

**Reply Comments of the Internet Committee of the
International Trademark Association (INTA) on the
“Initial Report on the Thick Whois Policy Development Process”
August 2, 2013**

I. Introduction

The Internet Committee of the International Trademark Association (the Committee) appreciates this opportunity to provide comments to the Internet Corporation for Assigned Names and Numbers (ICANN) on the Initial Report on the Thick Whois Policy Development Process presented to the GNSO Council by ICANN Staff’s Thick Whois Working Group (WG) on June 21, 2013.

The Committee strongly supports the WG’s Recommendation that “the provision of Thick Whois services should become a requirement for all gTLD registries, both existing and future” (the Recommendation). The Committee looks forward to seeing the conclusions and proposed next steps that the WG will publish upon completion of the second phase of this Policy Development Process (PDP).

II. Background

ICANN’s Registry Agreements and Registrar Accreditation Agreements place certain Whois service requirements on registries and registrars. These requirements are currently satisfied through provision of either a “Thick” or “Thin” Whois registry service model. Thick registries, such as .info and .biz (and most of the gTLDs today) maintain and provide both domain name and registrant data via Whois. The three remaining Thin registries, .com, .net and .jobs, split the two sets of data, with registrars managing registrant data. The potential benefits of eliminating the Thin Whois option and requiring implementation of Thick Whois by all registries and registrars has been discussed for years (and has been consistently supported by the Committee, including but not limited to its April 26, 2012 Comment on the Proposed .Com Registry Agreement renewal¹).

After reviewing the Issue Reports on the subject, the GNSO Council initiated the current PDP at its March 14, 2012 meeting. The WG was formed and given a narrow remit, instructed to address only the relative merits of transitioning the current Thin Whois registries (.com, .net and .jobs) to Thick models and requiring future rounds of new gTLD applicants to implement Thick Whois. (The Committee notes that Thick Whois is already required for applicants in the current round of new

¹See INTA Internet Committee Comments on the Proposed .com Registry Agreement Renewal at <http://forum.icann.org/lists/com-renewal/msg00023.html>.

gTLD applications). The WG began deliberations in November of 2012, and has achieved preliminary consensus on the Recommendation.

III. Discussion

The WG's research concluded that consistent adoption of Thick Whois across all registries will improve the following aspects of Whois registry services:

- Response Consistency (by allowing the establishment of common data collection and display requirements across all registries).
- Stability (by having four copies of the relevant data instead of two).
- Access to Whois Data (by having both domain name and registrant Whois information available from both registries and registrars).
- Competition Among Registry Providers (by providing a more level playing field).
- The Business Environment for Existing Third Party Whois Service Providers (by reducing the variability and cost of data acquisition for such providers).
- Data Escrow (by creating more copies of escrowed data in the event of a failure).

The WG's research concluded that consistent adoption of Thick Whois across all registries would have no harmful effect on the following aspects of Whois registry services:

- Data Protection & Privacy (these issues already exist, and need to be addressed, but they exist for both Thick and Thin registries, and a transition to wholly Thick would not exacerbate the current situation).
- Costs (as it would not create overly burdensome costs for providers of Whois data and could actually reduce acquisition and processing costs for consumers of such data).
- Data Synchronization (no comments were received by the WG that contained any concrete examples of synchronization issues in converting from Thin to Thick Whois environments).
- Authoritativeness (the WG concluded no policy recommendation is needed on this issue, as Thick registries have functioned for many years without a formal position on authoritativeness, and during that time Thin-to-Thick transitions such as .org did not suffer).

The WG reached no conclusion regarding the following aspects of Whois registry services:

- Registrar Port 43 Whois Requirements (deferring to conclusions arrived at through the Registrar Accreditation Agreement negotiations).

IV. Commentary

The Committee agrees with the conclusions and Recommendation of the WG. As stated in our comments, there are several important advantages to requiring all current and future registries to utilize a Thick Whois model, all of which are supported by the recommendations of the Working Group.

- A Thick Whois facilitates the resolution of disputes related to the registration and use of domain names.
- Simplifying access to domain name registration data through a Thick Whois will help prevent abuses of intellectual property and will protect the public in many ways, including by reducing the level of consumer confusion and consumer fraud in the Internet marketplace.
- A Thick Whois enables quicker response and resolution when domain names are used for illegal, fraudulent or malicious purposes, by both law enforcement and other stakeholders.
- In contrast to a Thick Whois, a Thin Whois means all contact data associated with a particular domain name registration is decentralized and held by the registrar sponsoring that registration. This leaves public access to this data vulnerable to registrar technical failure, insolvency, or simply non-compliance with its contractual obligations regarding Whois data.
- More user-friendly consumer and public access to registration information by avoiding the need to find and search Whois databases across hundreds of registrars.

The Committee thus agrees with the public comments of the GNSO's Intellectual Property Constituency, the Internet Service Providers and Connectivity Providers Constituency, ICANN's At-Large Advisory Committee, the InterContinental Hotels Group (IGH), and the Messaging, Malware and Mobile Anti-Abuse Working Group (M3AAWG) in support of the WG's Recommendation.² Given the success of the Thick Whois registry model and its importance within the DNS ecosystem, ICANN should make swift acceptance of the WG's Recommendation and energetic progress towards its implementation a priority.

Thank you for considering our views on these important issues. If you have any questions regarding our submission, please contact INTA External Relations Manager, Claudio DiGangi at: cdigangi@inta.org.

² See Public Comments available at: <http://forum.icann.org/lists/comments-Thick-whois-initial-21jun13/>

About INTA & the Internet Committee

The International Trademark Association (INTA) is a more than 135-year-old global association of trademark owners and professionals, with members in over 190 countries, dedicated to supporting trademarks and related intellectual property in order to protect consumers and to promote fair and effective commerce.

During the last decade, INTA has served as a leading voice for trademark owners in the development of cyberspace, including as a founding member of ICANN's Intellectual Property Constituency (IPC). INTA's Internet Committee is a group of nearly two hundred trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.