Post-Expiration Domain Name Recovery WG Survey

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1. Whether adequate opportunity exists for registrants to redeem their expired domain names

No.

2. Additional Comments

(response not copied to this document from the web form.)

3. Should there be a right for the RAE to recover his/her domain name registration following expiration for a certain amount of time?

Yes

4. Additional Comments

For a certain period of time, the RAE should have the inalienable right to renew his/her domain name.

5. If you answered yes to question 3

Others
90 days at normal renewal fee + 180 days at a higher recovery fee + 90 days for resolution in case of a dispute, through a mechanism such as UDRP.

6. Additional Comments

Loss of a domain name is as damaging as the loss of a well circulated telephone number. To some extent it amounts to a loss of identity. It is important that the Registrant gets sufficient time to renew the domain name.

To ensure that the Registrant is reminded are sufficiently warned about the expiry of his/her domain name sufficient notices have to be sent. Notices or back up notices from the Registrar even for domain names registered through resellers would also be technically feasible. All that is required is for the Registrar to 'capture' and store the Registrant's contact information and store it in his database against the domain name registered and the date of registration. Again, a simple email program may be set to trigger email notices to the Registrant on predetermined dates, perhaps with a copy to the Reseller through whom the domain name was registered. This would fill up the infrastructural and other inadequacies of small and very small resellers who may not have systems in place to follow such procedures.

7. Should information on where to find the cost for recovery after expiration be clearly defined in the registration agreement?

Others

This information should be prominently visible to the Registrant at the time of domain name registration - on the domain registration page.

8. Additional Comments

Information about the cost of recovery should be prominently included as part of the communication sent to the Registrant by the Registrar / Reseller at the time of domain registration / renewal (in-time). Specifying it in the Registration Agreement would not be sufficient, it amounts to reducing this essential information to fine print.

For a comfortable period (12- 18 weeks) the RAE should be allowed to renew the domain without additional fee. After that period additional fee may be charged to the RAE to recover the domain name.

If the Recovery process is different (Why?) from that of the automated Create, Transfer, Renew process and if it requires human involvement, then the cost of this process is bound to be a little higher, so the Registries are likely to charge a higher fee which gets passed on to the Registrants. But what gets passed on to the Registrant is disproportional to the additional costs that the Registries might incur.

The difference in price post-recovery is difficult on most Registrants. Irrespective of whether it is caused by the Reseller, Registrar, Registry or even ICANN, such a difference in price is harsh on the Registrant. In many cases this difference in fee acts as a deterrent for those who have missed the deadline to renew the names.

9. Should the Redemption Grace Policy be adopted as a consensus policy for gTLD Registries?

Yes

10. Additional Comments

Redemption Grace Policy needs to be a consensus policy not only by gTLD Registries but also by ccTLD registries, and percolate down without dilution to the Registrars and Resellers.

It would be slipshod to restrict these measures to gTLDs on the grounds that the ccTLDs are autonomous. ICANN may have to work on getting the ccTLDs also to agree to minimum established criteria to be followed Post Recovery. ccTLD Registries may be more independent than gTLDs, but it is the responsibility of ICANN to enforce (or at least facilitate) good business practices across the domain name industry.

11. Should registrars be required to offer the Redemption Grace Policy for registries that offer it?

Others
The question is unclear.

12. Additional Comments

If what is implied is a notion that Registrars be absolved of the commitment to offer an RGP in cases where the Registries themselves have offered an RGP, then my response is Yes. Unless the Registrars under a Registry commit to the RGP set forth by the Registry, the RGP by the Registry would be meaningless in most cases. The RGP of the Registry needs to be followed by the Registrars and their Resellers. Also, every registry is to be expected to offer a Redemption Grace Policy which should include the core RGP clauses specified for adoption across the domain business spectrum around the world between gTLDs and ccTLDs.

Email functionality post-expiry, during the redemption grace period is a very important issue to be attended to.

If there is a perception of a technical problem in continuing email service for a domain post-expiry, a solution can come from the Technical Community or from an ICANN assigned technical task group. Upon expiry the domain name ceases to point to its erstwhile web-host and gets set to point to the Registrar's servers to a PPC ad page or to a page that says that the domain has expired/is available. If that redirection can technically happen, it should also be possible to redirect the mail to the mail accounts of the expired domain to the Registrar's mail servers. It might cost the Registrar to maintain a marginally additional server infrastructure to temporarily 'host' email, but the Registrar could do this for 90 or 180 days, with a limited mail space allocation per domain. When the Registrant reclaims or recovers his expired domain, the Registrar can charge the Registrant an affordable fee for the email redirection and hosting provided until renewal.

Even if half the Registrants choose not to renew the domain name or to reclaim their email, the cost foregone

can be factored into charges to those registrants who choose to recover their domain names and email messages.

This would require a legal frame work by which a prior approval is taken from the Registrant to transfer mail traffic on expiry.

