

# INTELLECTUAL PROPERTY CONSTITUENCY AND IPC COUNCIL MEETING

## RADISSON MONTEVIDEO PLAZA HOTEL

### MONTEVIDEO, URUGUAY

Friday 7<sup>th</sup> September 2001

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#### 1. **Introductions**

Steve Metalitz (IPC President) opened the meeting with Jane Mutimear (VP IPC) taking notes. SM invited the audience to introduce themselves. I list of attendees is scheduled to this report.

#### 2. **Membership report**

Jane Mutimear gave the Membership Report in Nick Wood's absence. She reported that since the last IPC meeting 7 new category 1 members have been accepted :

Joon Pak for Sshin & Kim

Jeff Osterman for Weil Gotshal & Manges

James Sullivan for Dechert

Greggory Mendenhall for Schnader Harrison Segal & Lewis

Jefsey Morfin in his own right

Jane Mutimear for Bird & Bird

Risto Rouvari for Peltonen Ruokonen & Itainen

And 1 new category 3 member has been accepted: The Arab Society of Intellectual Property.

JM reported that steps were being taken to improve the process from initial interest in joining the constituency through to acceptance and invoicing.

Steve Metalitz reported on the Buenos Aires meeting which had taken place on the afternoon of Wednesday 5<sup>th</sup> September (see separate minutes).

#### 3. **"As if" proposal for Landrush**

Marty Schwimmer reported on a proposal to deal with the large number of fraudulent registrations during the .info sunrise. This involved running the landrush stage as if the sunrise had not taken place. Those who were granted domain names which had already been taken during the Sunrise would then have been able to challenge these registrations, and have them transferred if the original

applicant was not able to prove they owned a registered trade mark for the domain. This would give people the incentive to challenge the fraudulent registrations as under the current Sunrise challenge procedure there is little incentive to challenge fraudulent generic registrations as they are only transferred if the challenger has a registered trade mark for the second level of the domain.

Steve Metalitz reported that there had been general agreement at the Buenos Aires meeting that this proposal would help fix the problem. JM pointed out that one problem was that it was reported that several registrars had already run checks on the Sunrise registrations and dumped duplicates from their lists. J Scott Evans opined that the "alternative landrush" could be run after the initial landrush and pointed out that the IPC had worked closely with Afiliis in relation to the Sunrise. SM explained that fraudulent registrations in the Sunrise data was similar to false contact details in normal WHOIS data: there were no basic steps taken to filter obviously false registrant contact data. JSE agreed that registrars were not quick to enforce the part of their contract which dealt with the accuracy of contact details. SM agreed that the "as if" proposal was a partial solution to some of the problems experienced during the Sunrise and queried how the IPC should take this forward. JSE suggested that we post MS's note on the website and circulate it to the IPCC membership. MS said that we should raise it with Afiliis today and pointed out that we should also raise the fact that data had been corrupted at registrar level and that the registrars who had approached Afiliis to correct the data they had been told that the data was locked for 6 months. This was a problem as at the end of the Sunrise challenge period Afiliis had stated that they would challenge all facially unqualified registrations, which included many legitimate trade mark registrations the data for which had been corrupted and now look unqualified.

#### 4. **RealNames**

Keith Teare from RealNames stood in for Gail Mosse who had been unable to get to Montevideo. Keith gave a presentation on the recent developments with RealNames Keywords. Keith's slides are available [here](#).

During questions raised by the audience Keith explained that historically the RealNames Keywords list was populated by a testbed or around 2 million which had been created by searching on the internet. The testbed would be terminated later this year. Up until the implementation of the RealNames Keywords in Microsoft Browser, RealNames had provided their Keywords to search engines. Now RealNames has adopted the DNS business model and is about to auction off the registry in each country on a licence fee basis. The pricing will be at the discretion of the registrars.

Keith explained that RealNames government was effectively Microsoft as they used Microsoft's Browser. Microsoft care about user experience and dictate what RealNames can and cannot do. It was recognised that there are different values to different names and they worked with Microsoft search engine to automate the process. This checked the number of times users typed a term and cross-referred to a trade mark database. RealNames will not sell generic terms as they do not consider these should resolve to a single destination, but should go to a list. This

process works on a global basis - therefore you cannot buy a Keyword in China for an English generic term. If the generic term is in fact a trade mark, the Keyword can be purchased under the Keyword Plus system if the applicant can prove that legitimate user expectation is that they would reach the trade mark owners' site. Keith explained that the costs of the Keyword Plus system were likely to be in the region of \$500 for the first year and \$200 thereafter. The basic Keyword cost in the region of \$50 per year.

Keith explained that Microsoft had the power to ask RealNames to remove 0.5% of the Keywords registered. Keith also explained the redirection service RealNames ran with NASDAQ relating the use of NASDAQ ticker symbols as Keywords. Keith mentioned briefly the XTNS system which is built using the same technology with the idea of offering corporate top level domains e.g. .pepsi, .coke. Although the technology was the same the company was not connected with RealNames.

