



April 2010 Contractual Compliance Newsletter

Purpose:

This Newsletter is to inform readers and encourage community dialogue regarding ICANN's contractual compliance program. For more information please see link to past newsletter archive: <http://www.icann.org/en/compliance/newsletter/>

Internet Corporation for Assigned Names and Numbers

<http://www.icann.org/compliance>

Issue 9—2010 April



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Feedback:

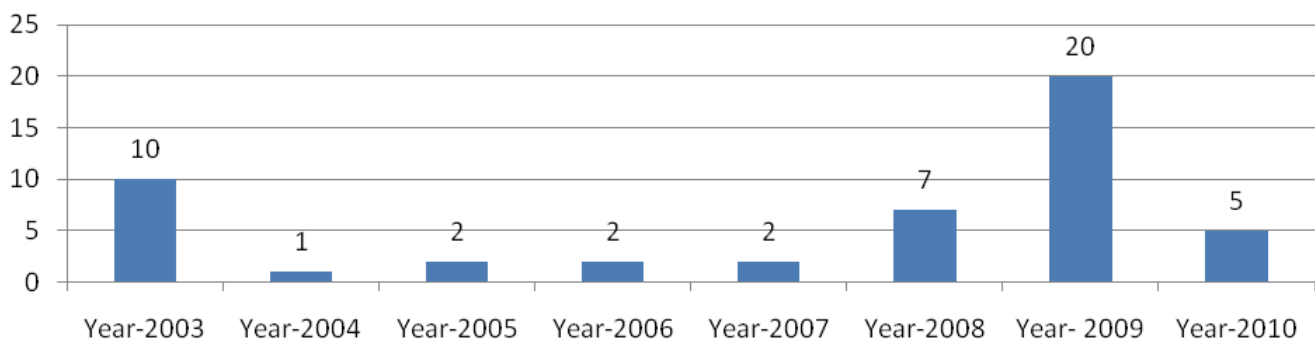
We are soliciting questions/topic ideas that you would like to see reported in future newsletters. Please forward all questions/topic ideas to: compliance@icann.org.

Schedule Change:

The Contractual Compliance Newsletter moved from a monthly to a quarterly publication schedule to provide readers with more information about contractual compliance matters. We are taking the additional time to gather more facts and publish more concentrated issues on a quarterly basis.

1. Recent Enforcement Action Summary:

49 Registrars Terminated or Nonrenewed 2003-2010



Twenty Registrars in 2009 and five Registrars year-to-date in 2010 were non-renewed or terminated for the following reasons: failure to escrow gTLD registration data, failure to pay accreditation fees, failure to provide a

working website, and/or failure to provide Whois services. Please go to our website for more detailed information regarding enforcement actions: <http://www.icann.org/en/compliance/>. ●

2. Registrar UDRP Communications Advisory:

ICANN is working with the Registrar Stakeholder Group to revise the final draft of the Registrar Communications Advisory document. The purpose of the advisory is to enhance orderly administration of the UDRP and assist ICANN accredited registrars in

protecting their registrants. Registrants can lose domain names subject to UDRP proceedings if the registrant is not aware of the UDRP complaint. Upon completion of the final draft, staff will post it for public comment. ●

3. Upcoming Workshops:

Whois Data Accuracy Study Workshop

Where: ICANN's 38th International Public Meeting in Brussels, Belgium

When: 20-25 June 2010

ICANN's Contractual Compliance staff will host a Whois Data Accuracy Study workshop at ICANN's 38th International Public Meeting to be held in Brussels, Belgium 20-25 June 2010.

