
ICANN83 | PF – GNSO: IPC Membership Work Session
Tuesday, June 10, 2025 – 09:00 to 10:15 CEST

BRENDA BREWER

Thank you. I'd like to welcome you all to the IPC Membership Work Session on Tuesday, the 10th of June 2025. My name is Brenda, and I am the participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior and the ICANN Community Anti-Harassment Policy.

If you would like to speak during this session, please raise your hand in Zoom. When called upon, virtual participants will be given permission to unmute in Zoom. On-site participants will use a physical microphone to speak. Please state your name for the record and speak at a reasonable pace. And I will hand the floor over to John McElwaine, IPC President. Thank you.

JOHN MCELWAINE

Thanks, Brenda. And welcome, everybody, to this IPC Open Meeting here in Prague. I wanted to start because it holds me accountable by going over some of the goals we had coming out of the IPC Leadership Strategic Plan. I think it's also a good way to introduce folks that aren't familiar with the IPC to some of the work that we're doing.

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And so, to start off on that, we really have three pillars that we're working on as an organization. The first one is organizational improvements. And subsections of that are, and one of the first things we're trying to do is set up a really consistent, robust committee structure. And David is working with me on doing that.

As I've mentioned before, be on the lookout of being assigned or voluntold to help out with some committees. We really need to start getting the organizational part to our work done. So, that is going to be hitting your inboxes in the near future, which is a request to be part of a committee. And we're going to try to pick an area in which we know that you've shown some interest in or by virtue of your background, etc., we think you would be appropriate to work on.

We're also working on bylaws amendments. I hope to have it done prior to this meeting, but it is really important that we get another draft of that out there. Jan Janssen, who has been a great parliamentarian for us and is our secretary, is tied up in a very, very important hearing that I think is maybe going on as we speak, basically. So good luck to that, Jan. And we'll be looking to work on getting a revised version of the bylaws out to everybody, and then we should be able to have a vote on that very soon.

Once we have that in place, we're going to start looking for some improved secretarial support. I know that Michael Graham, our treasurer, has been looking at some improvements with the way we are managing our membership database, maybe going to a

different system and doing that. And that really is all tied into our accounting system, because that's essentially what that form is going to do is enable members to come in and then get their dues taken care of. But just having it in a system that is more accessible, more user-friendly, is going to take a big load of work off of our treasurer. So, look forward to some of those updates in the near future as well.

The second pillar is to focus on having clear policy statements. So, as you recall, the last meeting in Seattle, we had circulated a number of talking points. Here, for those who are new, or just as a reminder, here at this meeting, you're going to see a focus on a number of different topics. The list is growing from ICANN82. We're going to still focus on the RDRS, making improvements to that system. We have the RDRS Standing Committee is working during this meeting, has two meetings. That group is working on putting together a final report. That final report will be put out for comment sometime in August, and then we'll have a mid-September due date.

But one of the things we're going to do at this meeting, and we've actually done, is worked on talking about that report and then getting a group of people together that can review that and comment on it. What we're really looking for there is users of the RDRS system, people that can suggest really important revisions to it to make it a better system.

We're also going to be focused this meeting and in future meetings on DNS Abuse. We've seen now the NetBeacon report that has several proposals to deal with DNS Abuse, including DNS Abuse at scale, and making suggestions for I think what's being referred to as micro-PDPs. We also have seen yesterday's CPH session, a number of recommendations that track pretty closely to NetBeacon related to DNS Abuse. The Business Constituency led by Mason Cole's efforts have put together some suggestions for dealing with DNS Abuse.

I think it's right and appropriate for the IPC to join in in that discussion and to make suggestions relating to some DNS Abuse protections that could be put into place and for us really to think about what is the best way to have those protections implemented. Do we want it to go through a PDP? Do we want to have there be some contract negotiations? All of this we need to give a lot of thought to, and we will be coming up with a policy statement on that. Related to, I guess, those last two topics is accuracy, and the IPC will be coming up with a position on accuracy.

One of the other topics we're going to be working on, and this is something that Margie will be talking about, is having a group addressing the Applicant Guidebook as well as the review of the UDRP. So, those are two fairly, and of course they've been going on for a while, but these are two projects that are coming forward, and at this time those work streams are looking for comments.

And lastly, we talked about the pausing of reviews. So, the IPC is going to be putting together a policy statement on our opinion on that and what we'll do in terms of our involvement in any reviews in the future. So, those are the growing list of policy points that the IPC is working on at this meeting.

And then lastly, our focus has been on membership growth and benefits. I'm pleased to report we've got a number of new members around this table that we grew by 10 members since the last meeting. We have again, and again thanks to Michael, set up an IPC table on the second floor. It's in the general area of the expo, shall we say, and it's near the Oman booth. Is that right?

MICHAEL GRAHAM

Yes, right next to the Oman booth. And during coffee breaks, if you would, IPC members, please spend time at the table. You can sit down, you can stand to meet with each other, but also hopefully to get information out to people. I've sat there a couple times and already had a few people, including an academic, walk up and ask, what should I be teaching my IT students about IPC? Is there something valuable there? And obviously, protection of the rights that his students are creating is something that would be valuable, and he had no idea but ended up with a brochure. So, any time, both as a meeting place and also an informational center would be great.

JOHN MCELWAINE

Thanks, Michael. Then lastly, one of the things I'm trying to do is get out more regular communications, and related to that is putting together a recap of what went on at the ICANN meetings that we attend. I tried to do that with ICANN82, and we've got hopefully enlisting a group of people during this meeting to help put together their impressions and report back on what went on at this meeting. Obviously, we all can't be in every meeting, so having a real group approach to that will help get that information out to our members, and they can find that hopefully to be a useful part of being an IPC member.