Or, all email traffic or all expired domain names could be redirected to a central storage point. Or a company like Google may be interested, as a variation of its 'Gmail for Business'

http://www.google.com/apps/intl/en/business/gmail.html

A Business Domain name is the name of the business, brand name or some imaginative phrase which by use becomes familiar among customers and associates, so the business domain name is an asset for that business entity that opted to register the domain name. A personal domain name is often the name of the person who registers the domain name or an imaginative string which the Registrant comes up with.

Except for machine generated auto-suggestions, the Registrar does not play any role in the selection of domain names, whether it is registered by a commercial establishment or by an individual. So, in a sense, from an intellectual property point of view, domain names are intellectual properties of the registrants, which are also assets in a business context.

What gives a Registrar the right to consider the intellectual property of a domain name as part of his silage upon expiry?

A Registrar has nothing to do with the domain name, except provide the service of registration for a fee. A registrant opts to register a domain name from a certain Registrar instead of another due to reasons of convenience or cost or no reasons, and by choosing a certain Registrar, the Registrant does not concede the Registrar the right and rank of the 'second owner' or 'alternate owner' of the domain name, who automatically gets elevated to the rank of the first and absolute owner of the domain name that the Registrant has failed to renew within a tight time frame.

I am concerned about the following points noted in the Registrar Survey Preliminary Results dated Nov 24, 2009 http://bit.ly/pednrrs

The opinion of most Respondent Registrars in the survey was that :

> "Registrars renew the registration on behalf of the registered name holder".

How do they assume this function as a right?

> "after expiration the registrant has no rights on such registration and ownership ... now passes on to the registrar"

Why? The domain name ought to go back to the Registry / ICANN.

> "renewal and recovery processes differ among registrars. It is not a uniform practice to allow an auto-renewal grace period followed by a redemption grace period"

A uniform practice with a minimum set of clauses is required to be laid down.

> "recovery is not an obligation but at the sole discretion of the registrar"

Recovery ought to be defined as the right of the Registrant

> "Notices are sent by email, some registrars consider the practice of notification as non-binding"

When it is considered non-binding - in the absence of notices, more Registrants fail to renew their domain names.

> "whois contact information is changed to that of the Registrar"

Why?

> "right of registrar to point the domain to a registrar designated page which in most cases happen to a ppc page" [reworded, but still shown within quotes]

This is opportunistic and can't be considered as implied in the contract between the Registrant and Registrar

> "right of registrar to auction the expired domain names"

What accords them the right?

Most of these practices are defended by the Registrars by citing the terms of the agreement with the Registrants. "It is all there in the contract. The Registrant signed it"

It may be there in the contract, but that still does not make it a fair practice. How many Registrants really understand what they sign? And a Registrant tells a Registrar that some of these terms are not agreeable, would the Registrar still register the domain name? Would he offer to negotiate the terms and draw up a mutually agreeable agreement? That can not happen, because these agreements are more like "generic agreements". Signing the agreement is an essential step in the ordering process on which the next step in the ordering process depends.

Most of these agreements take advantage of the fact that few users read these agreements.

ICANN needs to look into the clauses of a typical Registrar's agreement with the Registrant, pay attention to the clauses for which a Registrant's signature is taken. ICANN may have come with a minimum set of pro-Registrant clauses (as a minimal template) to be adopted by all Registrars, over which each Registrar may add their own clauses.

The agreements also need to warn the Registrants in an understandable language what they are conceding to the Registrars.

13. Are you of the opinion that expiration related provisions in typical registration agreements are clear and conspicuous enough? (i.e. are you of the opinion that registrants understands and are able to find renewal and expiration related information easily?)

No

14. Additional Comments

(Additional comments pertaining to Question 13 were included as part of the response to Question 12)

15. What measures could or should be taken to facilitate understanding of expiration related provisions by registrants?

(as stated in the response to Q12)

The agreements need to warn the Registrants in an understandable language what they are conceding to the Registrars.

16. What role is there for ICANN in the process?

These agreements are more like "generic agreements". Signing the agreement is an essential step in the ordering process on which the next step in the ordering process depends.

Most of these agreements take advantage of the fact that few users read these agreements.

ICANN needs to look into the clauses of a typical Registrar's agreement with the Registrant, pay attention to the clauses for which a Registrant's signature is taken. ICANN may have come with a minimum set of pro-Registrant clauses (as a minimal template) to be adopted by all Registrars, over which each Registrar may add their own clauses.

19. Are you of the opinion that adequate notice exists to alert registrants of upcoming expirations?

No

20. Additional Comments

None

21. The current provisions in the RAA only make reference of a second notice – "3.7.5 At the conclusion of the registration period, failure by or on behalf of the Registered Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier)." Is this provision sufficiently clear?

No

22. Additional Comments:

None

23. Is a minimum of two notices sufficient?

No

24. Additional Comments

None

25. If you answered No to Q23

At least three reminders for renewal prior to expiry at optimal timing and optimal intervals

26. Are notices post expiry required? If yes provide the details

Yes

27. Additional Comments

The average Registrant is NOT an organized establishment with an in-house team of systematic domain administration and legal executives. The largest proportion of domain Registrants are either individuals or small businesses that are not to be expected to be organized and systematic. The Registrars have to devise systems most suited to unsystematic and relatively careless customers.

