Comments of the International Anti-Counterfeiting Coalition ("IACC") to the Draft Report for the Study of the Accuracy of WHOIS Registrant Contact Information by National Research Opinion Center (NORC) at the University of Chicago for ICANN

The IACC welcomes the opportunity to comment on the Draft Report for the Study of the Accuracy of WHOIS Registrant Contact Information by NORC – 17 January 2010 ("NORC WHOIS Study").

The IACC is the world's oldest and largest organization representing exclusively the interests of companies concerned with trademark counterfeiting and copyright piracy. Our members consist of over 200 corporations, trade associations, and professional firms and represent total annual revenues of approximately $750 billion. Our brand and copyright owner members represent a broad cross-section of industries, and include many of the world's best known companies in the apparel, automotive, consumer goods, entertainment, pharmaceutical, and other product sectors. The IACC is committed to working with government and industry partners in the United States and elsewhere, to strengthen IP protection by encouraging improvements in the law and the allocation of greater political priority and resources, as well as by raising awareness regarding the enormous—and growing—harm caused by IP violations.

WHOIS accuracy is important for the entire Internet community. Individual stakeholders, as much as law enforcement and trademark owners rely upon the WHOIS database to promote the integrity of Internet communications and transparency of Internet commerce. These essential purposes for the WHOIS database were understood and acknowledged by ICANN and commitment to WHOIS reliability became a key responsibility from its inception. Contractual obligations by registrars to take steps to insure WHOIS accuracy became a component of registrar obligations under the Registrar Accreditation Agreement.

The IACC, having repeatedly stressed the importance of reliable WHOIS data and having cautioned about serious deficiencies in the existing execution of that responsibility, appreciates the effort and expense undertaken by ICANN to secure a scientific measure of WHOIS accuracy. The NORC WHOIS Study is a valuable step towards assuring WHOIS accuracy.

The IACC does not comment on the survey design agreed to by NORC and ICANN and accepts that the sampling of records and extrapolations of what the finding percentages means in terms of domain registrations and accuracy percentages falls within the scope of acceptable survey industry standards, noting only that it may understate the scope of the issue insofar as the use of WHOIS masks, privacy services and proxy services are not, by the definitions employed by this study, indicative of any "inaccuracy."

The results of the study are discouraging. The problem is even more widespread than previously suspected, particularly when compared to the 2005 GAO study. The NORC WHOIS Study's suggestion that a more accurate WHOIS will result in escalating costs and that ICANN will be obligated to undertake those added costs in the midst of an

expansion of the gTLD space raises serious questions about ICANN's preparedness to shoulder the added burdens associated with those new gTLDs when monumental problems remain to be resolved within the existing gTLD space.

The Failure Rates Disclosed by the NORC WHOIS Study are Unacceptable.

Only 23% of all WHOIS records were fully accurate as measured by the NORC WHOIS Study. If "minimal" and "limited" failures are excluded or if NORC was unable to contact the registrant to confirm ownership, the percentage of accurate records still never exceeds 71%. Fully 29% of WHOIS data is either substantially or fully inaccurate.

A 29% failure rate is not acceptable given that one of ICANN's core commitments is the accuracy of WHOIS data.

Simple Measures Could Eliminate the Most Glaring Inaccuracies

By checking addresses in the WHOIS sample set against postal codes and simple mapping data for delivery, NORC easily discerned that 13.3% of those addresses were undeliverable, and that an additional 8.6% were "potentially deliverable." It stands to reason that if ICANN itself deployed these simple measures, or required registrars to do so before accepting domain names for registration, between 13% of the 22% of facially inaccurate records could have been prevented at registration. The NORC WHOIS Study also states that as names were coded for type, it was determined that over 1.6 million WHOIS records have registrant names that are completely missing or patently false. These inaccuracies could also be avoided with minimal effort on the part of ICANN and/or its registrars. Similar numbers of registrations reflected equally obvious errors and omissions, which could be detected through automated checks conducted during the registration process, including domain name registrations with partial names for registrants or information inputted that NORC was unable to classify, which the study noted could be "borderline patently false."

While there are many instances reported in the study that are understandable reasons why a domain name registration does not meet all three criteria for fully accurate WHOIS data (transposition errors, confusion of what information to put where, etc.) there are many millions of registrations that make it into the system that should not. Preventing these registrations in the first place is not difficult or expensive.

Barriers to accuracy

The study suggests that the main barriers to accuracy in WHOIS data are privacy concerns, carelessness and/or little perceived value in domain ownership. While these are understandable as reasons, they are not acceptable excuses for inaccurate WHOIS data.

NORC notes that no proof of identity or address is required when registering a domain name (which would remove many barriers to entering inaccurate information). The study

suggests that "requiring that the registrant and address at least match that of the credit card which was used to pay for the account would go some way towards addressing this, given that reasonably stringent proof of identity and address is usually required to obtain a credit card."

We agree that at least matching registrant name and address with credit card information is a good solution in cutting down WHOIS inaccuracy. All registrars are set up to take payments by credit card and comparing that data with WHOIS data would be simple and inexpensive.

The study notes that basic checks, if used consistently by all registrars could eliminate some missing data issues.

Other issues noted by the study regarding confusion (name and address required 4 times when registering: registrant, administrative, technical and billing contacts) and late 2009 changes to support the entry and maintenance of non-ASCII character sets we feel are understandable and nominal issues.

We agree that accuracy of WHOIS data needs to be an important issue for both registrants and registrars. And having a centralized database enabling pattern based checking, as the study suggests, would not only improve maintenance checks but could be used to possibly flag potential fraudulent activity.

The results of the NORC WHOIS Study confirm that ICANN has not done enough to enforce compliance with the registrars' obligations to maintain WHOIS data accuracy of their registrants. This effort does not in our view necessarily escalate costs.

Conclusion

The IACC feels that the NORC survey has clearly identified that the problem of WHOIS accuracy is greater than had been reported in the past and that 29% of the records in the domain name system being substantially or patently inaccurate is an unacceptable percentage.

The IACC feels that improving WHOIS accuracy does not necessarily come with escalating costs as the survey identified sensible and simple solutions in remedying the blatantly inaccurate or absent registration information, including cross checks with postal codes, mapping and address validity software and matching registrant data with data processed for registration payments.

It is the view of the IACC that ICANN needs to examine if it has the tools in place to live up to a core commitment of accurate WHOIS data and if not, find measures to improve those tools in short order, or find a remedy outside the organization to maintain and enforce accurate WHOIS data. We feel that this is prerequisite to the introduction of additional gTLDS into the domain name system.