So, with that, that covers what we have as our ongoing work here and really trying to put together an organization that is going forward in the future and growing and excited about the leadership team we have in place. So, with that, that concludes my opening remarks. I'm going to turn it over to Susan and Damon to give us a report about what the GNSO Council is going to be doing during this meeting and anything else you want to cover for this group. So, over to you guys.

SUSAN PAYNE

Yeah. Hi. So, for those who don't know me, I'm Susan Payne. I'm one of the GNSO counselors for the IPC, and next to me is Damon Ashcraft, who is the other GNSO counselor. So, the GNSO have a few meetings here. We have a slightly lighter schedule than one of the longer meetings, but that's pretty common. But later today, in fact, the next session after this, we have a short meeting with the

GAC, 45 minutes, where we will be talking about areas that the GAC are particularly interested in in relation to GNSO activities. So, we'll be giving them an update on some work that the GNSO small teams on accuracy and DNS Abuse are doing.

Both of those groups are fairly new, and so it's kind of an introduction to the work that those two teams will be undertaking. And we'll also be talking, I'm fairly sure, about urgent requests for disclosure of registration data when law enforcement requests them. That's an ongoing issue of where there needs to be some sort of mechanism for effectively identifying and verifying that it's a genuine law enforcement request. And in parallel to that, some work should be underway to determine what is the appropriate time frame, outer time frame for responding to an urgent disclosure request. So, that's definitely something that's very much on the GAC's radar, and we'll be talking about that in our meeting with them. It's quite a short meeting, so only 45 minutes.

We also have an informal Council meeting, which is a closed one, unfortunately, although I think John is invited as the chair, and so the chairs of the other GNSO groups will also be invited. And that's really a prepping meeting to talk about things that aren't on the formal agenda for Wednesday and catch up, and to some extent bashing out any difficult issues before we go into a public GNSO Council meeting on Wednesday.

And then in that Council meeting, we have one vote, which we talked about yesterday in our closed session. It's on the consent

agenda. It's something we've already discussed, and it was a discussion topic at the previous meeting, so it's not terribly controversial. It's about deferring doing any further work on the process that deals with WHOIS conflicts of law, but not disbanding that process altogether. So, it's putting it in mothballs until it proves necessary to reinvigorate it, or we make a decision to terminate it altogether.

And we will be discussing the prioritization of the Council's workload. That's an item where we're seeking input from membership, and there's something to that effect on the mailing list. Essentially, there are a number of things that need doing, and we have to work out how and when Council takes those forward, assuming that we can't take all forward at the same time. A number of them are the items John's just been mentioning, so I think it stands to reason that they're ones that we certainly think are priorities. And there will be an update on what is going on with reviews, but I'm going to give that one to Damon, because he knows much more about that than me.

DAMON ASHCRAFT

Thank you very much, Susan. Yeah, just a couple of points. So, the meeting, the public GNSO Council meeting is tomorrow at 13:45. So, you all are invited, so please show up if you can make it. Just a couple things, then I'll get to reviews. With respect to accuracy and WHOIS data accuracy, that has been an important topic. It's gotten

the attention of the GAC. I'm sure they'll ask us about it in probably about an hour and a half when that meeting starts.

I just wanted to mention the Council has a small team which is focused on accuracy. Paul McGrady is leading that small team. We have had I think two, maybe three meetings so far. What we've done so far is Paul has worked with the group. We've done a nice job of identifying three, what he calls gold nuggets, which are the three points that folks can agree upon. I think the most notable one that I just wanted to reiterate for this room is that there was a study called the INFERMAL Study that looked at malicious domain name behavior.

And basically, what they found is, is that if domain name data for WHOIS data was verified at the time of registration, there was a 70% reduction in malicious activity that occurred. So, I think that is something that everyone should be aware of. It's an important stat. So, when talking about crime, fraud, protecting the public, that's certainly a good stat and I think that's one we should definitely be publicizing to others.

With respect to the reviews. There was an action taken by the ICANN Board where they paused some reviews that they typically do. If you're not familiar with all the review processes, ICANN has had a history of basically hiring outside consultants to come in and review different organizations. For example, the nominating committee was reviewed. I was part of that when I was chair of the NomCom. And there are other just ongoing reviews that happened

that have occurred in the normal course. They are done per the bylaws, so they are important.

Those were paused, that did cause some concern. And we're working through what our response would be to that. From a personal level, I'm not overly troubled by it. There were, I think, admittedly some issues, and there's a lot of costs associated with those reviews. And you'll certainly hear ICANN talk about budgeting a lot during this meeting, and cost, and ways to cut costs. Obviously, they have to be compliant with their bylaws, but certainly shouldn't be spending money and resources in ways that aren't efficient and aren't delivering value. So, that's what we've got. Does anybody have any questions for Susan, or myself, on anything, or anything else related to Council? Wow. Thanks guys.

JOHN MCELWAINE

I'll ask one. I just dropped it in the chat, but it's actually to Paul. Paul, what is the timeline on the accuracy, small team?

PAUL MCGRADY

Yeah, we are already working on draft recommendations to the Council. We're going to get our work done in hopefully within a month or two after this meeting, and then the Council will decide what they want to do next. There are some things in there that we believe would be easily adopted as contractual amendments. Other things may have to go to some sort of policy development

process, whatever that is. Whatever that might be would need to be lightweight, or else it'll get snarled.

But what we saw yesterday from the contracted parties is that they've got a bunch of things on their agenda that could also be contractual amendments. And so, maybe these get lumped in there, with what they're up to. But the Council's work will be fast. The GAC and others have made it clear that it's time for us to wrap up this whole DNS Abuse thing. Get it done.

JOHN MCELWAINE

Yeah, that's good to hear. Thanks for that update. All right. Any other questions for our counselors, including Paul? Yeah, Margie.