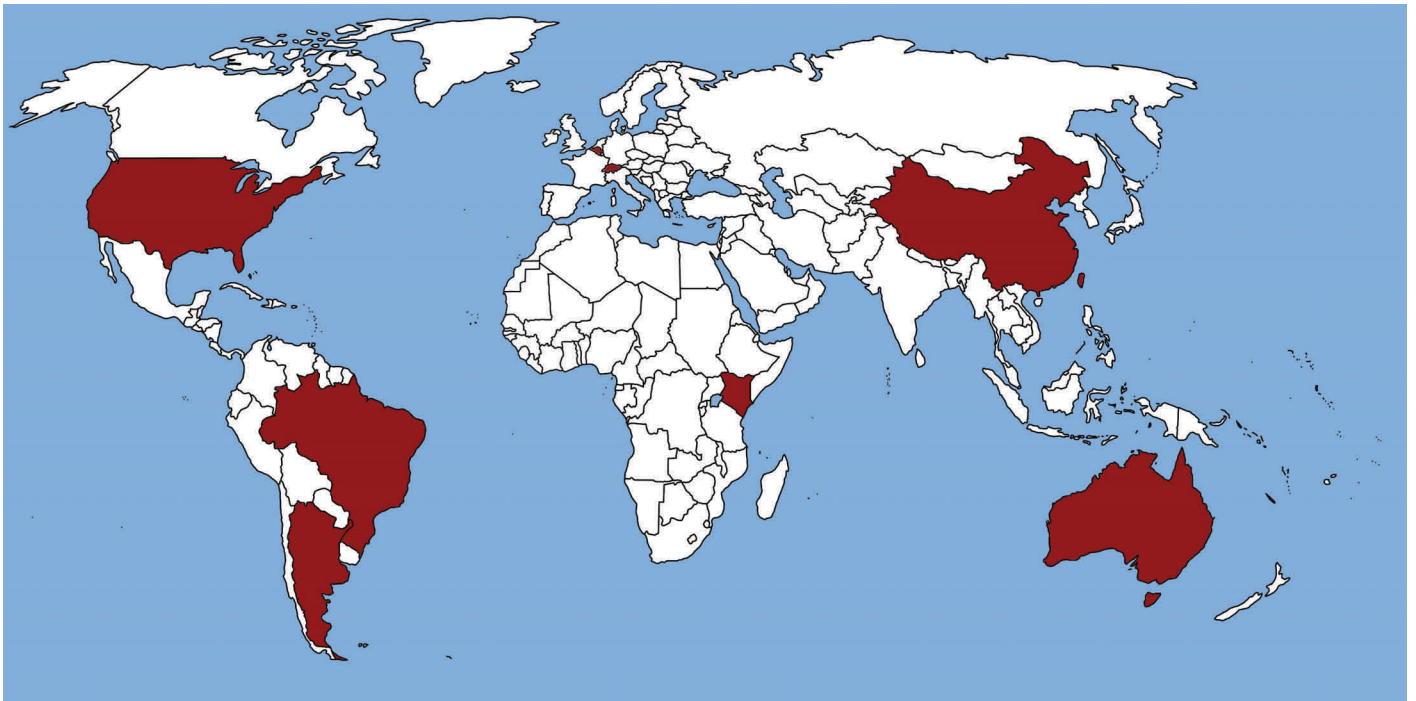
The purpose of the workshop is to provide the ICANN community with an update on the public comments received on the published draft report of ICANN's Whois Data Accuracy Study prepared by the National Opinion Research Center (NORC). Workshop attendees will have the opportunity to ask questions concerning the verification methodology, the domain name sampling plan, and other details relevant to the study.

ICANN, in collaboration with NORC, conducted the Whois Data Accuracy Study to provide useful information to ICANN constituencies and the Internet community regarding the percentage of domain names that contain accurate Whois data. ICANN will

use the study's findings to further inform the internet community, facilitate other Whois related policy work, and improve Whois related compliance enforcement work.

The workshop is open to all attendees. ●

4. Outreach Efforts:



Outreach to Registrars, Registries and Service Providers

The Internet and the domain registration industry are constantly evolving as we see new business models and practices brought about by new technologies or other innovations. Keeping up to date with these developments and gaining practical insight into Registrar, registry and ICANN service providers' operations are essential for effective compliance work. To this end, ICANN's Contractual Compliance staff members are continuing their outreach efforts and site visits to ICANN's contracted parties.

PAST EVENTS:

Europe:

Khalil Rasheed attended the WIPO Arbitration

and Mediation Center Ten Years UDRP: What's Next? held 12-16 October 2009 in Geneva, Switzerland. WIPO hosted the conference to mark the tenth anniversary of the Uniform Domain Name Dispute Resolution Policy (UDRP). The Conference sought to draw lessons from the UDRP experience of the WIPO Centre, panelists, parties, and other stakeholders, with a view to informing similar or other processes in the future of the Domain Name System and in the broader context of intellectual property.

Asia Pacific:

In January 2010, Pam Little, Senior Director, Asia Pacific, visited the following registrars and registries, and an UDRP services provider:

- Melbourne IT Limited, Registrar in Melbourne Australia

- 0101 Internet, Inc., Registrar in Hong Kong
- ASIA registry operator in Hong Kong
- Asian Domain Name Dispute Resolution Centre, UDRP service provider in Hong Kong
- Net-Chinese Co., Ltd, Registrar in Taiwan
- TWNIC, the ccTLD operator for .TW in Taiwan

In addition to the exchange of information and ideas with registry and registrars on compliance practices and challenges, these visits gave Pam a rare opportunity to see firsthand how registrars' on-line registration tools work and how inter-Registrar transfers are effected.

