The Request: 'Prior to the consideration of approval of the recommendation which states: "denial reason #7 should be replaced by adding a new provision in a different section of the IRTP on when and how domains may be locked or unlocked", the GNSO Council requests ICANN Staff to provide a proposal for such a new provision, taking into account the IRTP Part B WG deliberations in relation to this issue (see IRTP Part B Final Report - (Recommendation #9 - part 2). Upon review of the proposal, the GNSO Council will consider whether to approve the recommendation.' (As adopted by the GNSO Council in resolution 20110622-1 on 22 June 2011).

Background: The original Inter-Registrar Transfer Policy (IRTP) denial reason #7 reads 'A domain name was already in "lock status" provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status'. As a result of the deliberations of the IRTP Part B Working Group, it became clear that in its current form, denial reason #7 cannot be invoked because if 'a domain is in "lock status", the registry cannot initiate a transfer request (so there will not be a ground for denial based on #7)[1]'. As a result, the IRTP Part B Working Group recommended the removal of this denial reason from the IRTP. At the same time, the Working Group recognized the need for including in the IRTP a provision that would address when and how domain name registrations may be locked or unlocked. ICANN Staff was requested to provide a proposal for consideration, taking into account the deliberations of the IRTP Part B Working Group on this issue.

Draft Proposal: Taking into account the deletion of denial reason #7, ICANN Staff proposes to expand the existing section 5 (EPP - based Registry Requirements for Registrars) of the IRTP to address "Registrar Lock Status". The proposed modifications to the IRTP can be found in redline form below. The main elements of the proposed modifications are:

- Registrar may only impose a lock that would prohibit transfer of the domain name if it includes in its registration agreement the terms and conditions for imposing such lock and obtains express consent from the Registered Name Holder: and

---

[1] See IRTP Part B Final Report - http://gnso.icann.org/issues/transfers/irtp-b-final-report-30may11-en.pdf.

- Registrar must remove the "Registrar Lock" status within five (5) calendar days of the Registered Name Holder's initial request, if the Registrar does not provide facilities for the Registered Name Holder to remove the "Registrar Lock" status

Note, since denial reason # 7 is being deleted following the adoption by the ICANN Board of this recommendation, registrars will no longer be able to deny any outbound transfers because they are on "lock" status -- whether reflected in WHOIS/EPP or not.

Question: In addition to input on the proposed modifications to the IRTP, ICANN Staff would like to seek input from the IRTP Part B Working Group with regards to the term "Registrar Lock" status. This term is not defined in the EPP but is referenced in the current IRTP and could either mean only EPP locks or any and all locks applied by a registrar. The recommendation seems to imply that the provision should deal with any and all 'locks' applied by a registrar whether visible in WHOIS/EPP or not ('on when and how domains may be locked or unlocked'), but we would like to confirm if that is indeed the case and the use of the term "Registrar Lock" status" is appropriate in the proposed modifications below and, if not, how this term should be defined in the context of the IRTP.

Proposed Modifications To

Policy on Transfer of Registrations between Registrars

Revision Adopted 7 November 2008
Effective 15 March 2009

[Prior version of Policy](#) (12 July 2004)

A. **Holder-Authorized Transfers**
    1. **Registrar Requirements**

    Registered Name Holders must be able to transfer their domain name registrations
    between Registrars provided that the Gaining Registrar's transfer process meets the
    minimum standards of this policy and that such transfer is not prohibited by ICANN or
    Registry policies. Inter-Registrar domain name transfer processes must be clear and
    concise in order to avoid confusion. Further, Registrars should make reasonable efforts
    to inform Registered Name Holders of, and provide access to, the published
    documentation of the specific transfer process employed by the Registrars.

    1.1 Transfer Authorities

    The Administrative Contact and the Registered Name Holder, as listed in the
    Losing Registrar's or applicable Registry's (where available) publicly accessible
    WHOIS service are the only parties that have the authority to approve or deny a
    transfer request to the Gaining Registrar. In the event of a dispute, the
    Registered Name Holder's authority supersedes that of the Administrative
    Contact.

    Registrars may use Whois data from either the Registrar of Record or the
    relevant Registry for the purpose of verifying the authenticity of a transfer
    request; or from another data source as determined by a consensus policy.

    2. **Gaining Registrar Requirements**

    For each instance where a Registered Name Holder requests to transfer a domain name
    registration to a different Registrar, the Gaining Registrar shall:

    2.1 Obtain express authorization from either the Registered Name Holder or the
    Administrative Contact (hereafter, "Transfer Contact"). Hence, a transfer may

only proceed if confirmation of the transfer is received by the Gaining Registrar from the Transfer Contact.

