

**INTELLECTUAL PROPERTY CONSTITUENCY
(ICANN/GNSO)**

Washington, DC
September 15, 2005

- I. 9:30 A.M. Welcome and Introductions
- II. 9:45 A.M. IPC Housekeeping Matters
 - A. Treasurer's Report
 - B. Membership Report
 - C. Election Planning
 - D. Discussion of Pending Issues (begin) – planning for Vancouver cross-constituency
- III. 11:15 A.M. USG Delegation to ICANN-GAC: Presentation and Discussion
- IV. 12 Noon Lunch (working)
- V. 12:30 P.M. New sTLD: .jobs (Brian Johnson)
- VI. 1:00 P.M. New sTLD: .xxx (John Berryhill)
- VII. 1:30 P.M. Susan Anthony – US delegation to WSIS
- VIII. 2:30 P.M. Further discussion of pending issues
 - A. New gTLD policies
 - B. GNSO Council review – impact on IPC?
 - C. Whois
 - D. Other
- IX. 3:30 P.M. Wrap-up, assignments, next meeting, and adjourn

IPC Business Agenda (to be split between items II and VIII on Master Agenda)

- I. IPC Housekeeping Issues
 - A. Treasurer's Report
 - B. Membership Report
 - C. Election planning
 - D. CY 2006 Budget process

- II. Pending substantive issues
 - A. Vancouver ICANN meeting
 - 1. Cross-constituency agenda preparation
 - 2. GAC/GNSO Whois working session – IPC role?
 - B. New gTLD policies
 - C. GNSO Council (self) review
 - D. Whois
 - 1. Activities of Whois Task Force
 - 2. Whois accuracy WG (chaired by N. Lagergren)*

* “to review the effectiveness and compliance of the current contractual requirements with respect to WHOIS accuracy”

**INTELLECTUAL PROPERTY CONSTITUENCY (IPC) MEETING
MINUTES**

September 15, 2005 09:30 – 14:00 (EST) (Washington, DC)

In attendance (all or part):

Lucy Nichols
Mark Bohannon
Shelly Jones
Steve Metalitz
Mike Palage
J. Scott Evans
Niklas LARGERGREN
Chris Katopis
Mike Heltzer
Hector Ariel Manoff

Check by-laws on timing of election and J. Scott will see if Mike Heltzer to see if he will run the election for us. Also, check to see about delaying the election (possibly November) to allow time for those who have only recently been invoiced an opportunity to pay before the election. Once a decision has been made, we will send message to Cat. 2 and 3 members reminding them of election and need to be current with dues. No known candidates for officers at this point. Steve Metalitz is prepared to play some role. Mark Bohannon is also interested in playing some role. J. Scott will not run for another term. It was suggested that office of Secretary should be filled by someone with a role in a lobbying house. There was also a suggestion that we might consider collapsing some of the offices to eliminate the need to find so many people to fill slots. Suggested we look at collapsing Ex. VP and VP. This will require amendment of by-laws and we can combine it with the officer/GNSO election.

Steve: By-law amendment

J. Scott: Mike Heltzer's help

Steve & J. Scott: Delay of election to November

Notice with regard to election and expressions of interest.

Treasurer's Report: Started with about \$19,000.00, all dues received so far from Cat. 3 when deposits are made we will have approximately \$24,000.00. Expects we will receive another \$5,000.00 to \$10,000.00. We have paid final invoice for European lobbyist. All Cat. 2 & 3 invoices have been sent out. Cat. 1 has not gone out. Need to clean up Cat. 1 list. Couple of years ago we decided not to push too hard on Cat. 1 in order to encourage participation. Due to problems with Secretary, our Cat. 1 list is in dire need of updating. Once we have a better idea of monies, we can take a better look at budget. We need to clarify what our obligations are with regard to our website. Steve check with Ryan on our obligations. J. Scott to check with Jane on transferring website. We need to take a look at how we are going to spend this money and whether we are going to reduce the dues given that we no longer pay an obligation to ICANN.

Mark to have draft broad/bullet point budget by mid-October with goal to have budget proposal by November.

