COMMENTS OF INTELLECTUAL PROPERTY CONSTITUENCY

March 14, 2011

The issues raised in the IRD working group draft interim report are still under discussion within the intellectual property constituency of the GNSO. In order to meet the deadline for public comments, we offer the following preliminary observations:

1. Public access to registrant contact data in all gTLD's is extremely important, not only to intellectual property interests, but also to law enforcement, consumer protection groups, parents, security and anti-phishing specialists, and all Internet users. Historically, that data has been available in a form of ASCII script. There would be considerable benefits in maintaining the continuity of this access in ASCII form, and the difficulties of doing so should be fairly minimal, at least in the early days of IDN gTLD's. Everyone who registers domain names, and provides registered contact data in the gTLD's as they now stand (and as they have always functioned) has had to have some capability to do so through the use of Latin characters. This will certainly change, but is most likely to change rather gradually, and it may be feasible to maintain the requirement for registrant contact data to appear in a "must be present" script for an extended period to come. This corresponds to model one in the IRD report. At the same time, there may be difficulties with this as a longer-term solution, and with the growing availability of free and increasingly accurate translation services, and the apparent willingness of at least some registrars to implement such services, then a different model might accommodate the desires of the community to expand IDNs, and allow users of non-Latin scripts to register domain names more easily, while still preserving the full value of public access to this data.

2. Another possible approach would be to combine models one and three. Under this approach, the required result would be a display of registrant contact data in ASCII script, but there would be a diversity of ways in which this could be achieved. In many cases, the registrant would submit the data in this form (model one). In other cases, however, the registrar (or conceivably the registry) would undertake to transliterate the data that is submitted in a different script. Different registration authorities might choose different ways to achieve this objective, and it is not immediately obvious that one or the other method should be mandated, so long as the result is achieved.

3. Mandating any model other than model one would require positive action on the part of the registrar (or conceivably the registry), either to identify a reliable point of contact for transliterated non- ASCII registered contact data, or to actually undertake translation or transliteration of this data itself. Given the enormous contract compliance challenges that ICANN already faces in ensuring that accredited registrars and recognized registries carry out the actions which they have promised ICANN they will undertake, such an approach appears highly impractical. .

4. The value of requiring translation of registrant contact data that is not in the "must be present" script, as contrasted with transliteration, appears to be minimal or perhaps even negative. For example, for someone who reads Latin characters, it would be useful if the Hebrew

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characters of the residence of a registrant were transliterated to read "Tel Aviv", but useless to translate this to "hill of spring", "colline du printemps," or the equivalent in any other language that uses Latin characters.

5. Do these models provide for native non-ASCII data also to be displayed? Or does Model 1 assume that this data would be displayed exclusively in ASCII? Of course, non-ASCII data may be far more helpful for those users of Whois in the registrant's own country, and there should be some way for both scripts to be displayed.

6. IPC also agrees with some commenters that other models should be explored beyond those listed in the draft interim report, including the proposed "model 5" in which there would be no "must be present" script.

IPC thanks the working group for its efforts to date and looks forward to further opportunities to comment.

Respectfully submitted,

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