MARGIE MILAM

Hi. Margie Milam. So, with regard to the presentations we saw yesterday from the contracted parties on DNS Abuse, is there Council work involved with that? Because it was an interesting proposals they came up with, and very detailed, and touch upon some of the issues that we've talked about in our closed session about what could be done to improve the DNS Abuse language. And so, my question is, is that something that the Council's going to pick up? Or what's the next step? So, I'm trying to sort out where we go with that, given the momentum with that, plus the GAC's emphasis on DNS Abuse.

SUSAN PAYNE

So, I think at the minute, there are slightly parallel efforts, probably. So, the Council effort at the moment has looked at things like the INFERMAL report, and a couple of other sources of information, which have identified areas of potential gap or places for further work. And then some of that actually is our items that were on the list that the contracted parties were talking about. I think we'll be planning to bring everything in and consider it all.

But if something ends up going forward in a non-PDP manner, Council doesn't necessarily drive a contract amendment. Well, in fact, Council doesn't drive a contract amendment because that is a bilateral contract between the contracted party and ICANN. So, part of the Council effort is to look at what's the gap, and what might be ways to address it, and what might be the most efficient way to address something. And so, we're not going out of our way to think about doing PDPs if we don't need to. So, the same considerations are happening, but currently slightly parallel. I think they'll all be pulled together.

JOHN MCELWAINE

Okay. I'm not seeing any other questions right now. And I will move on. Thank you very much for the Council report. So, I'm going to move on the agenda to our policy work and participation, and turn it over to Margie Milam, our participation coordinator. So, over to you, Margie.

MARGIE MILAM

Hello, everyone. Brenda, could you put up the document? Since I've taken over the work for policy coordination, I'm trying to get more organized, and I apologize that it's still not quite there yet. But what I'm starting to do, as you can see in this chart, is build out, every time there's a new public comment, what the due date is, and if anyone's volunteered, and just base, and give you a highlight as to what it's about. You'll also see emails from me as soon as I understand that there's a new public comment period out. But where I think I need help from the IPC is really getting people to volunteer to take up the pen on some of this.

If you scroll down, some of these have already passed, but I want to at least start from the beginning of my tenure in this position, and then keep going down, because we'll go to the open ones now. Yeah, okay. So, the first one is the Transfer Policy final report, and I believe the IPC already commented in the past, the deadline is June 16th.

We initially decided that there wouldn't be any comment here, but I want to at least raise the question as to whether or not the IPC does want to comment on the Transfer Policy Working Group Final Report at this point, given that the deadline's on June 16th. There wasn't any interest last time I brought it up, but we have more people in the room, and there may be an interest in doing so. We could probably pull something together if needed.

JOHN MCELWAINE

Do you know who commented on it in the first go around?

MARGIE MILAM

No. Does anyone remember?

DAMON ASHCRAFT

I just wanted to hop in here. I know we have 10 new members in the room, and I know a lot of the projects and things you're seeing on the screen probably look a bit intimidating. That's fine. The best way to get involved with the IPC is just to jump in and to do some of these comments, and Margie and the leadership team will make sure that you're not completely understandably not super familiar with any of these topics. If you want to be on a comment team, we'll match you with other people to do that, and so we would certainly encourage everybody to jump in to these comments, particularly our new members.

MARGIE MILAM

So, I'm hearing no interest on this particular one topic. Is that correct? I know, because we have a lot of work, and so, yeah, I'm mindful of the fact that we're going through a number of these topics that are very important to the IPC, so sometimes it's just a prioritization effort. We don't have to comment on everything, given that we've already commented in the past, and it's really up to the Board's approval. We're not objecting to, as far as I know, to

the adoption of it. I'm fine with leaving that one alone, but I'll continue to monitor it and just say "not applicable for the IPC".

Then the next one it closes on June 30th. It's the Comment on the Expired Domain Deletion and Expired Registration Recovery Policies. And that's June 30th. It talks about what happens with the domain name when it expired and how to basically recover it if you accidentally did not renew your domain name. So, it's a registrant rights thing. I certainly think that the IPC members probably would have some interest in this, but I'd like to at least hear from the floor whether my reading is correct.

SUSAN PAYNE

So, this is where my memory is going to fail me because I can't remember who gave some previous comments on this. We did at one point have a discussion in Council about whether we ought to have the Policy Status Report, or I think that's what it's called, PSR updated or not. And actually, based on feedback that came from IPC members, we did push for that to happen.

So I'm guessing, I think at a minimum, it would be good if some of those people, and I might have to look afterwards and try and work out who was particularly engaged on this, at least review it, and if nothing else, put in a nice thank you for doing this, even if we don't have any substantive additions. But we may find that we have something substantive to say. I think we ought to if we can find some people who know enough about this.

MARGIE MILAM

From my experience, the expired domain issue is important. I can give you an example of where I've seen it as a concern. Instead of allowing a domain name to delete, many registrars simply take over the ownership of it, and so it never properly deletes, and then they resell it to or auction it off to the highest bidder. And a lot of times that goes around some of the trademark rights.

So, for example, I'll just give you an example of something I've seen. A domain name might be reported for phishing, and you report it to the registrar, and the registrar agrees to suspend the domain name, and then they delete it, and then they put it up for auction. And if you think about a domain name that might be a major brand plus login or something, it's very suspicious that if it was dropped for abuse, that it would now be available for auction and for someone else to pick up and do the same thing over and over again. So, there are security and brand-related issues associated with the expired domain issue, and I'm happy to volunteer on this one given my experience on it, but I just want to know if it's something that would be worthwhile to pursue.

JOHN MCELWAINE

Karen.

KAREN BERNSTEIN

Hi. Karen Bernstein for the record. I want to know why brand owners just don't try to confiscate the domain name and have it

transferred to them, rather than report it as abuse to a registrar and then just let it go out in the wild.