North America:

On 1 February 2010, David Giza, Senior Director; William McKelligott, Compliance Auditor; and Pam Little visited the headquarters of eNom in Seattle to meet with their counterparts at eNom and discuss a host of wide-ranging topics, including consumer complaints handling, UDRP, domains transfer and Registrar data escrow issues and challenges. The eNom team was led by General Manager and SVP, Jeff Eckhaus, and Compliance Director, Carolyn Mitchell. Both teams found the opportunity to meet face to face and exchange information and questions was extremely valuable.

On 4 February 2010, David Giza; William McKelligott; Pam Little; Kent Crispin, Technical Systems Manager; and Tim Cole, ICANN's Chief Registrar Liaison, visited Iron Mountain's offices in Atlanta. During the day-long meeting, ICANN and Iron Mountain reviewed the operation of the ICANN Deposit Audit Service (IDAS) application that was developed by Iron Mountain for the systematic analysis of registration data escrow deposits under the RDE program. The IDAS application is in the process of additional refinements. Members of both teams are working closely to improve the effectiveness of the IDAS application to better achieve the

compliance objectives of the RDE program.

South America:

William A. McKelligott presented an overview of ICANN's Contractual Compliance program at two new gTLD outreach events in Latin America— Sao Paulo, Brazil (24 November 2009) and Buenos Aires, Argentina (27 November 2009).

In both countries, the events were a free, one-day structured presentation of the role of ICANN and the upcoming expansion of TLDs. The goal of these events was to increase awareness about the New gTLD Program in Latin America as captured in the current Draft New gTLD Communications Plan. Additionally, it was an opportunity to increase awareness about ICANN and its role with regards to the Internet.

The events covered topics concerning security and mobile Internet. The purpose of presenting Compliance's program and enforcement activity was to inform future organizations wishing to participate in the domain name space of what tools ICANN has at its disposal to bring TLD registry operators and domain registrars into compliance with their contractual obligations.

Mr. McKelligott also gave a brief overview of the ongoing studies being managed by the Department (Whois accuracy and Domain names registered using a privacy or proxy service) and explained why the community has expressed so much interest in them.

Both events were planned and produced in partnership with local organizations that are part of the ICANN community.

In Sao Paulo, the local sponsors were ABRANET (the Brazilian Internet Users Association), the Brazilian Internet Steering Committee (CGI.br), and the Network Information Center, which is responsible for the dot-br ccTLD. In Buenos Aires, the sponsor was CABASE (the Argentinean Internet Services Industry Association) and

the Ministry of Foreign Relations, which is responsible for managing the Network Information Center for the dot-ar ccTLD.

Africa:

At the 37th ICANN International Meeting, held in Nairobi, Kenya on 7-12 March 2010, Pam Little, Senior Director for the Asia Pacific region, represented Contractual Compliance and made presentations to three stakeholder groups:

- At-Large Advisory Committee (ALAC)
- Commercial and Business Users Constituency (CBUC)
- Registrar Stakeholder Group

Pam's presentations focused on recent enforcement activities, the NORC Whois Accuracy Study, and 2010 compliance initiatives, which include a series of Inter-Registrar Transfer Policy (IRTP) beta-audits that ICANN plans to conduct during the later part of this year.

From the feedback and questions raised during the Nairobi meeting, it is clear that the ICANN community recognizes the ongoing need to have sufficient resources dedicated to implementing a comprehensive Contractual Compliance program. The community also showed a strong interest in the NORC Whois Accuracy Study Draft Report. ICANN plans to hold a workshop on the topic during the ICANN International Meeting in Brussels on 20-25 June 2010. Registrar Stakeholder Group gave valuable and constructive feedback and suggestions on the proposed IRTP audit plan, which have been taken into account and reflected in a revised audit plan.