2.1.1 The authorization must be made via a valid Standardized Form of Authorization (FOA). There are two different FOA's available at the ICANN website. The FOA labeled "Initial Authorization for Registrar Transfer" must be used by the Gaining Registrar to request an authorization for a registrar transfer from the Transfer Contact. The FOA labeled "Confirmation of Registrar Transfer Request" may be used by the Registrar of Record to request confirmation of the transfer from the Transfer Contact.

The FOA shall be communicated in English, and any dispute arising out of a transfer request shall be conducted in the English language. Registrars may choose to communicate with the Transfer Contact in additional languages. However, Registrars choosing to exercise such option are responsible for the accuracy and completeness of the translation into such additional non-English version of the FOA.

2.1.2 In the event that the Gaining Registrar relies on a physical process to obtain this authorization, a paper copy of the FOA will suffice insofar as it has been signed by the Transfer Contact and further that it is accompanied by a physical copy of the Registrar of Record's Whois output for the domain name in question.

2.1.2.1 If the Gaining Registrar relies on a physical authorization process, then the Gaining Registrar assumes the burden of obtaining reliable evidence of the identity of the Transfer Contact and maintaining appropriate records proving that such evidence was obtained. Further the Gaining Registrar also assumes the burden for ensuring that the entity making the request is indeed authorized to do so. The acceptable forms of physical identity are:

- Notarized statement
- Valid Drivers license
- Passport
- Article of Incorporation
- Military ID
- State/Government issued ID
- Birth Certificate

2.1.3 In the event that the Gaining Registrar relies on an electronic process to obtain this authorization the acceptable forms of identity would include:

- ▪ Electronic signature in conformance with national legislation, in the location of the Gaining Registrar (if such legislation exists).
- ▪ Consent from an individual or entity that has an email address matching the Transfer Contact email address.

The Registrar of Record may not deny a transfer request solely because it believes that the Gaining Registrar has not received the confirmation set forth above.

A transfer must not be allowed to proceed if no confirmation is received by the Gaining Registrar. The presumption in all cases will be that the Gaining Registrar has received and authenticated the transfer request made by a Transfer Contact.

2.2 Request, by the transmission of a "transfer" command as specified in the Registrar Tool Kit, that the Registry Operator database be changed to reflect the new Registrar.

2.2.1 Transmission of a "transfer" command constitutes a representation on the part of the Gaining Registrar that the requisite authorization has been obtained from the Transfer Contact listed in the authoritative Whois database.

2.2.2 The Gaining Registrar is responsible for validating the Registered Name Holder requests to transfer domain names between Registrars. However, this does not preclude the Registrar of Record from exercising its option to independently confirm the Registered Name Holder's intent to transfer its domain name to the Gaining Registrar in accordance with Section 3 of this policy.

3. **Obligations of the Registrar of Record**

A Registrar of Record can choose independently to confirm the intent of the Registered Name Holder when a notice of a pending transfer is received from the Registry. The Registrar of Record must do so in a manner consistent with the standards set forth in this ~~agreement~~ policy pertaining to Gaining Registrars. In order to ensure that the form of the request employed by the Registrar of Record is substantially administrative and informative in nature and clearly provided to the Transfer Contact for the purpose of verifying the intent of the Transfer Contact, the Registrar of Record must use the FOA.

The FOA shall be communicated in English, and any dispute arising out of a transfer request, shall be conducted in the English language. Registrars may choose to communicate with the Transfer Contact in additional languages. However, the Registrar choosing to exercise such option is responsible for the accuracy and completeness of

the translation into such additional non-English version of the FOA. Further, such non-English communications must follow the processes and procedures set forth in this policy. This includes but is not limited to the requirement that no Registrar shall add any additional information to the FOA used to obtain the consent of the Transfer Contact in the case of a transfer request.

This requirement does not preclude the Registrar of Record from marketing to its existing customers through separate communications.

The FOA should be sent by the Registrar of Record to the Transfer Contact as soon as operationally possible, but must be sent not later than twenty-four (24) hours after receiving the transfer request from the Registry Operator.

Failure by the Registrar of Record to respond within five (5) calendar days to a notification from the Registry regarding a transfer request will result in a default "approval" of the transfer.

In the event that a Transfer Contact listed in the Whois has not confirmed their request to transfer with the Registrar of Record and the Registrar of Record has not explicitly denied the transfer request, the default action will be that the Registrar of Record must allow the transfer to proceed.