MARGIE MILAM

Sometimes brand holders don't want to pay the expense of all these domain names. I mean, you think about if you do that for thousands of domain names, your portfolio cost would go up dramatically, so I certainly have seen that. It might not be part of their business processes to pick up every possible variation of their domain name.

KAREN BERNSTEIN

Yeah, I understand that, but the thing is that the brand owner should be doing something with the domain name, right? So, would you be advocating for destruction of the domain name? What is the point of the comment or to be able to move policy with respect to that? Is there a solution that's being proposed then? In other words, is there a solution that the registrar is prohibited from auctioning off the domain name, and then what happens to the domain name itself? It just never can be registered. It's blocked. Is that what the proposal is?

MARGIE MILAM

No, there's no proposal. It's a question of whether they're going to look at the issue, the topic. That's essentially what it is. So those are the things that would be debated if it got picked up. So, this is merely to inform Council, I guess, as to whether there should be

additional work done. The comment wouldn't be suggesting a solution, it would just be saying, yes, there's interest here, or no, there's no interest here. Does that make sense?

KAREN BERNSTEIN

Yeah.

MICHAEL GRAHAM

Margie, not to overextend myself, because the next two comments are ones that I have an intent to participate on, but I'll take a look at this. I have, frankly, not looked at the request for comments, and it might be something of interest, and certainly your explanation of why brand owners are not going to try and acquire bad domain names is entirely correct. Having worked at Expedia, we had thousands of those. We never used them. There was no reason to have it. We paid every year. It fell into the back. But especially in these days of belt tightening, it's something that we couldn't continue to do. So, I'm very interested in this.

Oh, and the other problem was, as you mentioned, registrars picking up the domain names and then holding up the brands for additional payment if they wanted to acquire them back, and that was a real hassle. Thanks.

MARGIE MILAM

Okay, thank you. So, we'll go ahead and do that. Then let's move on to the next one, because I know we're short of time. We need a

half hour for a presentation. Is that correct? Okay. So, I've got 10 more minutes. The next one is the SOI issue, which the IPC has been very concerned about. There's been a red line to the statement of interest language, and the public comment is closing on June 30th. Do I have any volunteers for leading that one? Michael? Okay, great. Thank you. And anyone else wants to help Michael on that comment? Because we're now got 20 days to be able to take a look at it.

MICHAEL GRAHAM

Yeah, and something really quick on this. I was on a panel that discussed, well, it was intended to discuss only the enforcement of the SOI in Seattle. I ended up on that panel. And it was the first time that it was clear that not only were they looking at revising those enforcement provisions, but the entire SOI, and that's what's led to a fairly extensive red line, which may be better and maybe in a lot of ways looks to be worse than the earlier versions.

So I think having a set of eyes on this, because basically this is a business and attorney exclusion possibility coming through this, and it's something that we do need to have, I think, a strong, in one way or another, comment to the community on this. And maybe part of that also is re-education or education of what the limitations are upon attorneys and upon businesses in dealing with this. And just as a word on this, a variety of influences and relationships which may need to be disclosed, which would go far

beyond representation of a particular client in connection with a particular working group.

MARGIE MILAM

And it looks like we have more volunteers. We've got Lori willing to help you, and Rick Lane. Thank you, Rick and Lori, for volunteering. The way I'm doing this is I'll circulate this after the meeting, but it'll have a link to the public comments, and I create a Google Doc so you can work off of, well, hopefully everyone can work with a Google Doc so we can at least start putting pen to paper and getting ideas out. And that's the approach that I did for the last one. Hopefully that works for the IPC.

MICHAEL GRAHAM

Yeah, Margie, Michael again. A quick question. I know working with INTA on some of the comments, we have a lead time, but we have to get it prepared so that it can go through management at INTA to submit it. And I believe there should be, if we don't already have a similar mechanism here, so that at least the executive committee, the officers would be able to review comments. Any idea, maybe from John, what period ahead of that due date would be good to say, have a draft in to us by?

JOHN MCELWAINE

Not speaking for everybody on leadership, but I mean, if you turn something to me two or three days beforehand, I certainly can get to it. The important thing with the IPC is that what's being turned

to us has lowercase consensus, so that we don't have to put anything out for a vote or discuss it more with the org. So, what I'd really like is it to be put out to the list, give people sufficient enough time to review that, and then if there is anything that leadership would need to deal with because there's a divergence, we could. So obviously that needs more than two or three days to do, but I don't think it needs a week, right? But in terms of if you're just having us review it, I think leadership can turn it around quick. But again, I think it's important to get it out to the list in advance. Thanks.

MARGIE MILAM

So, with the June 30th deadline and the ICANN meeting going on, I mean, maybe the first draft around June 15th or June 20th. How does that sound? June 20th, okay, I'll just pencil that in. Right, okay, June 20th. Okay, we'll try for June 20th.

The next one is the Applicant Guidebook, which is huge. And what I've done with that, rather than having one person lead it, we're going to have various people volunteer for the different modules. And there's, in the email, I created a Google Doc that enables you to volunteer for the topic that you care about the most. We're going to actually have a meeting later today about that, and maybe we'll have a better organization plan there.

But we have a little bit more time on that, that's July 23rd. But because it is such a large document, we're going to have to move pretty quickly, I think, to work on the comments on that. So, what

I encourage you all to do is if there's a topic in the Applicant Guidebook that you're passionate about, please put your name in the document as volunteering to take a stab at drafting the comment on that. I know, and I won't take volunteers here because it's such a large document.

And then the last one, I don't think I have it listed here because it's not an ICANN one, is the WIPO report, which is not an ICANN document, but it's a report on the UDRP. And we did have a number of people volunteer to work on it, but no one's actually kicked off the process. And so, I think the best way to do that would be to identify a leader for the UDRP review. Is there anyone here that wants to take the pen? And we can certainly talk about it later in our meeting today on approach for that particular report.