UPCOMING EVENTS:

Europe:

ICANN's 38th International Meeting in Brussels, Belgium. (20-25 June 2010)

Asia Pacific:

Asia Regional Registry/Registrar Event in Hong Kong. (July 2010) ●

5. Audit Updates:

Registrar Data Escrow (RDE) Audit:

ICANN's Registrar Data Escrow program requires registrars to submit, on a schedule and based on the specifications contained in the data escrow agreement, electronic data files for all gTLD registrations to ICANN's escrow agent, Iron Mountain, or a third party provider, subject to ICANN's approval. The data escrow provides registered name holders assurance that, in the event of a Registrar failure, their domain registration information will be secure. To ensure the data held in escrow could be used to reconstitute registrant contact information in case of a Registrar failure, Iron Mountain conducts a primary and secondary audit of the data files sent by registrars.

Primary audit: Reviews the escrowed data for 60 domain name registrations for each Registrar.

Secondary audit: Reviews the escrowed data for 30 additional domain name registrations

(or if the balance is fewer than 30 domain names, then the remaining domain names in the list will be reviewed).

ICANN, working with Iron Mountain, is continuing to refine the audit process of domain name registration data held in escrow. After Contractual Compliance and others within ICANN finalize plans to refine the program, we will inform the community on the first round of audit reports.

Audit of Registrar's Domain Name Registration Agreements

ICANN has been auditing the registration agreements signed between registrars and registered name holders to determine if they include certain provisions (RAA Section 3.7.7) that are mandatory under the Registrar Accreditation Agreement. The audit will be completed by late summer with results posted prior to the ICANN International Meeting in December 2010. ●

6. Study Updates:

Privacy/Proxy Registration Services Study:

Objective: To determine the percentage of domain names, among the top 5 gTLDs, that were registered using a privacy or proxy service.

Synopsis: Using a sample of 2400 domains names registered under .com, .net, .info, .biz, and .org, ICANN, assisted by the National Opinion Research Center (NORC), matched domain names with their corresponding Whois records and coded the domain names in the sample based on characteristics of privacy or proxy registration service providers to determine if the registered name holder used one of these services when registering the domain name.

ICANN posted the draft report on domain names registered using a privacy or proxy study in October 2009 for a public comment period. The comments received were taken into account and a document summarizing them will be posted shortly. The final report will be posted prior to the ICANN International Meeting in Brussels.

Whois Accuracy Study:

There have been concerns about the accuracy of the information in Whois for some time, although the actual extent of the problems is generally unknown. In 2005, The United States General Accounting Office conducted a Whois study that looked at the prevalence of missing or patently false information and found that approximately 8 percent of Whois records in the top three gTLDs (.com, .org, and .net) had missing or patently false information in the registrant name and address fields.

ICANN commissioned this study to get a baseline measurement of what percentage of Whois records are accurate. ICANN selected NORC, affiliated with The University of

Chicago, to perform this study. The scope was limited to the quality of the Whois information provided by the registrant (as opposed to the administrative or technical contact), since it is the registrant who has entered into a legal arrangement with the Registrar for the domain name.

