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ICANN86 Seville | PF – GNSO: IPC Membership Work Session  
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DEVAN REED

Hello, and welcome to the IPC Membership meeting at ICANN86. Please note this session is being recorded and is governed by the ICANN Expected Standards of Behavior, the ICANN Community Anti-Harassment Policy, and the ICANN Community Participant Code of Conduct concerning statements of interest.

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JOHN MCELWAINE

Thanks, Devan, and welcome everyone to this IPC open meeting. Great to see everyone. We got a packed house here. Obviously, we have a little bit of a different setup here, but it's going to work out really well because for this open meeting, we've got a number of really interesting and great speakers here, so I'll invite them up as

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we get to them in the agenda and look forward to a really productive and informative open meeting.

So, as you can see on the agenda, we're going to start with a policy focus. In our closed meeting, we started getting into the policy work and made it maybe through two of the five things we wanted to discuss, so we're going to put that to the end and have maybe even an open, robust discussion of some of the policy work that the IPC is doing.

Simon, I'm going to also move you to the end, and we'll get right into the speakers. So, our first speaker is Jan-Aart Scholte. He's the Chair of the Global Transformations and Government Challenges at the Institute of Political Science and the Institute of Security and Global Affairs for Leiden University. So, Jan, if you're ready, you can come on up here, and we look forward to hearing your presentation.

JAN AART SCHOLTE

Indeed. Surprise, surprise. Good morning. Is that working? Yeah, let's get this up. Yeah, I just want to take you out of the weeds a little bit for a moment and talk about a little bit the longer term and where you and what you're doing is fitting into the development of global governance more generally.

My name is Jan Scholte. I'm at Leiden University in the Netherlands. Those of you who have hair or lack of hair like me might remember me from the IANA transition many years ago. I

was an accountability advisor at that time and did work on legitimacy at ICANN six, seven years ago. I guess I couldn't get enough, so now I'm back. But this time, what I thought I would do is look at multi-stakeholder global governance arrangements comparatively. That hasn't been done before in a systematic, full way. And thankfully, the Dutch Research Council, I'm in the Netherlands now, agreed to fund four of us for four years to do this.

I don't need to tell you what multi-stakeholder global governance is, but perhaps to underline that what you do is rather unique. Normally, traditionally, historically, when people dealt with global problems, they brought governments together in intergovernmental institutions.

With time, this other idea of actually don't bring governments together, but bring representatives of the people who have a stake in an issue together and let them do the governing. It's a very different principle, actually. And if you had told me at the beginning of my career in the 1980s that this would be a major development in the decades, I wouldn't have understood what was happening. So it's been quite unique in that sense.

If you look here, the dark line in the middle of this graph is multilateral intergovernmental governance of problems. This is intergovernmental, formal, treaty-based, etc. And you see that at the 1970s, it's already a prominent way of dealing with global problems. It continues to grow until the mid-1990s. And then, as you see, it plateaus. It flattens off. The global problems don't

flatten off. They become even more intense. So what do people do? They start finding other ways to deal with the issues.

The dashed line is transgovernmental collaboration. This is informal. This is when governments get together, not on a treaty basis and not in formal organizations. Prominent examples are the G7 or the G20. In international law, formal public international law, they don't exist. But of course they do in terms of actual activity. But then the dotted line is you. The dotted line is non-governmental or public-private combinations of global governance institutions. And you see that in 1970, they're almost non-existent. 1990, they're not very much either. But since then, the last 35 years, an enormous growth. If you're really clever, then you see that the dotted line flattens off at the end. And then you look at the bottom and you see that I don't have data for the last six, seven years.

So there is a big question, actually, what's happening the last couple of the last years and what's happening with the multi-stakeholder model. Is it flattening out? Has it seen its day? Or does it go forward? And that's, in a way, what this research is looking at. It's asking what makes multi-stakeholder global governance operate well. More specifically, how far and under what circumstances does multi-stakeholder global governance work well in these three instances? For a stewardship council, global fund to fight AIDS, tuberculosis and malaria, and ICANN.

And in each case, we ask how much capacity do they have? How many resources? How many means do they have? How much effectiveness do they have? How far are they able to deal with issues? And how much legitimacy do they have in the sense of how much approval, agreement, endorsement do they get from both the general public as well as the people who work in the system? Those three things together.

FSC, you might have heard of. The little tree insignia. Yeah, this is a multi-stakeholder arrangement that looks for sustainable forest management. Totally different area from you, but a similar thing in that they have chambers, a social chamber, an economic chamber, an environmental chamber, sometimes an indigenous people's chamber. And they work on forest management, some 300 million, well, they're aiming for 300 million hectares under management across the world.

