

**.US Policy Council Meeting Minutes**

**December 10, 2002 10:00 am**

**I. Present**

Michael Palage  
David Wascher  
Jeff Neuman  
Jonathan Hudis  
Claudette Tennant  
Jamie Love

**II. Nexus Dispute Policy**

Mr. Neuman began the discussion on the proposed changes to the Nexus Dispute Policy in response to the comments that were received during the November 5<sup>th</sup> through November 20<sup>th</sup> comment period. Several comments stressed the fact that even with the changes, complainants were not likely to bring Nexus Dispute actions against registrants who were potentially violating the Nexus Policy because they had a “cure period”. This “cure period” allows a Complainant to spend the money to bring an action, win the case, but not get to keep the domain name. Therefore, the new draft, which can be found at [http://www.neustar.us/policies/docs/nexus\\_policy\\_pending.pdf](http://www.neustar.us/policies/docs/nexus_policy_pending.pdf) were proposed by Mr. Neuman eliminating the Cure Period.

After a lengthy debate, the following Resolution, Numbered US-0001 was passed by a vote of 6-0.

**Resolution US-0001: Revised Nexus Dispute Policy**

Whereas, the .US Policy Council has proposed changes to the .US Nexus Dispute Policy;

Whereas, these proposed new changes were posted for public review and comment on November 5, 2002;

Whereas, comments were received and posted on the NeuStar.us Website on November 21, 2002 at [http://www.neustar.us/policies/docs/Comments\\_to\\_Nexus\\_Revisions.pdf](http://www.neustar.us/policies/docs/Comments_to_Nexus_Revisions.pdf);

Whereas, the proposed changes were adjusted in response to the comments received during the comment period as attached in [http://www.neustar.us/policies/docs/nexus\\_policy\\_pending\\_rl.pdf](http://www.neustar.us/policies/docs/nexus_policy_pending_rl.pdf);

Resolved that the .US Policy Council adopts the proposed new Nexus Dispute Policy as attached in [http://www.neustar.us/policies/docs/nexus\\_policy\\_pending.pdf](http://www.neustar.us/policies/docs/nexus_policy_pending.pdf); and

Further resolved that the adopted policy shall be submitted to the United States Department of Commerce, as the contract administrator for the .us TLD for its final approval.

### **III. usDRP Reporting Requirements (See Attachment 1 to Agenda)**

Mr. Hudis introduced the following resolution to the .US Policy Council. The motion, seconded by Mr. Wascher is intended to obtain certain data from the dispute providers in order to perform a review of the usDRP process.

Mr. Love questioned why more attention was not being paid to potential first amendment issues and proposed a friendly amendment to the list of questions. Recognizing that the data to this type of question may not easily be obtainable, the question, "*In how many cases was Free Speech/First Amendment/Fair Use raised as a defense?*" was made optional. Mr. Hudis accepted Mr. Love's amendment.

In addition, a friendly amendment was made by Mr. Palage recognizing the fact that providing this type of data may not be inexpensive. In that regard, he proposed that the Dispute Providers submit to the .US Policy Council the costs that may be involved in obtaining such data.

The motion passed with 5 voting in favor and Mr. Love abstaining.<sup>1</sup>

#### **Resolution US-0002: Survey for usDRP Dispute Providers**

Whereas, currently there are two active dispute resolution providers for the .us top-level domain, the American Arbitration Association and the National Arbitration Forum (Dispute Providers);

Whereas, the .US Policy Council seeks to conduct a review of the .us Dispute Resolution Policy (usDRP) process;

Whereas the .US Policy Council requests that certain data be provided by the Dispute Providers to the Council;

Resolved that the .US Policy Council shall request a report from the Dispute Providers containing the answers to the questions posted in Attachment 1 of these minutes by no later than March 31<sup>st</sup>, 2003;

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<sup>1</sup> Ms. Tennant had to step out of the call unexpectedly, but her proxy was exercised by Mr. Reginald Scott, the Office Manager for the Washington, D.C. office for the American Library Association.

Further Resolved that each Dispute Provider submit to the .US Policy Council an estimate of costs to complete the provision of these answers.

#### **IV. WHOIS Data Policy (See Attachment 2)**

Mr. Palage reintroduced his policy proposal on accurate Whois data entitled, “The Importance of Accurate Whois Data in the .US Top-level Domain.” Based on feedback from the intellectual property community, Mr. Palage introduced an amendment to require registrars to take down domain names that contained “facially invalid” Whois information one (1) business day after the registrar receives notice.

This sparked debate from Ms. Tennant, Mr. Love and Mr. Wascher who pointed out that “facially invalid” was a difficult standard to measure objectively and questioned the rationale on why intellectual property owners could not wait the thirty days that were recommended in the rest of the proposal.