Membership: We hope that we have resolved the issues with regard to channels of communication. Biggest problem is Cat. 1. Mark and Steve to cull through membership list to clean it up.

Vancouver: Three issues. Cross-Constituency, GAC/GNSO, IPC.

Cross-Constituency: IPC/ISPCI/BC meeting. Historically it was a chance for the three constituencies to get “face-time” with the Board. After Luxembourg, we decided that we put together the agenda. Coordinate with Glen. J. Scott is a point person and will work on logistics. With regard to agenda, what issues to do we want to discuss. There was some discussion about putting briefing from Liz Williams (GNSO Review) on the agenda. We got some briefing on recent conference call regarding the purpose and process for the review. Need to show that we are not one voice with other constituencies. Whois issues. Do IDNs change the need for new TLDs? Mike Palage advised that the Chinese are already running an alternate root with a Chinese character .com and .net. If ICANN does not move quickly, the root may be fractured. There was a suggestion that Charles Shaban to present the IDN issue to us. Steve suggested we may need to be more selective and look at the possibility of putting some of these issues on the IPC agenda. Representative issue should be discussed broadly. It was then decided that an IDN presentation would be best suited for the IPC. Cary Karp may be good person to contact regarding contacts at Microsoft, Firefox and Mozilla on IDNs. Palage believes that TLD issues would be good issue. Get presentations for Cross-Constituency meeting put together to give Board prior to meeting. It was decided that the Cross-Constituency meeting should be about 2 to 2.5 hours. The Board would be invited for one hour time.

1. GNSO Review – Bruce and Liz w/o Board.
2. New TLDs and WHOIS brief presentations w/ Board.

Controlled moderated session. J. Scott to circulate proposed agenda. Get each constituency to appoint one representative and have cc within two weeks. Copy Bruce Tonkin and Liz Williams with note to get on their minds Coordinate with Glen on rooms and equipment as well as Board time.

GAC Workshop in Vancouver

Consumer Protection/IP/Others: FTC (or foreign counterparts) to present; opportunity to bring in anti-fraud consumer protection other than FTC. Law enforcement agencies are depending on others to assist in the consumer protection. Perhaps we can get someone from RED CROSS to attend and talk about coordination over Katrina. With regard to IP, who do we want to present. It was suggested IP not take a “high profile” at this meeting and any IP representation be non-U.S. Reach out to private sector in Australia or Canada. Not even sure we need to have anyone, but if we can find the right person it might be useful. India was also suggested as a possible jurisdiction to see if we could find someone. Question raised: will the meeting will be closed or semi-closed.

J. Scott to check about bringing Charles Shaban in to give IDN presentation for IPC meeting.
J. Scott to check about with Australian colleagues for possible private sector speaker.

Joined by:

Don M. Blumenthal – FTC
Markus B. Heyder – FTC
Suzanne Sene – NTIA
John Rodriguez - USPTO

Discussion with government representatives regarding the public forum on WHOIS. Australia and U.S. were the most vocal GAC members about having input from law enforcement organizations on WHOIS in Luxembourg. Communiqué includes the IP/Consumer Protection. No agenda for Vancouver yet because they are trying to close out report driven by the closed meeting held by law enforcement. Vancouver will not be closed. Suzanne stated that the Luxembourg meeting was only closed at request of law enforcement speakers. Question to group of whether there will be other consumer protection groups presenting. WHOIS working session to be held 11/29, 8:30 AM to 1 PM. Important to place some emphasis on private sector enforcement in consumer fraud. Possible idea to get someone from Red Cross to present. NTEN non-profit organizations. Maybe someone from the banking industry or anti-phishing groups (e.g., the Anti-Phishing Working Group). On the privacy side, TRUSTE or some groups that use data to provide some type of security. Art. 29 Committee is interested in presenting. Suzanne has placed them in contact with the EU's GAC representatives. Mixed issues presentation might be better format. Perhaps do some reach out in Latin America. There was a suggestion that perhaps smaller African countries could provide a video taped speaker. RCMP contact maybe interested in speaking. Also, we may be able to get high level Canadian government speakers to participate.

Scheduled a GNSO working group one meeting. Australian paper to be discussed. Another issue is new TLDs, even .xxx.