Global fund, you might have heard of. If I say Gates money, that might ring a bell a little bit more. So this is a multi-stakeholder body where they're dealing with tuberculosis, malaria, and especially HIV AIDS. Interesting thing with the global fund is that half of the Board are government representatives and governments vote. So very different from ICANN in that sense. Oh, and by the way, FSC doesn't have any governments anywhere formally, not even a GAC.

And then ICANN, I don't need to introduce to you. Anyway, so we're looking here at three different policy fields. Three instances of very

well-developed, large, and by general acclaim, successful global multi-stakeholder arrangements. So we thought if we compare those three, maybe we find out some things about what makes this work. And if indeed, the long-term trend of multi-stakeholder threatens to plateau or even go down, then hopefully this research gives a few answers of what might be done to resist those tendencies.

Our idea is that capacity, effectiveness, and legitimacy feed into each other. That's fairly banal, I guess. I don't have time in this short presentation. If we have a few questions afterwards, maybe I can go into it. But we look at capacity in a multi-dimensional way. So capacity isn't just the numbers of people and the amount of money that you have, but also the legal arrangements that are in place, the organizational arrangements that are in place. The ideational, maybe that's a little bit more elusive, but successful governance arrangements often have, for example, language that rallies people.

So in ICANN's case, if you tweak the security discourse, security, stability, resilience, for example, or you tweak the global public interest type of language or human rights, then the kind of language tends to attract people if you're successful at that. There's also things of affective bonds. We've noticed that in the successful global multi-stakeholder arrangements, people tend to have quite a personal investment, quite an emotional investment. We did a number of interviews in the past, and the number of people who would get emotional in the interviews, even cry, was

also interesting. But of course, emotional attachment is something very important too.

So we're looking at capacity across the Board in these various ways. We're also trying to be systematic about how we talk about and discuss effectiveness. So part of the effectiveness is the processes that are used. Part of the effectiveness is whether those processes actually lead any outcomes or outputs, decisions and the like. I'm sure you know the complaint at ICANN, sometimes we talk a lot, but not much comes out. So that's the output sort of measure there. And of course, you might have an output, but then you don't implement it. So you have lots of ATRT reviews, and you get piles and piles of recommendations, but don't implement them. Well, that's kind of what that gets at.

Then whether there are effective review processes, evaluations and the like. And then finally, whether you make a difference, impact. If ICANN didn't exist, would the world look different? I think it would, but establishing exactly what that is. So we're comparing across the three.

And then legitimacy, levels of approval for ICANN and the other bodies. In some preliminary research and earlier research, we actually find that legitimacy beliefs towards ICANN and towards FSC and towards the Global Fund rank pretty evenly with multilateral institutions. So if 30 years ago you thought, oh, no one thinks we're legitimate, we have to fight for our legitimacy, that's today not quite as much the case. Not saying that everybody loves

you, but compared to other global governance arrangements, it's actually pretty even.

So that's about it. We'll look at the interrelationships between them. This is all the boring academic stuff that is much less fun than giving presentations. And then again, what we do at the end, hopefully we can help in policy terms with developing key concepts better. So when you say effectiveness, what do you actually mean? When you say we need more capacity at ICANN, what kind of capacity do you actually need?

If you say, oh, ICANN is legitimate or not, we can actually give you data to show in which regions and which social groups and which stakeholder groups you actually have the strongest or weakest legitimacy. So with that kind of data, hopefully it's helpful. And we'll compare across. Again, it's amazing to me that 35 years of accelerated multi-stakeholder global governance has happened and nobody's actually done a comprehensive comparative study across policy fields. So that's high time. Yes, that's it for me.

JOHN MCELWAINE

Thanks. Yeah, we do have some time for questions. So Jan, over to you.

JAN JANSSEN

Thank you for this enlightening presentation. I have a question with respect to, you say, ICANN has its legitimacy, but there are different chambers as well to ICANN. ICANN has a contractual role

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of keeping the registries and the registrars in check, and there is a policy below that. And so a lot is regulated through the contracts, but then you have also the policy aspect.

And I was wondering if your study also goes at some of the underlying community aspects to see where the challenges lie for ICANN keeping that legitimacy, where it needs to do some capacity building. Will there be a follow-up that goes to the study that takes a more granular approach of the organizations? And not only ICANN, but that was, yeah, that's basically it.

JAN AART SCHOLTE

Yeah, if I understand the question, the observation that ICANN is a policy process, but it's also a contractual relationship, and the two are running in parallel sometimes and sometimes also separate. This is true at the FSC as well, or Stewardship Council. They also have relationships with contracted parties in the forest people, the forest managers. So there is sometimes a tension there too between the policy process, all the civil society groups and academics and other business groups and the like that want to have a say. And then there's kind of this deal being going on behind the doors. So that's rather similar.