Upon denying a transfer request for any of the following reasons, the Registrar of Record must provide the Registered Name Holder and the potential Gaining Registrar with the reason for denial. The Registrar of Record may deny a transfer request only in the following specific instances:

1. Evidence of fraud
2. UDRP action
3. Court order by a court of competent jurisdiction
4. Reasonable dispute over the identity of the Registered Name Holder or Administrative Contact
5. No payment for previous registration period (including credit card charge-backs) if the domain name is past its expiration date or for previous or current registration periods if the domain name has not yet expired. In all such cases, however, the domain name must be put into "Registrar Hold" status by the Registrar of Record prior to the denial of transfer.
6. Express objection to the transfer by the authorized Transfer Contact. Objection could take the form of specific request (either by paper or electronic means) by the authorized Transfer Contact to deny a particular transfer request, or a general objection to all transfer requests received by the Registrar, either temporarily or indefinitely. In all cases, the objection must be provided with the express and informed consent of the authorized Transfer Contact on an opt-in basis and upon request by the authorized Transfer Contact, the Registrar must

remove the lock or provide a reasonably accessible method for the authorized Transfer Contact to remove the lock within five (5) calendar days.

6. ~~Express written objection to the transfer from the Transfer Contact. (e.g. - email, fax, paper document or other processes by which the Transfer Contact has expressly and voluntarily objected through opt-in means)~~

7. ~~A domain name was already in "lock status" provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status.Deleted~~[Note: Ground for Denial Reason #7 was removed/deleted based on the recommendation of the IRTP Part B Working Group, as approved by the ICANN Board)

8. The transfer was requested within 60 days of the creation date as shown in the registry Whois record for the domain name.

9. A domain name is within 60 days (or a lesser period to be determined) after being transferred (apart from being transferred back to the original Registrar in cases where both Registrars so agree and/or where a decision in the dispute resolution process so directs). "Transferred" shall only mean that an inter-registrar transfer has occurred in accordance with the procedures of this policy.

Instances when the requested change of Registrar may not be denied include, but are not limited to:

- Nonpayment for a pending or future registration period
- No response from the Registered Name Holder or Administrative Contact.
- Domain name in ""Registrar Lock"" status~~, unless the Registered Name Holder is provided with the reasonable opportunity and ability to unlock the domain name prior to the Transfer Request.~~
- Domain name registration period time constraints, other than during the first 60 days of initial registration or during the first 60 days after a registrar transfer.
- General payment defaults between Registrar and business partners / affiliates in cases where the Registered Name Holder for the domain in question has paid for the registration.

The Registrar of Record has other mechanisms available to collect payment from the Registered Name Holder that are independent from the Transfer process. Hence, in the event of a dispute over payment, the Registrar of Record must not employ transfer processes as a mechanism to secure payment for services from a Registered Name Holder. Exceptions to this requirement are as follows:

(i) In the case of non-payment for previous registration period(s) if the transfer is requested after the expiration date, or

(ii) In the case of non-payment of the current registration period, if transfer is requested before the expiration date.

4. Registrar Coordination

> **Comment [MK1]:** Modified as approved by the ICANN Board on 25 August 2011.

Each Registrar is responsible for keeping copies of documentation, including the FOA and the Transfer Contacts response thereto, that may be required for filing and supporting a dispute under the dispute resolution policy. Gaining Registrars must maintain copies of the FOA as received from the Transfer Contact as per the standard document retention policies of the contracts. Copies of the reliable evidence of identity must be kept with the FOA.

Both the Gaining Registrar and the Registrar of Record must provide the evidence relied on for the transfer during and after the applicable inter-registrar domain name transaction(s). Such information must be provided when requested by, and only by, the other Registrar that is party to the transfer transaction. Additionally, ICANN, the Registry Operator, a court or authority with jurisdiction over the matter or a third party dispute resolution panel may also require such information within five (5) days of the request.

The Gaining Registrar must retain, and produce pursuant to a request by a Losing Registrar, a written or electronic copy of the FOA. In instances where the Registrar of Record has requested copies of the FOA, the Gaining Registrar must fulfill the Registrar of Records request (including providing the attendant supporting documentation) within five (5) calendar days. Failure to provide this documentation within the time period specified is grounds for reversal by the Registry Operator or the Dispute Resolution Panel in the event that a transfer complaint is filed in accordance with the requirements of this policy.

If either a Registrar of Record or a Gaining Registrar does not believe that a transfer request was handled in accordance with the provisions of this policy, then the Registrar may initiate a dispute resolution procedure as set forth in Section C of this policy.

For purposes of facilitating transfer requests, Registrars should provide and maintain a unique and private email address for use only by other Registrars and the Registry:

.   This email address is for issue related to transfer requests and the procedures set forth in this policy only.
i.   The email address should be managed to ensure messages are received by someone who can respond to the transfer issue.
ii.   Messages received at such email address must be responded to within a commercial reasonable timeframe not to exceed seven (7) calendar days.

