

Comments of Electronic Arts Inc. on the ICANN Whois Task Force Preliminary Report on the Future of Whois

January 15, 2007

Electronic Arts Inc. ("EA") appreciates the opportunity to provide comments on the ICANN Whois Task Force preliminary report on the future of Whois. With operations in more than 30 countries, EA is the world's leading publisher of interactive entertainment software. EA publishes entertainment software for all major game platforms, including the PlayStation 2 and PlayStation 3 game consoles, the Xbox and Xbox 360 consoles, Nintendo's Wii console and GameBoy handheld systems, personal computers, and mobile devices.

The interactive entertainment software industry estimates it lost over two billion dollars a year to piracy in recent years. We estimate that as much as 10% of that loss (\$200 million per year) relates to the piracy of EA products specifically. The Internet is one of the key channels of distribution of pirated entertainment software.

Accordingly, EA is regularly involved in investigations into matters involving copyright infringement and piracy of EA products carried out via the Internet. In order to properly conduct these investigations, the Whois databases are used as the primary resource to determine the identity of those conducting piracy or other infringement of our intellectual property over the Internet. Without reliable public access to WHOIS information, there would be no reasonably accessible starting point to identify the source of infringing materials and our efforts to protect our intellectual property assets on the Internet would be greatly impaired.

We have reviewed the ICANN Task Force's preliminary report on the future of Whois and the alternative plans presented in that report. Because of the importance of accurate, publicly accessible Whois data in protecting our intellectual property, EA opposes the proposed "Operational Point of Contact" (oPOC) plan presently under consideration at ICANN, which would in effect allow Internet domain name registrars (or other parties with no contractual obligations to ICANN) to act as "proxies" for real website owners and to shield the address and other information about the website owners from the public. EA believes the oPOC proposal would simply insert another layer of delay and frustration in our efforts to identify the operators of websites engaging in infringing activity. The effect of this proposal is that the contact information for nearly every domain registration would be hidden without any clear procedures on how and when the information could be obtained and who could obtain it.

EA suggests that no change be made to the current requirements that all domain name registrants provide full, accurate and current data that is publicly accessible. However, of

the two alternatives presented in the preliminary report, EA believes the “special circumstances” proposal provides greater protection for third parties with legitimate needs for accessing Whois data, but notes that there currently are some ambiguities in the procedures for recognizing registrants with “special circumstances” that should be addressed.

In any event, if either proposal is implemented, it is critical that ICANN first set up clear and predictable procedures for obtaining quick access to registrant data that is withheld from public access. Moreover, EA urges ICANN to require registries and registrars to take further steps to ensure that the contact data submitted by registrants is accurate and current. During our investigations, we frequently find that registrants provide information that is clearly false (i.e., street addresses that do not exist, or gibberish in place of legitimate names and addresses) and that registrars allow the domain registration do nothing to correct the inaccurate information.

Respectfully submitted,

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Electronic Arts Inc.