At the Global Fund, it's more relationships with governments. So as much as there's a contracted party, it's a government that receives money. So that's, again, a different kind of issue. But in all of those three, yes, some people raise concern that the multi-stakeholder process is a kind of something that is done when

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there's time and when it's nice and when it's not too conflictual. And when it comes to the real nuts and bolts of the big deals and the big money, then it's done in another room, if that's what you're getting at.

JOHN MCELWAINE

Any other questions? Yes, Rick.

RICK LANE

A very interesting presentation. So thank you. When you're looking at the traditional international organizations and it flattens off, that's because there's only so many governments. They're not increasing governments, maybe a little bit around the edges. But the multi-stakeholder, it depends on what size is the multi-stakeholder so that it can have a bigger number.

But then what would be really interesting is to see the processes that are in place in the multi-stakeholder, like ICANN, where there's policy processes that may go on for decades. And sort of the UN or the ITU or WSIS, for example, where they had a set date and a report that came out. And so the effectiveness of the multi-stakeholder process and also the time commitments.

One of the big things why we have elected governments is we don't all have time to read every bill and vote on everything at the local, state and federal levels or international levels. Here at ICANN, there's a lot of time invested, but it seems not as much output as maybe some of us in this room would like.

JAN AART SCHOLTE

I mean, on the time efficiency aspect, be assured you're not alone. One here is the same and one here is the same in the other policy fields. I think multi-stakeholder consultative processes take time. If you want to do things fast, then have a trade association like many of the financial market organizations do. They don't bother with all of this. They just say, okay, you want rules for money laundering? Okay, Wolfsburg Group, Big Eight, Global Banks to get together and make the rules, we're done.

Or you can do unilateral or bilateral or mini-lateral intergovernmental things and you bomb Iraq or Iran or something, and that's also very quick and efficient. It takes time. Yeah, it does take time. Whether people have the resources and the patience to see that through. But remarkably, look at you here. It's nearly 30 years and you're all still filling the room. Apparently, enough people think that this is a good way of doing things.

RICK LANE

But people have an economic interest in filling the room, a lot of them. And those who would love to participate are on the Zoom call now trying to participate. And it's not as effective as being in the room. So there's an advantage of having a lot of resources to come and participate. So it's only those who have can and those who have not cannot. And I think that's part of the problem. And

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some may argue that ICANN is now a trade association, but that's for another day.

JAN AART SCHOLTE

Well, yes and no. When we looked in earlier work at what were the grounds for legitimacy, so on what basis did people give their approval to ICANN? For some, it was, yes, my interest is served. And that was part of the equation. But actually, many of the drivers of legitimacy beliefs were procedural. So democratic, do I participate? Is it accountable? Is it fair? And so on.

If you made things unfair, the legitimacy went way down. If you made things non-participatory, legitimacy went way down. There was also a lot of belief in the purpose of what ICANN does, building the internet, the one world, one internet kind of idea. If you took that away, again, people's legitimacy went way down.

So I take your point. Yes, of course, at some point, it's people's bread on the table. So that is part of why they do it. But there are lots of ways to put bread on the table. So you could do it, and probably with much less jet lag and other things, you know, but then coming here. So I think you're right, but there's more to it than that.

JOHN MCELWAINE

Okay. Well, Jan, thank you very much for the presentation. Really appreciate the opportunity to hear you. Okay. Moving on in the agenda, our next guest speaker is Anne-Sophie De Brancion, who is

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the Policy Advisor for the European Observatory on Infringements of Intellectual Property Rights. And you all might recall that Anne-Sophie spoke to us about a year ago at one of our meetings, and we're excited to have you back and give us an update and tell us what you've been working on. So thank you.

ANNE-SOPHIE DE BRANCION

Thank you very much. Now I'm all set. I'm going to stop breaking things. Thank you, John, for the invitation. Indeed, it's a pleasure to be back after our previous exchanges in June in Prague. And I will, yes, indeed, tell you about some recent developments at the EUIPO that concern more or less directly domain names, because if you could change to the next slide, please. And the EUIPO is, as many here in the IPC know, is the European Union Intellectual Property Office for Trademarks, Designs and Crafts and Industrial GIS.

We're a decentralized EU agency based in Alicante. And there's a department within this EUIPO which looks at infringements of intellectual property rights, which is basically the secretariat, if you like, for a network of stakeholders, which include the member states of the European Union, private sector representatives, as well as civil society representatives, consumers. And we work with many different parts of the European Commission, EU agencies, international organizations.

I'm not going to go into the detail of how we're organized, but next slide, please. But together with this – could you please, Devan,

change to the next slide? Thank you. Together with our network of stakeholders, we work in three main areas. The first is to provide evidence and data to help EU policymaking relating to IP enforcement. The second is to provide tools and knowledge to support enforcement of intellectual property. And the third one is to raise awareness of intellectual property and the negative consequences of IP infringement.

