

August 15, 2010

Registrar Stakeholder Group Position Regarding Post-Expiration Domain Name Recovery Initial Report

BACKGROUND

The Registrar Stakeholder Group (“RrSG”) is providing comments regarding the Post-Expiration Domain Name Recovery (“PEDNR”) Initial Report. This position paper captures the overall sentiment expressed by the RrSG members who provided feedback about this matter. Due to time constraints, however, no formal vote regarding this position paper was taken.

RrSG POSITION

As a procedural matter, the RrSG believes that the Policy Development Process (PDP) should be reserved for situations where there is demonstrable data or reasonable anticipation of need. Without such information, it is difficult to create effective policy because there is no clearly-defined problem to solve. Relying on this information to identify potential flaws with existing policy is a necessary precursor to developing effective new policy because it allows the ICANN community to concentrate its increasingly constrained resources on solving real problems.

With respect to the PEDNR PDP, the RrSG believes the unintentional loss of a domain name is not a common occurrence. Supporting this view is the fact that there is no data suggesting registrants experience such problems from registrars who would be the recipient of such complaints. Studying whether registrants actually experience problems related to unintentional domain name loss would have been a responsible first step before initiating this PDP and attempting to develop policy. It allows the community to narrow the range of potential problems and focus community resources on solving actual problems, if any exist. Moreover, because unintended consequences may arise whenever existing policy is modified, it is important that policy changes be narrowly tailored to address demonstrable problems.

As new policy proposals are considered, the RrSG urges the PEDNR Working Group to carefully balance the expected benefits from those proposals with the RrSG's position that there is no quantifiable harm at issue and that risks of unintended consequences arise from any policy change.

Notwithstanding its procedural view, the RrSG's position on each of the five issues contained in the PEDNR Initial Report is currently as follows:

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

Yes. Adequate opportunity exists for registrants to redeem their expired domain names. Registrars notify their customers prior to expiry and provide opportunities for registration renewal. Further, most registrars offer a grace period following expiry, even though a grace period is not required, thereby providing enhanced opportunity for registrants to redeem domain names.

2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough

Yes. As required by the Registrar Accreditation Agreement and the Expired Domain Deletion Policy, terms and conditions are maintained on registrar web sites. Moreover, these documents are conspicuously posted and easily accessible through clearly visible links on registrar websites. Registrars use clear and understandable language in the context of presenting a valid legal agreement.

3. Whether adequate notice exists to alert registrants of upcoming expirations

Yes. Registrars provide adequate notifications to registrants of upcoming domain name expirations. Most registrars provide multiple notifications by email. Registrars responding to this inquiry report sending up to 17 email notifications beginning as early as 90 days prior to the expiry date and continuing into the post expiry period. Some registrars even supplement email notification efforts with notice by direct mail and/or telephone.

4. Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold status, a notice on the site with a link to information on how to renew, or other options to be determined)

No. No additional measures are needed on behalf of registrars to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired. Because registrars provide adequate notice that a domain name has expired, along with instructions to renew the name, it is unlikely that implementing additional measures would lead to more domain name renewals.

The RrSG recognizes, however, that some potential for confusion may exist when a domain name is automatically renewed by the registry, but not by the registrant. In these cases the registry WHOIS output displays a new expiry date after the auto-renew process while the registrar WHOIS displays a different expiry date. Recognizing the potential for confusion that arises from display of different expiry dates, the RrSG intends to work with the Registry Stakeholder Group to further examine this potential problem and propose possible solutions.

5. Whether to allow the transfer of a domain name during the Redemption Grace Period (RGP)

This is a complex question that deserves careful study to avoid unintended consequences. If transfers are permitted during the RGP then operations such as change of registrant or change of name servers could be targeted and exploited by domain name hijackers. This issue may be more appropriate for examination by a future Working Group assembled to address this specific issue.

CONCLUSION

The opinions expressed by the RrSG in this position paper should not be interpreted to reflect the individual opinion of any particular RrSG member.