It describes various improvements for the UDRP that were developed by an expert group that WIPO convened over the last, I don't know, a year or so. And Brian's here, I think, in the room. But that is something clearly that the IPC should comment on, even though it's not an ICANN document.

David? Okay. So, we'll put you down as holding the pen, and we'll be able to make the meeting later today where we can talk a little bit more deeply on the strategy. Okay. Perfect. Thank you very much. And that's all I have right now. And I'll circulate this document with the names of folks that have volunteered so that you can have that in your email with the links to all the documents. Thank you, everybody.

JOHN MCELWAINE

Paul and Karen, do you want to turn off your mics?

PAUL MCGRADY

I was going to volunteer to draft around this table our response on the ethics or the disclosure requirements, because I think two sentences is fine. Thank you for your kind invitation to violate the rules of ethics and bring harm to our clients, period. We respectfully decline, period. If you press the issue, you will see that lawyers will happily engage in civil disobedience, period. Have a nice day, period.

We've made it clear what the issues are. Continuing to write about it I don't think is going to move the needle. I think spending time on another working group is a waste of time. We can just say, please see our prior comments. I mean, there's nothing new to say on this. We have so much other work to do. Let's just say, see our prior comments. And if ICANN chooses to do this, then they choose to do it, and then we can all individually react from our own points of view. But there's no new news. I mean, the rules of ethics have been settled for quite a while. And so, if they don't care about this issue, okay. But that doesn't compel us to do anything against our own rules. And they can figure out what they want to do when we don't comply.

MICHAEL GRAHAM

Yeah, your suggested response is totally appropriate here in Prague. It's very Kafkaesque, I think.

PAUL MCGRADY

I would like to think that it's very Hemingway.

JOHN MCELWAINE

Okay. Thanks very much, Margie. And it was great. We got a lot of people signed up for work. And we'll continue to get those work streams filled up with people to help draft. So, thanks for all the volunteers. We'll move on to really a very exciting part of this IPC open meeting. We have Anne-Sophie de Brancio from Observatory on Infringement of IP Rights from the European Union Intellectual Property Office.

Anne-Sophie advises the director of the Observatory on infringements of IP rights on policy matters and the coordination of department-wide initiatives. In addition, she is responsible for engaging on IPR enforcement and domain names. Previously, she was head of the European Patent Office's liaison office in Brussels. Early in her career, she was a public affairs consultant. French-Danish national, Anne-Sophie holds a master's degree in European affairs from Sciences Po in Paris, international relations from the London School of Economics, as well as IP and ICT law from Catholic University of Leuven in Belgium.

So, welcome, Anne-Sophie. I'm really excited and really have to thank you for joining us here. And we look forward to hearing

about the Observatory and how the IPC can work with you. So, I'll turn the floor over to you. Thanks.

ANNE-SOPHIE DE BRANCIO

Thank you very much, John, for the invitation, for the introduction. And it's quite exciting indeed for me as well, because it's the first time that the EUIPO is attending an ICANN meeting. I mean, I've been following online, but it's the first time that I actually get to discover this beautiful community and understand a little bit more how it works beyond the formal meetings. And also, I'd like to thank Marie from AIM as one of the stakeholders of the Observatory for facilitating this meeting.

I've prepared a few slides. I'd like to introduce you to the work of the Observatory, and then I would like to tell you a little bit more about our activities specifically on domain names before broadening to what the EUIP office does on domain names more broadly. And then indeed, it would be nice to talk about next steps and where there are some possible synergies or things that we could work on together.

Next, no, actually, this is the right slide already. So, this is to show you that the Observatory on infringements of IP rights is an integral part of the EUIPO. As the IP constituency, I assume you're familiar with the European Union and Intellectual Property Office, which is the EUIP office for trademarks, designs and soon crafts and industrial geographical indications. But the EUIPO also deals with

all IP rights. And particularly in the Observatory, we deal with the infringement of all IP rights.

The Observatory is a department of the EUIPO. That's a department where I work. But ultimately, the Observatory is a network of stakeholders. The department in the EUIPO is coordinating this network, is coordinating its activities. And here you have a representation of this network, which includes all the 27 member states of the European Union, a lot of European and international private sector associations, consumer and civil society organizations. And we work with many different parts of the European Commission, other EU agencies that are relevant on enforcement, such as, for example, Europol and international organizations.

Next slide, please. The work of the Observatory falls under three main goals. One is to provide facts, evidence, data to support effective IP enforcement policies. European IP enforcement policies, of course. The second goal is to provide tools, knowledge building and resources to support IP enforcement. And the third goal is to raise awareness of the value of IP and of the negative consequences of IP infringements. The network's guidance and involvement is key to setting the priorities of the Observatory. But of course, the work program of the Observatory also fits into the context of the EUIPO's strategy, and in particular, the goal to build trust and respect for IP and in the context of European Union policy objectives.

Next slide, please. I would like to highlight one work stream of the Observatory, which is key for supporting IP enforcement online, and that is cooperation with intermediaries. We have a dedicated expert group, which has produced a number of discussion papers looking at trends, challenges and best practices of specific intermediaries. And this work stream started in 2021 with a discussion paper on domain names. And then we continued looking at other players, which you can see represented here. If you start from the top right and going around the circle, we looked at payments, providers, social media, transport and logistics. And the ACR paper was a little bit different, but we also listed here because it's relevant. Live event piracy, apps, online search.

The search paper was published at the end of last year. We plan to publish one on online advertising towards the end of this year. And now, in a way, we have gone full circle and we're looking at, rather than looking at other intermediaries because we feel we have a good overall picture, we would like to update these papers, not individually, but taking a transversal view. So, the plan is to work on a repository of online IP threats and intermediary good practices. And you can see up on the top that we work a lot with e-commerce marketplaces, but that is a different subject that I will talk about in a moment. It was not the subject of a discussion paper.