Perhaps a way to focus on mixed program was to structure around case studies.

WSIS: Susan Anthony is covering for U.S. Mike Gallagher is going. U.S. government is of the unwavering belief that we do nothing to undermine the stability and security of Internet.

Discussion about the WGIG report. Positive: do not need new organization to watch and deal with IP rights. Concerned about the WHOIS comments. Do not want WHOIS issues to be used as some sort of "bone" to some countries and we want this carefully watched.

WIPO 2 report. GAC has been hammering away at the WIPO 2 Report. One solution within ICANN is that there is no consensus. Staff has not done anything. Go back to the GAC and report no consensus on whether we need to do and then no idea how to implement. There is a consensus that this should not be done.

.jobs: Brian Johnson

.xxx: John Berryhill

.jobs

Explanation of the purpose of our meeting. IPC just keeping in touch on the development of the new TLD. Brian Johnson VP/General Counsel of EmployMedia. Patent attorney was a Cobalt programmer analyst and was prosecutor and patent attorney from Cleveland. Fours to five years he has been working the principals of EmployMedia. IP protection is very important and has been from the beginning. Society of Human Resource Management (SHRM). SHRM develops policy and EmployMedia implements. The two work hand in hand to come up with policy. Launched with Start-Up Period for trade names. Start-Up ended August 19th. Waiting on VeriSign to resolve technical issues. Continuing to accept applications during this period.

Verification process is used to determine whether application will be allowed. 2.5 months into it received thousands (not tens of thousands) of applications. This number includes all applications. The lion share of applications were from Start-Up period. 85% of them have been accepted.

Process:

Applicant submits name, primary URL, and email address and other information.

Can EmployMedia reach a confidence level that application is legitimate. If yes, accepted. If no, they either deny or get more information. Most abused was monster.jobs. Less than 20 "delta" situations (i.e., multiple legitimate owners). WHOIS availability: .jobs is a thin registry. WHOIS will not be available until VeriSign's name store is up. Presently, EmployMedia will have to conduit for WHOIS information. Registrar echoes certain information to EmployMedia which they maintain. Using a third party to maintain database. At a minimum, EmployMedia will give the registrar. Multiple owners: first step is to contact parties to try and reach a solution by contacting each without revealing the other. Brokered by giving one or the other party a name (generic) to one or the other. Second step, is to get parties to compromise. If cannot work it out, do an internal weighing of which (if any) party deserves the name. Last situation, modified UDRP. Adds additional grounds for parties to file a claim. User-Registrant agreement has strong language regarding accuracy and truthfulness of the information provided in the application. UDRP will allow complainant to step into shoes of EmployMedia and bring complaint based on the contractual provisions between EmployMedia and registrant. Plan to do random verification searches and procedures for third parties to make complaints. They are still taking applications except applications are now awarded on first-come, first-served. .jobs entered the root this weekend. During interim, will be sending the registration daily. Two to three weeks names should be live. Accepted applicants will get two communications 1. Congratulations; 2. You are now live.

.xxx

ICM Registry progression has been staid by the USG. Registrants will be authenticated and if they cannot be authenticated they will not get a domain name. ICM Registry has been around

since 2000. Contemplates two-tiered STOP process whereby owners of “inherently distinctive marks” would have some type of express process. Cautioned against a “famous mark” list. Will put in right of publicity or personality into the policy. Discussion in Luxembourg regarding possible defensive registrations. Will be available during limited launch. No questions asked. Discussion about the possibility of having private reserved list or have a uniform proxy WHOIS template for such names. Modified Stop means that it will really be similar to the previous policy. Modifications would probably be more to logistics than policy itself.

Mike Palage then advised the group on his thoughts on new TLDs. Current definitions of concepts have no meaning. MP is advocating a new construct: “Registrant verified TLDs.” He thinks this will cause downward pressure on how big a TLD can get. For proxy services, registry hold real identified and it is verified. Still thinks there may be a need for unsponsored TLDs. Staff really wants to auction off. MP thinks that ICANN could auction off the Registrant Verified TLDs and in tandem release certain limited number of open-TLDs. Thinks that new registries should put up bond in case business model fails.