Mr. Hudis recommended that the motion be voted on via e-mail after the council had a chance to digest the recommended changes. The .US Policy Council agreed to vote on the proposal within one (1) week of the meeting.

The meeting was adjourned at 11:00 am EST. The next meeting of the .US Policy Council is scheduled for Tuesday, January 9<sup>th</sup> at 10:00 am.

**ATTACHMENT 1**

**REPORTING REQUIREMENTS FOR USDRP PROVIDERS**

1. Number of total .usDRP cases filed.
2. Number of respondent defaults.
3. Number of proceedings held for complainant.
4. Number of proceedings held for respondent.
5. Special problems encountered in administering the .usDRP.
6. Should the .usDRP or its Rules be modified in any way?
7. How many domain names in dispute involve “live sites” vs. how many involve speculators?
8. Is there a difference in outcomes between whether a user is commercial or noncommercial?
9. *In how many cases was Free Speech/First Amendment/Fair Use raised as a defense?*  
[Optional]
  
10. Number of total NexusDRP cases filed.
11. Number of respondent defaults.
12. Number of proceedings held for complainant.
13. Number of proceedings held for respondent.
14. Special problems encountered in administering the NexusDRP.
15. Should the NexusDRP or its Rules be modified in any way?

## ATTACHMENT 2

### **The Importance of Accurate Whois Data in the .US Top-Level Domain**

The accuracy and access of Whois information is a topic of global discussion and importance. Although there are currently underway various initiatives by both the public and private sectors to address these problems, the accuracy of Whois information within the .US top-level domain is of critical importance with the potential launch of a .KIDS.US space. Although the specifics of this proposed “green space” have not been finalized, it is without question that the accuracy of data associated with any domain names registered in this space is of paramount concern.

The Internet Corporation for Assigned Names and Numbers (ICANN) recently launched an initiative to assist third parties and registrars in identifying and correcting inaccurate Whois information. Information about this program can be found online at [http://www.internic.net/cgi/rpt\\_whois/rpt.cgi](http://www.internic.net/cgi/rpt_whois/rpt.cgi). This program appears to have been positively received in the community, as ICANN to date has already received over 2,800 submissions. As with all initiatives, the first 2,800 submissions has identified certain issues that need to be addressed to ensure that appropriate safeguard mechanisms are in place that take into account the business realities of the marketplace to prevent against unintended deletions of domain names.

Listed below are the proposed modifications that should be incorporated into a formal Whois accuracy policy:

- NeuStar will operate a web-based reporting mechanism (“Whois Accuracy Portal”) by which parties can submit inquiries regarding the accuracy of Whois data;
- NeuStar will employ appropriate automated mechanisms to prevent inappropriate submissions to the Whois Accuracy Portal, however, there shall be no requirement imposed on NeuStar to manually review these submissions prior to forwarding them to the registrar of record for investigation;
- NeuStar will approve a standardized Whois Accuracy Inquiry Notice (WAIN) prepared by accredited registrars in consultation with domain name stakeholders regarding inquiries about false or inaccurate Whois data;
- NeuStar shall require that registrars send the standardized WAIN to their domain name registrant after receiving a notification of potentially false or inaccurate Whois data via the Whois Accuracy Portal;
- Registrar or Registrant shall be required to respond to inquiries regarding the accuracy of the Whois data within 30 days (note: this is an increase from the current 15 day time period);
- Registrars shall be required to comply with reporting mechanisms incorporated into the Whois Accuracy Portal to allow NeuStar to monitor registrar compliance;

- Registrar specific information collected from this reporting mechanism shall not be made public, however, NeuStar may provide summary details regarding the success of the Whois Accuracy Portal.
- Registrars that are unable to verify the accuracy of the Whois data or fail to receive instructions from the registrant within thirty (30) days shall place the domain name on hold (i.e. the name is removed from the zone file and it will not resolve) for a fixed period of time (note: the exact time frame is dependent upon NeuStar's incorporation of a Redemption Grace Period into the registry software);
- Registrar shall not remove the domain name from hold status or renew the domain name until registrant has provided documented proof which the registrar shall be required to retain;
- In the situation where the registrar receives a second inquiry regarding the accuracy of Whois data for a specific domain name, the Registrar shall require documented proof from the domain name registrant within the 30 day time frame or have the domain name placed on hold in accordance with the process described above;
- NeuStar shall incorporate into the Whois Accuracy Portal a contractual requirement that third parties submitting Whois accuracy inquiries acknowledge that the submission is not intended to interfere with the lawful operations of the domain name registrant or registrar; and
- The Registrar Accreditation Agreement (RAA) and the Registry Registrar Agreement (RRA) should be appropriately amended to incorporate the following requirements.

This proposal should be immediately posted for public comment pending the approval of the Policy Council and NeuStar.