Next slide, please. The EUIPO has developed a tool which is called the Intellectual Property Enforcement Portal or IPEP, which allows real-time and secure exchange of information between rights

holders, enforcement authorities, and since 2024, also e-commerce marketplaces. We have eight e-commerce marketplaces, including all the main ones that you would think of, now on IPEP, and they can use IPEP to authenticate rights holders that want to subscribe to their IP protection programs, and they can also use it to verify individual IP rights.

We are currently working on opening up IPEP as well to payment and social media. And longer term, we could consider opening it up to further intermediaries, and why not to domain name registries and registrars? It could conceivably be one solution to authenticate rights holders, or rights at least in a European context. So, this is why I thought this work stream would be relevant for you to hear about.

Next slide, please. Moving to more specific observatory activities on domain names. So, our first goal is to provide facts and evidence, and we have over the years published a number of studies related to domain names. Here, the titles are absolutely impossible to read because it's too small. But if you're interested, I can send you the links later. But in 2017, we did one on infringing business models precisely using expired domain names for abusive behavior. So, this is very relevant in the context of what you were talking about.

In 2018, we did one on alternative dispute resolution for domain names. And in 2021, we did this discussion paper that I was talking about before on challenges and good practices by registrars and

registries, which is still one of our most downloaded discussion papers, which shows that it's a topic of interest. And we also did a study on cyber squatting. So, those are the four that are listed here.

Next slide, please. I was saying that our work is guided by our stakeholder network, and we have had repeated calls from our stakeholders of the Observatory to get engaged in ICANN matters. So, a few years ago in 2023, we committed to supporting the commission's DG Connect, which is the part of the commission that attends these ICANN meetings, and in their policy work with ICANN from an IPR enforcement perspective. And that's where I came into the picture and picked up this file at the Observatory within the EUIPO and started engaging with the Commission on how best we could support their engagement in ICANN on IPR enforcement.

And a first step was that we organized several rounds of informal consultation of the Observatory stakeholders, which we used to prepare a summary which we sent as input to the Commission ahead of the ICANN meetings. And this was welcomed by the Commission because they don't necessarily have the time to go into details on IPR enforcement. And we have also a regular agenda point on domain names in our relevant meeting of the Observatory Network which is the IP in the Digital World Working Group and we invited the Commission to present what it does in an ICANN context to our public sector stakeholders at the beginning of last year I think it was.

I have also had a chance to join internal discussions of the Commission on its strategy for the next gTLD round. And generally, when it comes to ICANN engagement, being present here today is an opportunity to get a more direct engagement with the ICANN community and see what else could be done so I'll be also interested in your input on that.

And of course, and this is the last point on this slide, we do not only support DG Connect but also another part of the Commission which is called DG Grow which is the Internal Market Industry Entrepreneurship Department of the European Commission and the mother DG of the EUIPO. So, that's our home, so to speak. And so, we support that part of the Commission on IPR enforcement matters and in particular on the anti-counterfeiting recommendation which I will talk about in a minute.

Next slide please. Just a few more words on the consultations that I was referring to. We have run two informal consultations ahead of ICANN78 and ICANN79 in order to submit input on IP enforcement to the Commission delegation ahead of these meetings. The topics were suggested based on the GAC agenda and discussed and agreed with the European Commission. The topics you will see listed here are unsurprising, I think, registration data, DNS Abuse, alternative DNS. We also asked about diacritics but didn't get an awful lot of feedback and we also asked about PICs and RVCs but did not get any feedback on that either which is

why it's not listed. And then before this strategic meeting, I also consulted some stakeholders on the Next gTLD Round.

We got some very good responses and a lot of variety of perspective depending, for example, on whether the public sector respondent had responded from the ministry responsible for IPO if they had consulted their ccTLD registry. It changed a lot the nature of the responses. And this set the basis for more ongoing informal exchanges with our stakeholders on this and with the Commission. For the past ICANN rounds, we haven't done these consultations as such, but we have if we've heard something fed it back on a more informal and ongoing basis.

Next slide please. Thank you. So, I mentioned the European Commission's recommendation on measures against counterfeiting which some of you may have heard about already. It recommends initiatives by European authorities, rights holders and intermediaries to combat counterfeiting and strengthen IP enforcement. For the EUIPO, it's quite an important document because it highlights our work on IP enforcement and gives us a clear mandate to continue working against counterfeiting particularly in the digital world.

And the discussion papers that I was referring to before on intermediary, challenges and good practices have been central to the preparations for this recommendation. So, it's not surprising that the recommended good practices that it includes for social media, transport, payment and domain name providers are quite

reminiscent of some of the ones that are mentioned in the discussion papers.

I don't know if we have time to go through this in detail but I have listed here the main recommendations which relate to a clear mention of the consequences of IP infringement in terms and condition, link to the IP registers, relevant IP registers during the registration process, having verification procedures, measures to detect incorrect registration data and a point on the recognition as legitimate access seeker of any maker of a request for right to information under the IP enforcement directive.

It also includes a recommendation from the Commission to the IPO to extend the current information and alert system that we have developed with EURid to geographical indications. And the recommendation entrusts the EUIPO with a role in supporting the dissemination, the implementation and the monitoring of this recommendation. And in the context of the monitoring of this recommendation, the repository that I was talking about before on IP online threats and good practices will basically be fulfilling that role so it will be key to supporting the Commission in its monitoring of the recommendation but also it will be useful in the context of the implementation of the Digital Services Act which I'm sure some of you will have heard of as well.

That's it for this slide. I would like to ask you, John, at this stage if I should speed up a bit so there's time for discussion or if I have two more minutes.

JOHN MCELWAINE

Yes, please take as much time as you want.