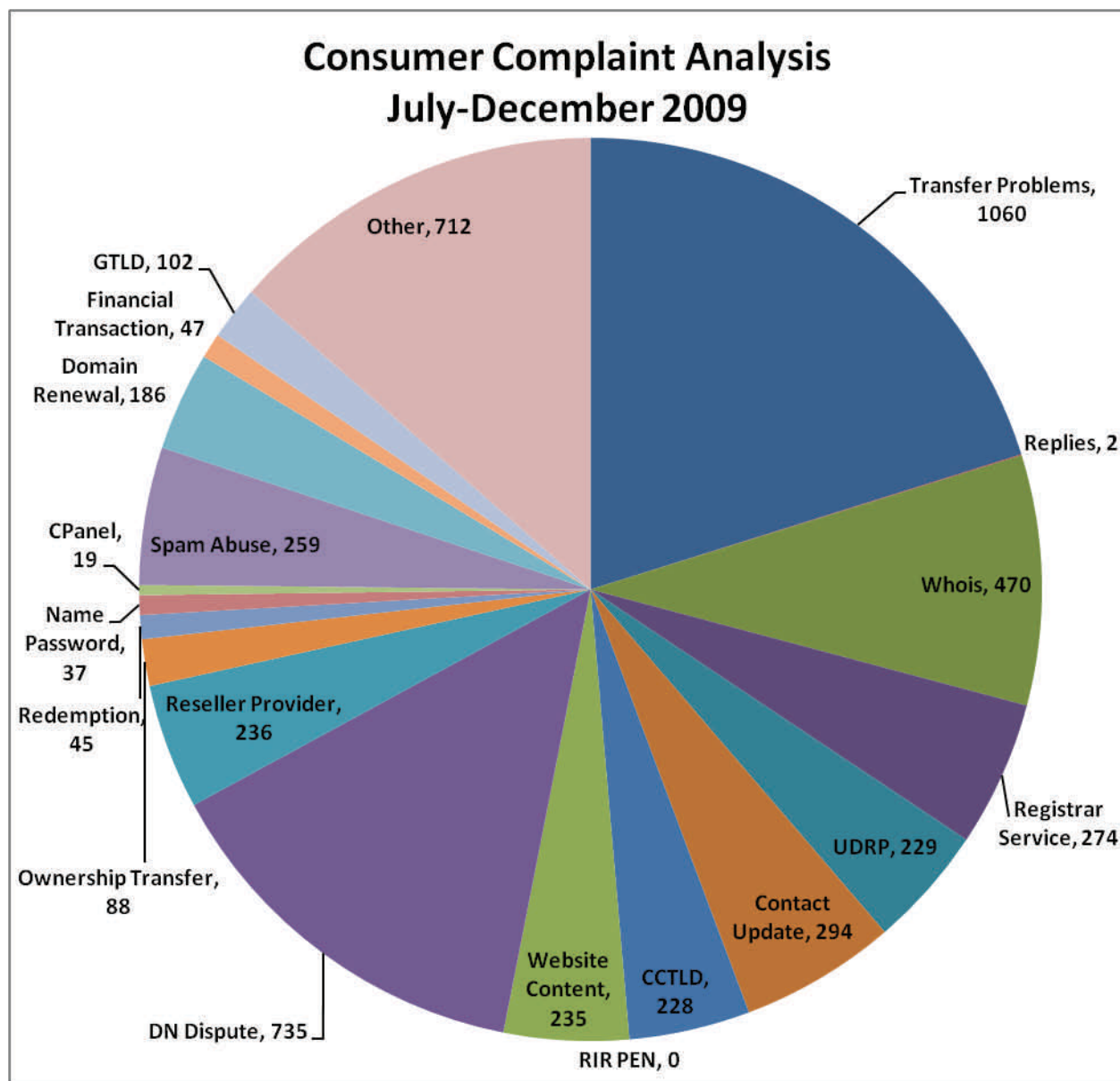
Under ICANN's Registrar Accreditation Agreement Section 3.3.1.6, an accurate name and postal address of the registered name holder means there is reasonable evidence that the registrant data presents the correct name and a valid postal mailing address for the current registered name holder. Adapting this definition for the study, there were three criteria to be met for any Whois record to be considered accurate:

1. Was the address of the registrant a valid mailing address?
2. Was the registrant named associated in some way with the given address?
3. When contacted, would the named registrant acknowledge that they were indeed the registrant of the domain name, and confirm all details given as correct and current?

An internationally representative sample of 1419 records was drawn from the top five gTLDs (.com, .org, .net, .info, and .biz). The address for each selected case was checked against postal records and mapping data for deliverability, searches were conducted in phone listings and other records unrelated to Whois for a linkage between name and address, and contact was attempted with the named registrant using phone numbers obtained during the association process.

NORC prepared a draft report that was posted at www.icann.org for public review and comments through 15 April 2010. ICANN will discuss the report and review the public comments at ICANN's 38th International Meeting in Brussels, 20-25 June 2010. ●

7. Consumer Complaint Update



ICANN receives thousands of complaints each year regarding a variety of domain name related issues. This chart provides details concerning the categories of complaints received. Its data represents complaints received during the first six months of ICANN's fiscal year 2010.

ICANN follows up on all complaints received regarding suspected RAA violations and Registry Agreement violations.

ICANN does not, however, have contract

authority to address complaints regarding content, SPAM, data protection, web hosting, data privacy, and financial transactions.

ICANN forwards complaints to the appropriate parties for handling. ICANN encourages each party to investigate the complaint and report its findings to the complainant and ICANN.

ICANN is working with law enforcement authorities to assist, when possible, in their investigations and prosecution of domain name abuse. ●

8. Contacts

ICANN's Contractual Compliance Team is located in Marina del Rey, California; Washington D.C., and Sydney, Australia.

Our staff includes:

- David Giza, Senior Director, Team Leader, Marina del Rey
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- William McKelligott, Compliance Auditor, Washington D.C.
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- Connie Brown, Compliance Program Specialist, Marina del Rey
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- The Senior Vice President, Services, is also available as a resource for contractual compliance matters:
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