5. "Registrar Lock" Status and EPP - based Registry Requirements for Registrars

Registrar may set a domain name in "Registrar Lock" status (or with the EPP status code "clientTransferProhibited") upon registration or subsequent request by the Registered Name Holder provided that the Registrar includes in its registration agreement and obtains express consent from the Registered Name Holder the terms and conditions upon which it locks and prohibits transfer of the domain name. Further, the Registrar must remove the "Registrar Lock" status within five (5) calendar days of the Registered

Name Holder's initial request, if the Registrar does not provide facilities for the Registered Name Holder to remove the "Registrar Lock" status.

In EPP-based gTLD Registries, Registrars must follow the requirements set forth below.

Registrars must provide the Registered Name Holder with the unique "AuthInfo" code and remove the "Registrar Lock" status within five (5) calendar days of the Registered Name Holder's initial request, if the Registrar does not provide facilities for the Registered Name Holder to generate and manage their own unique "AuthInfo" code and to remove the "Registrar Lock" status.

Registrars may not employ any mechanism for complying with a Registered Name Holder's request to remove the "Registrar Lock" status or obtain the applicable "AuthInfo" code" that is more restrictive than the mechanisms used for changing any aspect of the Registered Name Holder's contact or name server information.

The Registrar of Record must not refuse to remove the "Registrar Lock" status or release an "AuthInfo" code" to the Registered Name Holder solely because there is a dispute between the Registered Name Holder and the Registrar over payment.

Registrar-generated "AuthInfo" codes must be unique on a per-domain basis.

The "Auth-Info" codes must be used solely to identify a Registered Name Holder, whereas the FOA's still need to be used for authorization or confirmation of a transfer request, as described in Section 2 and Section 4 of this policy.

6. Registry Requirements

Upon receipt of the "transfer" command from the Gaining Registrar, Registry Operator will transmit an electronic notification to both Registrars. In the case of those Registries that use electronic mail notifications, the response notification may be sent to the unique email address established by each Registrar for the purpose of facilitating transfers.

The Registry Operator shall complete the requested transfer unless, within five (5) calendar days, Registry Operator receives a NACK protocol command from the Registrar of Record.

When the Registry's database has been updated to reflect the change to the Gaining Registrar, Registry Operator will transmit an electronic notification to both Registrars. The notification may be sent to the unique email address established by each Registrar for the purpose of facilitating transfers or such other email address agreed to by the parties.

The Registry Operator shall undo a transfer if, after a transfer has occurred, the Registry Operator receives one of the notices as set forth below. In such case, the transfer will be reversed and the domain name reset to its original state. The Registry Operator must undo the transfer within five (5) calendar days of receipt of the notice except in the case of a Registry dispute decision, in which case the Registry Operator must undo the transfer within fourteen calendar days unless a court action is filed. The notice required shall be one of the following:

.   Agreement of the Registrar of Record and the Gaining Registrar sent by email, letter or fax that the transfer was made by mistake or was otherwise not in accordance with the procedures set forth in this policy;
i.   The final determination of a dispute resolution body having jurisdiction over the transfer; or
ii.   Order of a court having jurisdiction over the transfer.

7. Records of Registration

Each Registrar shall require its customer, the Registered Name Holder, to maintain its own records appropriate to document and prove the initial domain name registration date.

8. Effect on Term of Registration

The completion by Registry Operator of a holder-authorized transfer under this Part A shall result in a one-year extension of the existing registration, provided that in no event shall the total unexpired term of a registration exceed ten (10) years.

B. ICANN-Approved Transfers

Transfer of the sponsorship of all the registrations sponsored by one Registrar as the result of (i) acquisition of that Registrar or its assets by another Registrar, or (ii) lack of accreditation of that Registrar or lack of its authorization with the Registry Operator, may be made according to the following procedure:

(a) The gaining Registrar must be accredited by ICANN for the Registry TLD and must have in effect a Registry-Registrar Agreement with Registry Operator for the Registry TLD.

(b) ICANN must certify in writing to Registry Operator that the transfer would promote the community interest, such as the interest in stability that may be threatened by the actual or imminent business failure of a Registrar.

Upon satisfaction of these two conditions, Registry Operator will make the necessary one-time changes in the Registry database for no charge, for transfers involving 50,000 name registrations

or fewer. If the transfer involves registrations of more than 50,000 names, Registry Operator will charge the gaining Registrar a one-time flat fee of US$ 50,000.

C. Transfer Dispute Resolution Policy

Procedures for handling disputes concerning inter-registrar transfers are set forth in the Transfer Dispute Resolution Policy. Procedures in this policy must be followed by the applicable Registry Operators and ICANN accredited Registrars.