

The Intellectual Property Constituency welcomes this opportunity to provide its answers to and comments on five questions put forth by the Post-Expiration Domain Name Recovery Working Group:

1. Whether adequate opportunity exists for registrants to redeem their expired domain names;
2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough;
3. Whether adequate notice exists to alert registrants of upcoming expirations;
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);
5. Whether to allow the transfer of a domain name during the Redemption Grace Period (RGP).

We address each question in turn:

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

Generally, we believe that the ICANN requirement found in Section 3.7.5 of the RAA for a “second reminder” (which also assumes that a required first reminder has, in fact, been sent) should generally serve as sufficient notice to a registrant that its name is due to expire and that the registrant should take reasonable steps to protect its interests in the expiring domain name by renewing, if it so desires, the domain name prior to the expiration date. This is especially so since many registrars have an auto-renew function for a domain name that requires only a valid credit card.

Given the amount of inaccurate WHOIS information in the public databases, the high non-renewal rate may be the result of the expiring reminder notices not reaching the “Registered Name Holder” because that Registered Name Holder has failed to provide or maintain accurate contact information as required under Section 3.7.7.1 of the RAA.

Accordingly, we recommend that the Working Group examine the data necessary to determine if there is a correlation between non-renewed domain names and reminder notices which are undeliverable due to a bad email address or inaccurate contact information in the Registered Name Holder’s data set.

In addition, we are not opposed to requiring a mandatory 30-day renewal grace period following the expiration date along with an additional email reminder to the Registered Name Holder to be sent on the fifteenth (15th) day of the mandatory renewal grace period to provide additional safeguards to a registrant. If the Working Group recommends any further requirements or additional obligations beyond three notices and thirty extra days, it would first be appropriate to analyze whether the number of domain names renewed or

likely to be renewed pursuant to the third reminder or during the extra thirty days offsets the potential additional burden on registrars.

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

We have not undertaken a systematic review of registrar agreements with their customers. However, Sections 3.7.5.5 and 3.7.5.6 of the RAA clearly set forth a registrar's obligations in this regard. To the extent that a registrar is not complying with these obligations, ICANN should commence enforcement action and take appropriate steps to ensure that the registrars are complying with their obligations under the terms of the RAA. For this, among other reasons, we recommend that ICANN's Contract Compliance staff require each accredited registrar to provide it with current copies of, or a link to, its standard registration agreement form, and to keep such copies or links up to date.

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

As indicated above, we believe that two reminders should generally be sufficient to alert the registrants of the expiring registrations. We further speculate that the non-renewal rate may be tied directly to inaccurate or incomplete WHOIS information provided by the registrant. Accordingly, we believe that the Working Group should study the correlation between inaccurate WHOIS information and events of non-renewal where the registrar can document its compliance with the two-reminder requirement. A high correlation rate would suggest that the cause of the non-renewal can be traced directly back to the Registered Name Holders, and not the process. See Section 3.7.7.1 of the RAA. Moreover, if WHOIS inaccuracy is the primary cause for the expiration or the non-renewal, further education about (and enforcement of) a Registered Name Holder's obligation to maintain accurate information may generate more positive post-expiration outcomes than merely requiring more emails to be sent to bad or inaccurate email addresses.

Please see our response to question 1 regarding the imposition of an additional mandatory renewal grace period.

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).

We believe that an update of the WHOIS record, analogous to the "disputes notice" found in Section 3.7.5.7 of the RAA, to reflect that the domain name is now expired and to provide information on how to effectuate a redemption and renewal would benefit Registered Name Holders and would likely present little burden on registrars community because the process could be automated.

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

We do not believe that domain names should be allowed to be transferred to any person other than the original Registered Name Holder during the RGP, except in cases in which the domain name is the subject of an intellectual property dispute or some other similar situations in which an individual or an entity's proprietary rights are affected.

IPC looks forward to participating in the ongoing work of the Post-Expiration Domain Name Recovery Working Group.