ANNE-SOPHIE DE BRANCIO

Next slide, please. I was talking about our cooperation with EURid so I thought it would be useful to give you a bit of context on this even though this is not my area. It's a corporation that is being managed by our Business Development Department and has three main components, training, outreach and technical cooperation. Under the technical cooperation, well, trademark and domain names information and alert system has been developed. So how does this work?

When someone does a WHOIS search for a .eu domain name, the results will indicate whether a European trademark with the same name is already registered with a link to the EUIPO website to find out more or to the trademark application page depending on the outcome. When a .eu domain name is registered that matches an existing EU trademark registration application, the EUIPO is notified and if the holder applicant has activated this feature they will receive an alert. So, that's the information and the alert part on the EURid side.

And on the EUIPO side, EU trademark applicants are offered the .eu domain name matching their trademark at the checkout with a link to the EURid website. And so, this is what we have for now. There have been some calls, for example, in the recommendation for us

to look at expanding this cooperation with EURid to other rights or with other TLDs, but at the moment this is all we have.

Next slide, please. In terms of latest developments which I thought might be relevant for you to hear about. In view of the revision of the agricultural GI scheme, the EUIPO and the commission department for agriculture, DG AGRI, signed a revised cooperation agreement at the end of last year which does mention also this idea of exploring a domain name alert system for GIs.

Then very recently, we launched a new series of pre-assessment checks in the EU trademark application process. And this is in line with the overall objective of the IPO to improve the interaction between IP rights and domain names. And so, if applicants select that option, they will automatically be alerted if the trademark they are applying for is already registered as a domain name. So, not at checkout, but at the earlier stage in the process. And as you may know, the EUIPO is to become the EU competent authority for craft and industrial GIs at the end of this year.

Next slide, please. So, this is it for me. To summarize, I have sought to introduce to you the Observatory as part of the EUIPO, our work on domain names particularly on cooperation with intermediaries and how we support the Commission on IP and domain names. I hope that you have understood from this that we're quite focused on supporting IP enforcement in the domain name space and in improving the interactions between the two. I'd love to hear from you about possible synergies that you see. And I think there are

some mutual interests here because trademark registrations can drive domain names registrations and we can work with the domain names world to promote better registrations, avoid unintended overlaps and prevent avoidable issues. So, thank you for your attention.

JOHN MCELWAINE

Thank you so much for that presentation. I see we've got hands going up in the room already. So, Susan, over to you.

SUSAN PAYNE

So, I think my understanding is correct that it is the Observatory's task to conduct a review about whether to do the alert and information system for geographical indications and domains. No, not the observatory?

ANNE-SOPHIE DE BRANCIO

No, this is general context that I added. because I thought it would be strange if I came in representing the EUIPO not mentioning this, but it is not the Observatory's task.

SUSAN PAYNE

Okay. And so, in which case do you know the timeline for that?

ANNE-SOPHIE DE BRANCIO

No, I do not know the timeline for that.

SUSAN PAYNE

Thank you. No worries.

ANNE-SOPHIE DE BRANCIO

But what I can say is that the European Commission has commissioned a study on this issue that I don't know whether they will publish or publish a summary of but there has been something on this in the making, but it is definitely not a task of the Observatory.

SUSAN PAYNE

Thank you.

MICHAEL GRAHAM

I certainly see a lot of areas being able to working together and I think putting on my other hat as the chair of the intellectual of the internet committee of the International Trademark Association, that that would be an organization that would certainly be interested in working with the Observatory and beyond although it's not the Observatory's work. Something that we were working on was the relationship between protection of GIs in the domain name space.

But I think one issue I would have going back to my other hat which I no longer wear and that's in the area of counterfeiting, and I presume and you can correct me if I'm wrong, that by counterfeiting is meant the same thing as it does in the US which is

the counterfeiting of goods that move in commerce. And one thing that has been a thorn in the side of Expedia where I did work for a long time and headed up their IP team was the counterfeiting not of goods because we were a service organization but of websites which was a whole different area.

And the interest there is that in the US at least, and I believe in Europe, there are enhanced remedies when you find counterfeiting, both in getting law enforcement to seize goods and in the possible remedies in the courts. And I wonder if that's something that might be looked at by the Observatory in terms of what is actually happening online not only with domain names but with the counterfeiting of websites to carry out criminal activities and such.

ANNE-SOPHIE DE BRANCIO

Thank you. So, the Observatory does not only deal with counterfeiting but with IP infringements in general. I'm not aware that we have done anything specific on counterfeiting of websites, but it would definitely be within scope and it's also something that has come up in the context of infringing business models and practices and web shops, etc. So, it's something that's on our radar definitely but I'm not aware of any specific initiative.

MARGIE MILAM

Hi, it's Margie Milam. Thank you very much for your presentation. One of the questions I had with regards to future interactions is

whether you're doing anything with respect to the transposition of NIS2. And in particular from the IP perspective, we've been very concerned that the language with NIS2 doesn't necessarily clarify as clear as others would like to see that IP investigations are ones where you would have a legal basis to request the information for the domain name registrant under the new NIS2 transpositions. And I was just curious what kind of work you're doing there and whether we could collaborate more on that with that respect to that.

ANNE-SOPHIE DE BRANCIO

So, we're not doing any formal or specific work on the transposition of NIS2 because it is in transposition and implementation, and we are the executive agency for IP so there's no formal role for us. But, of course, we are a stakeholder network as well and feedback from our stakeholders, IP stakeholders has been indeed that it would be very helpful if there was clarification on the status of rights holders as legitimate access seekers.

And we have conveyed that feedback to the European Commission, to DigiConnect in our briefings even though it was not a subject that we were consulted because it was coming up so clearly, it was included in the summary notes and we follow the state of affairs on this very closely. We actually wanted to invite the and now I will get the terminology wrong but the chair of the coordination group sub working group on the Article 28 discussion to our IP in the Digital World Working Group of the Observatory to make sure that the

information is very clear and that there was a discussion, but he was not available. So, it's something we follow but more of some from an informational perspective and passing on points of view but we can't do very much more than that at this stage.

