTLD space.

View B *(endorsed by half of WG)*

The initiation of such a process is premature; the effectiveness and consequences of the RPMs proposed for the new TLDs is unknown. Discussion of RPMs should continue via the New TLD program. Experience with them should be gained before considering their appropriate relation (if any) to the existing TLD space.



Meta Issues: Reporting & Best Practices

Unanimous Consensus

The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support uniform reporting processes.

The RAPWG recommends that the GNSO, and the larger ICANN community in general, create and support structured, funded mechanisms for the collection and maintenance of best practices.



No Council Action Recommended

- Front Running (Unanimous Consensus)
- Gripe Sites; Deceptive and/or Offensive Names (Recommendation #1 – Rough Support, Recommendation #2 – Strong Support, but Significant Opposition)
- Domain Kiting / Tasting (Rough Consensus)



Questions

Questions



Thank you