

January 12, 2006

To: ICANN WHOIS Task Force (whois-comments@icann.org)

Re: Comments to the Preliminary Task Force Report on WHOIS Services (the "Report")

Dear Task Force Members:

The organizations identified below join MarkMonitor in submitting comments to the two new WHOIS proposals described in the Report.

Introduction

Billions of Internet users benefit from the protection enabled by current WHOIS policy, which requires free, unrestricted and immediate access. If ICANN policy creates new obstacles or delays for those seeking to protect consumers from illegal activity involving domain names, Internet users will suffer. Thwarting the current and successful process will profoundly increase the number innocent consumers made victims by Internet criminals.

The undersigned ask the WHOIS Task Force to recognize that brand owners are most often first to respond to online illegal activity and that they rely almost exclusively on WHOIS to identify and stop the persons behind such illegal conduct. Identification is critical—it helps parties communicate and speed dispute resolution without legal action, and when such action is necessary, enables service of process, without which the legitimate rule of law cannot provide a safe environment for consumers and businesses on the Internet.

While many legitimate and important privacy concerns exist over access to WHOIS data (for example, registration data of a battered women's shelter site) many others seek anonymity as a cover for nefarious intent like cyber squatting, phishing and other for profit illegitimate behavior. While those with ill-intent profit from anonymity, consumers and legitimate online commerce suffer, often unknowingly. We request that ICANN evaluate models that offer protection from those who seek to abuse the system while making decisions related to blocking access to WHOIS data.

We therefore ask that ICANN and the WHOIS Task Force act on the behalf of Internet users and consumers to preserve the collective trust instilled in the Internet. We request that any new policies be examined by the WHOIS Task

Force in light of their impact on consumers and those seeking to maintain and protect the safety and reliability of electronic commerce.

To preserve order and maintain a sense of security and accountability for Internet users, we recommend the adoption of the Special Circumstances proposal.

Evaluation of Proposals

I. The Operational Point of Contact (OPOC) Proposal

The OPOC proposal is troubling for a number of reasons. First, it reduces the amount of information available in investigating instances of online abuse. Brand owners often rely on the various fields in WHOIS to track down cybersquatters and fraudsters. Reducing the amount of such information will likely cause delays for brand owners in identifying and commencing action against registrants who engage in illegal conduct.

The OPOC proposal does not specify the qualifications, responsibilities, and standards to be applicable to the OPOC. For example, it is unclear whether the OPOC would be able to accept service of process for legal actions involving domain names, such as the UDRP. Under the proposal, the OPOC could be a party with no relationship to the actual registrant. Since the OPOC can be a third party (such as a proxy service or even a registrar), there is no assurance that important communications will be promptly forwarded to the registrant. Thus, cease & desist letters, domain transfer approvals, notices of inaccurate WHOIS information, phishing take-down notices, UDRP complaints and other similar communications may not be received and processed in a prompt manner.

In addition, the OPOC proposal does not address the privacy concerns that have been raised as the primary reason for changing WHOIS policy. Without such improvements in privacy, it is difficult to justify the adoption of OPOC over the status quo.

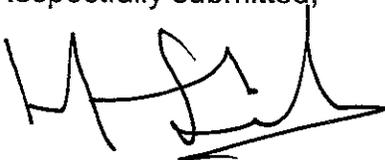
II. Special Circumstances Proposal

The Special Circumstances proposal is preferable to the OPOC proposal because it provides a workable solution to the privacy concerns without significantly changing WHOIS for the vast majority of Internet users.

The impact to brand owners should be minimal under the Special Circumstances proposal because registrants who misuse domain names to conduct illegal online activities should not qualify for the "special circumstances designation" and therefore would continue to have their contact information displayed in the same manner as currently available today. The Special Circumstance proposal includes a practical mechanism that allows the WHOIS information to be revealed in the event the privacy designation is abused, or the domain name is used for commercial purposes.

Thus, under the Special Circumstances proposal, brand owners would not need to significantly alter their current processes and procedures for monitoring, tracking and taking action against those illegally targeting their businesses and consumers.

Respectfully submitted,



Irfan Salim
President and CEO
MarkMonitor, Inc.
San Francisco, California, USA

Co-signed by:

Abbott Laboratories
Abbott Park, IL USA

Bell Canada International
Montreal, PQ CANADA

Caterpillar Inc.
Peoria, IL USA

Activision Inc.
Santa Monica, CA USA

Booz Allen Hamilton
McLean, VA USA

Cingular Wireless
Atlanta, GA USA

Acushnet Company
Fairhaven, MA USA

Bose Corporation
Framingham, MA USA

CIT
New York, NY USA

Advanced Micro Devices
Sunnyvale, CA USA

British Sky Broadcasting
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CMS Energy
Jackson, MI USA

Alliance Data
Dallas, TX USA

Boy Scouts of America
Newark, NJ USA

Coldwater Creek
Sandpoint, ID USA

ALLTEL Communications Corp.
Sandusky, OH USA

Canadian Broadcasting Corp.
Ottawa ON CANADA

Comerica
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Anti-Phishing Working Group
San Francisco, CA USA

Capmark Financial Group Inc.
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Conair Corp.
East Windsor, NJ USA

Apple Computer
Cupertino, CA USA

Carfax Inc.
Fairfax, VA USA

Consumers Energy
Jackson, MI USA

Avaya Inc.
Basking Ridge, NJ USA

CarMax Business Services
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Coors Global Properties, Inc.
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Bank of America
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Carnival Corporation
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Dole Food Companies Inc. Westlake Village, CA USA	InterContinental Hotels Group Windsor, ENGLAND	Optimo.com San Leandro, CA USA
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EMCOR Group London, ENGLAND	Lastminute.com London, ENGLAND	PerkinElmer Wellesley, MA USA
First Data Corporation Greenwood Village, CO USA	Live Nation Beverly Hills, CA USA	PetSmart Inc. Phoenix, AZ USA
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Forbes Media LLC New York, NY USA	Lumenis Santa Clara, CA USA	Quiksilver Huntington Beach, CA USA
Ford Motor Company Dearborn, MI USA	Mercer Human Resource Consulting New York, NY USA	Raymond James Financial St. Petersburg, FL USA
Franklin Templeton Invest. San Mateo, CA USA	Microsoft Redmond, WA USA	Renold plc Manchester, ENGLAND
Garmin Olathe, KS USA	Molson Canada Montreal, PQ CANADA	Reviews.com New York, NY USA
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Hilton Hotels Corporation Beverly Hills, CA USA	NetJets Woodbridge, NJ USA	SB Management Services Inc. USA
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IBM Armonk, NY USA	Nordstrom Inc. Seattle, WA USA	Shimano Sakai, Osaka JAPAN
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Bloomington, IL USA

T. Rowe Price
Baltimore, MD USA

Tahitian Noni International
Provo, UT USA

Terex Corporation
Westport, CT USA

The Body Shop International
Littlehampton, ENGLAND

The Clearing House
New York, NY USA

The Cobalt Group Inc.
Seattle, WA USA

The Dial Corporation
Scottsdale, AZ USA

The Goodyear Tire & Rubber Co.
Amherst, NY USA

The Saul Zaentz Company
Berkely, CA USA

The Scotts Company LLC
Marysville, OH USA

Visa International
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W.L. Gore & Associates Inc.
Putzburnn, Bayern GERMANY

Warner Bros. Entertainment
Burbank, CA USA

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Watson Pharmaceuticals
Corona, CA USA

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Wilmington, DE USA

Wells Fargo
San Francisco, CA USA

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Yahoo! Inc.
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