28. Should further details be provided on when / how these notices are sent? If yes, what further details would facilitate transparency and information, while at the same time not restricting registrars from taking additional measures to alert registrants.

Yes

29. Additional Comments (specify details)

ICANN or the Registrar Constituency may come up with a minimum number of notices to be sent, for e.g, three prior to expiry, five during the auto-renewal / redemption period and two post-expiry.ICANN / Registrar Constituency may come up with a minimal template for these notices.

All this would not restrict Registrars with very good business practices from taking additional measures to alert Registrants including reminders by snail mail or telephone.

30. Should additional measures be implemented to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders? If 'yes', what kind of measures should be explored?

Yes

31. Additional Comments (If yes, what kind of measures?)

test mail messages once every 90 days

Soft warning pop-ups on the websites of domain names with incorrect contact information (such as the soft pop-up gmail prompt that appears on the logged in page of users with secondary gmail accounts, to confirm if the secondary email account is to owned by the same account holder)

phone call to ask the Registrant to correct the email address, or email message to ask the Registrant to correct the phone number, etc.

32. Are there any other measures that should be taken to improve the probability of notices being received by registrants?

There could be additional columns in the contact info such as alternate email addresses, Instant message contact information, Blog URLs, alternate phone numbers and even an Alternate Contact's contact info.

Also, Registrars may include "Hosting Contact" as another contact apart from technical and administrative contacts for a domain name during registration. This would be information related to the hosting service, if different from the Registrar. The hosting service may have more upto date contact information for the domain registrant.

33. Should Whois status messages related to expiration be clarified / changed to avoid confusion over when a domain name registration expires / has been renewed (by the registry)?

Yes

34. Addditional Comments

The whois contact information should either be that of the Registrant or that of the Registry which gets back ALL expired domain names upon expiry. The Registrar's or Reseller's contact information should never be considered a substitute for the Registrant's contact information during the redemption period.

35. Should additional measures be implemented to indicate that once a domain name registration enters the Auto-Renew Grace Period, it has expired?

Yes

36 Additional Comments

The indication can be that the 'domain renewal is pending'

37 If you answered 'yes' to question 35:
What additional measures should be implemented (e.g. hold status, a notice on the site with a link to information on how to renew, or other options to be determined)?

hold status, a notice on the site with a link to information on how to renew, and other options to be determined - everything posted in a manner that does not embarrass the Registrant.

38 As a subset of question 35, should the domain be allowed to resolve (directly or indirectly) to the original IP address after expiration?

Yes

39 If you answered 'yes' to the previous question:

For how long should the domain be allowed to resolve to the original IP address?

The domain is recommended to be open for renewal for 90 days at normal renewal fee + 180 days at a higher recovery fee + 90 days for resolution in case of a dispute, through a mechanism such as UDRP. For the first 90 days the domain may be allowed to resolve to the original IP address.

40 What should happen to e-mail addressed to an e-mail address in an expired domain (eg. user@expireddomain.com)?

Deliver it to some other location specified by the RAE

41 Additional Comments

Various possible solutions exist for Registrars to extend continued email functionality.

As stated in response to Q12,

Extended email functionality is a very important issue to be attended to.

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http://www.google.com/apps/intl/en/business/gmail.html

42 Do we need to specify what happens to non-web, non-e-mail services post expiration (i.e. should ICANN specify what happens to ALL IP ports, or just those specific to web and e-mail services)?

Yes

43 Additional Comments

Email would be the top priority followed by web functionality. A sub-committee could examine if there are any widely used essential non-web, non-email services and examine if it is technically feasible to extend those services post expiry.

44 Should a transfer of a domain name during the RGP be allowed?

Yes

45 Additional Comments

Transfer of the domain name during the RGP should be the privilege of the RAE.

46 Should a transfer of a domain name registration during the Auto-Renew Grace Period be allowed (without a requirement to renew the registration first before being able to transfer it)?

Yes

47 Additional Comments

As stated in response to Q45

Transfer of the domain name during the RGP should be the privilege of the RAE.

48. Other WGs working on similar topics (RAA, IRTP)?

Yes

49. Additional Comments

It is imperative to obtain balanced opinions in order to come up with fair solutions. That would be possible only if topics such as RAA, IRTP and PEDNR are opened up for discussions by those outside the realm of the beneficiaries of the ensuing policy. ICANN needs to look beyond the predominant participation of the respective business constituencies and their Lawyers and include users and non-partisan experts.

50. Additional Communities (e.g. BC, NCSG, AT-Large, Registrars)

Yes

51. Other comments

NCSG and at-Large constituencies have to have a larger presence in business related working groups. A task such as this ought to have the participation of Registrants in addition to Registrars, should include Registries and consumer groups as also members of civil society who are outsiders to the business of domain names. This would be possible if ICANN reaches out to the Consumer Groups, other Civil Society Groups, regional organizations with a specific focus such as the Council of Europe, working groups of the Internet Governance Forum and various other Civil Society groups.

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