I should add, however, as you probably heard that in the recommendation there is also some wording even though it's phrased in general terms and not in the NIS2 context, but it is to be read in the NIS2 context.

MARGIE MILAM

Great. Thank you very much.

BRIAN BECKHAM

Good morning. Brian Beckham. Thanks for the presentation. I had a similar question to Margie. On one of the slides, there was a reference to the IP rights enforcement directive and there was a bullet that mentioned legitimate access seekers. And one of things that's been a cause of confusion around ICANN and particularly its RDRS system for request for disclosure is what constitutes a request for legitimate access.

There are suffice it to say differing views on whether requests for IP rights investigation and enforcement meet that threshold from certain of the contracted parties. So, I wonder if there's anything in the directive that speaks to that. The UK information commissioner's office I think uniquely came out and positively said that this does constitute illegitimate grounds for request but if

there's anything in the directive that also speaks to that, that might be helpful in these conversations.

ANNE-SOPHIE DE BRANCIO

Do you mean the directive, the IPRED directive or do you mean the recommendation? In the directive, well, a rights holder would be able to make a request for information under IPRED and have been for many years. So, the recommendation seeks to establish-- well it does not explicitly seek to establish a link in this context but it is how it can be read.

BRIAN BECKHAM

More what I mean is that some registrars take the view that a request from an IP rights holder doesn't constitute a legitimate interest under GDPR, so I wonder maybe the interplay between the rights enforcement directive and GDPR.

ANNE-SOPHIE DE BRANCIO

I mean, this is a lengthy legal interpretation discussion that's not having the text in front of me I don't feel I can get into but yes, it is definitely a subject and also a subject that comes up from stakeholders. And I would personally argue that based on IPRED, it is definitely possible and should be possible for rights holders, IP rights holders to make a legitimate access request.

JOHN MCELWAINE Well, I'm not seeing other questions, but I did jot down two but they're softballs. You can type in the chat or send it to me and I'll circulate it, but where could we find a link to the I-P-E-P, the IPEP, and the discussion papers?

ANNE-SOPHIE DE BRANCIO Yeah, I was planning to do that.

JOHN MCELWAINE Okay, great. Yeah, thank you. All right. Susan?

SUSAN PAYNE Another softball one. You mentioned an IP and Digital World Working Group. Is that something that members of the IPC could join or is it more of an internal group?

ANNE-SOPHIE DE BRANCIO It is a group for stakeholders of the Observatory, so the IPC as such would not be as far-- I mean, we could think about it but I don't think that the IPC as such could be in this working group but some of-- So, for example, AIM is there, INTA is there and so international European organization representing private sector interests with an interest in IP and IP enforcement can apply to become stakeholders of the Observatory.

SUSAN PAYNE Thank you.

JOHN MCELWAINE Okay. Well, we've got one minute left. Any other questions?

LORI SCHULMAN John?

JOHN MCELWAINE I see you, Lori. We'll get to you right after this.

UNKNOWN SPEAKER Thank you. Thank you for your presentation. My question is about stakeholders again. I understand that non-EU based organizations, I don't know, companies, businesses can become stakeholders. Or is there any way to engage non-EU based stakeholders in the Observatory in your work somehow?

ANNE-SOPHIE DE BRANCIO I can also send around a link to our membership requirements but there needs to be a clear European component in the organization because that's the nature of this group. We do have international organizations that are observers, so that would be one way in. Another is that even without being a stakeholder, I'm sure that you could engage with us, send comments even if there is something relevant to say, be invited to one of our expert group meetings or working group meetings. So, there are ways of engaging without being a stakeholder or there are ways of, yes, that if you are a

member of an organization or are affiliated somehow with an organization which is a stakeholder of the Observatory, that you could go that way. So, I will send that around.

JOHN MCELWAINE

I think we had one more question from Lori Schulman who's with INTA. So, Lori over to you.

LORI SCHULMAN

Yes. Hi, I apologize, Anne-Sophie, I'm not on camera. I'm actually homesick and couldn't fly to Prague, but I wanted to thank you for such a nice presentation, very concise and well done on complicated issues. I wanted to ask a question about the Observatory and the recent implementation of the AGRI laws that are mentioned in your slides particularly when it comes to alternative dispute resolution and GIs and what you're observing inside of the particularly those member states who do not have necessarily GIs incorporated into dispute resolution mechanisms, if they have dispute mechanisms at all for domain names.

ANNE-SOPHIE DE BRANCIO

I am not, unfortunately, able to answer that question in the context of the AGRI GI reform because that is out of our scope given that we're still in the implementation phase. When I was talking about domain name ADRs, it's quite an old study and it was more about basically looking at I think there were 10 different countries and at outcomes comparing them and see whether they diverge quite a

lot from the UDRP or not, and the conclusion was that most of them follow roughly the same line.

LORI SCHULMAN

Thank you, Anne-Sophie. I also wanted just to generally mention, and thank you for mentioning INTA and AIMS inclusion, for those on this call who are INTA members, INTA did contribute to the anti-counterfeiting toolkit the expert groups on DNS enforcement. And we have a very active and meaningful relationship with EUIPO. So, if you have concerns, you are very welcome to transmit them to me and we'll make sure they get where they need to go as these processes open up.

JOHN MCELWAINE

Thank you for those comments, Lori. I'm getting the notice that the cane is about to come yank me off the stage here. So, Anne-Sophie, thank you so much for coming here. This is great. We look forward to further cooperation and knowledge sharing between the two. And with that, I will conclude the IPC open meeting. Thank you, everybody.

[END OF TRANSCRIPTION]