## 5. **.biz**

Jeff Neuman, Director of Policy at NeuLevel gave an update on .biz. He explained that of the IP Claim forms which had been filed 54% were from the US, 35% from Europe, 7% Asia/Pacific and 4% other. October 1<sup>st</sup> was the go live date and the 30 day hold period in relation to IP claims would commence. If the party who filed the IP claim form gained the domain name, they could release the hold. Jeff explained that some procedural changes to the STOP procedure would be announced shortly. From 1 October the basic WHOIS data would be available and the advanced WHOIS would be available in December or January.

SM asked how the timing would be effected by the litigation which had been commenced against Neulevel. Jeff explained that they were confident that they would prevail against the application for a preliminary injunction which was to be heard on Sept 26<sup>th</sup>.

## 6. **IDNs**

Masanobu Katoh, one of the ICANN At Large board members, reported on the Working Group on Internationalised Domain Names of which he is the Chair. He explained that the IETF were working very hard to reach a single standard to enable the resolution of non-roman characters. There were technical, policy and legal issues involved in this process. The UDRP needed to reviewed be reviewed to see whether it could handle IDNs. There was confusion in the market because of the testbed and the IDNs which were incapable of being used. The Montevideo report had been posted last week and contained a 2 page executive summary. So far the Group had been fact finding and was not recommending policy but there it did recommend that there was going to be a Steering Committee established on IDNs. SM stated that it was important that the IPC have a representative on the Steering Group.

## 7. **.info**

Roland La Plante the VP of Marketing at Afilias gave the meeting an update on .info. He reported that in total 52,245 domains had been registered during the Sunrise, 56% of which originated from Europe, 35% North American, 5% Asia, 1%

Australian, 1% Latin America and 2% other. Roland explained that it has been anticipated that people would try to circumvent the system. Afilias had decided to challenge any obviously false registrations at the end of the Sunrise challenge period (26 Dec). SM pointed out that many of the problems which appeared related to "obvious" errors - the registered trade mark not matching the domain requested, or the date of the registration being after 2 October 2000. Roland stated that some of the problems may have arisen as the registrars did not have the information required to hand. The question of corrupted data of legitimate registrations was raised by an audience member and Roland explained that Afilias' policy was to keep the WHOIS data locked for 180 days. It was pointed out that this would mean that trade mark owners would be put to the trouble and expense of obtaining certified copies of their registrations when Afilias automatically challenged their registrations. They also risked losing their registrations if they could not produce the certified copy in time. An Afilias lawyer in the audience stated that this was as a result of the registrars errors and not the registry's problem. JM pointed out that if Afilias had had even the most basic of filtering systems most of the corrupted data would have been rejected, the registrars would have realised the bug and fixed it. It was not appropriate or helpful for Afilias to throw its hand up and say that it was nothing to do with them. Roland explained that their hands were tied as their contract with ICANN meant that the data had to stay locked for 180 days. MS suggested that they untie their hands and find a way to tidy up the problems with the Sunrise without putting trade mark owners to thousands of dollars of expense.

#### 8. .name

Hakon Hughes from Global Name Registry gave the group an update on the progress being made by .name. He explained that the Sunrise for defensive registrations started on 15 August and closed on 12 November. He also explained the Namewatch service which is a trademark protection service. Hakon's slides are available [here](#).

JM

#### LIST OF ATTENDEES

Name	Organization
Sarah Deutsch	Verizoan
Ariel Manoff	Vitale, Manoff Feilbogen
Guillermo Carey	AIPPI, Carey y Cia
Gabriela Paiva	NIC Chile
Alfredo Pinochet	Siemi Limited
Veronica Miranda	Solo Practitioner
Tsugizo Kubo	JPNIC

Jeffrey Neuwman	NeuLevel
Isobel Fernandez	Fernandez Secco
Manon Ress	Essential Information
Vanessa Sarmianto	Demarcas .com
Chuck Gomes	VeriSign GRS
Tom Turcan	Net Searchers
Axel aus der Muhlen	MPA
J Scott Evans	INTA - Adams, Schwartz & Evans PA
Jane Mutimear	AIPPI - Bird & Bird, London
Steve Metalitz	IIPA/CCDN
Lee Schroeder	AIPLA
Joon Kook Park	Shin & Kim
Roy Hibberd	Net Searchers
Wilfred Fernandez	Zacarias & Fernandez
Beatriz Bugallo	Commercial & IP Law Teacher - Montevideo
Federica Alstay Lara	Direction Nacional Dele Propiedad Industrial Uruguay
Martin Schwimmer	Martin Schwimmer Esq
Patricia Steadman	Incognito Software
Guillermo Cicileo	Retina
Martin Pittaluga	Pittaluga & Associates
Claudia Franco	Zacarias & Fernadez
Juan M Gutiérrez C	Fernandez Secco & Ason
Vicente Landim Macento Filho	Brazilian Internet Steering Committee
Bruce Ong	RealNames Corporation
Penny Karas	NeuLevel

Nicolas M Czejer	Vitale, Manoff & Feilbogen
Francisco De Assisalfs	CEIBR

*This site was last updated 06/03/05*