And something which is not illustrated on this slide, but a recent development within the activities of the Observatory, is that about six months ago, we launched an EUIPO Copyright Knowledge Center. Although not directly domain name relevant, it's a big development for the EUIPO, getting more active, trying to bring together information, tools, and community discussions on copyrights. Next slide, please.

I would like to highlight one particular work stream that relates to supporting enforcement online, because intermediaries have a central role to play in enforcing intellectual property online. And we have a work stream that for the past few years has been looking at the existing practices of intermediaries in different sectors, and how these intermediary services are misused to infringe intellectual property, and what good practices are in place to try to mitigate this.

We started actually with domain names, which you can see in the top right-hand corner in 2021 with the discussions paper specifically on domain names. And since then, we have looked at a

lot of different intermediaries, which you can see pictured here. Currently, we have a new work stream on hosting and related services. This could be, to some extent, relevant also in a domain name context. We're just starting. We're aiming to have first outputs by the end of the year. And of course, this is not focused on the DNS level, but we get feedback that there is some misuse, some abuse of the system of IP address allocation and ASN allocation. And we'd like to explore this.

This work goes through, we have an expert group on cooperation with intermediaries, where we recruit different experts depending on the area that we're looking at. So, we have already recruited some relevant intermediaries in the hosting sector, and we feel that we're pretty well covered, but we're always interested in receiving input. So, in this discussion on misuse of hosting services and related services, and the question of IP address and ASN allocation misuse, if you have any input there, it might be interesting to hear.

So, we've been looking at these different intermediaries, and we've kind of gone full circle also, given that we've chosen this visual, and now we're looking at a more transversal approach. So, not looking at more and more sectors, because we feel that we've covered a broad variety here, but more updates what we see. And so, we're working on a repository of online IP threats and intermediary existing practices that we'd like to update on a regular basis. And this will also be used to support the implementation by the European Commission of the Digital Services Act. Yes.

UNKNOWN SPEAKER

Just looking at this slide, I don't see any cooperation just on the current slide. Don't you have any cooperation with experts in cybersecurity? Because, for example, I see, for example, you have e-commerce, and of course, e-commerce includes the supply chain system and everything, right? So, I haven't seen, for example, a cooperation in cybersecurity.

ANNE-SOPHIE DE BRANCION

Well, I think that cybersecurity is a component in a lot of these steps. But given that, I guess one could look at cybersecurity services as well, but it's not what has been picked up by our stakeholder community so far as a dedicated focus area. But of course, there are always cybersecurity considerations that are part of these discussions. That helps.

UNKNOWN SPEAKER

Thank you. I'm just curious, has there been any discussion of content delivery networks like Cloudflare, which has been subject to certain injunctive relief things in Europe, and also more recently, virtual private networks? So, I was curious whether those have been coming to focus?

ANNE-SOPHIE DE BRANCION

Yes, I think that this has been discussed particularly in the context of our work on live event piracy, because we have a whole workstream also on this, and as part of supporting the European

Commission on their recommendation on live event piracy. And I think that CDNs are also going to come up in the discussions on hosting. Thank you. Next slide, please. Well, if you could please change, yes, wonderful, thank you.

So, the reason why I'm here is because for the past few years, the EUIPO has been working to support the European Commission's engagement in ICANN. This is something that has been welcomed by the Commission, because they have to follow a lot of different workstreams here at ICANN, and have limited resources to follow the IP enforcement aspects in detail.

To support, we've organized several rounds of consultations of observatory stakeholders to send inputs ahead of ICANN meetings on IP-relevant points on the GAC agenda. Actually, recently, there haven't been that many sort of explicitly IP-related GAC points on the agenda, even though, of course, some of the DNS abuse discussions or registration data discussions remain very relevant, of course.

It's a privilege for me to be here today again, and it's also an opportunity for me to join the EU coordination meetings around the ICANN. We're also exchanging with the Commission on how we can support the new gTLD round, and how we can support the assessment of new strings, potentially, as regards conflict or similarity with existing trademarks or GIs. And, of course, we work closely with another part of the European Commission, DG Grow,

which is the mother department of the EUIPO, on the follow-up to the anti-counterfeiting recommendation. Next slide, please.

I will pass on this quite fast, because I already presented it last year, but in March 24, the European Commission adopted this recommendation, which addresses both authorities, rights holders, and intermediaries, and some specific recommendations to social media transport, payment, and domain name service providers.

Here, you can see listed on the slide the good practices that are recommended by the Commission, relating to terms and conditions, links to IP registers during the registration process, verification procedures for registration data, detecting incorrect registration data, and the suggestion, recommendation, to recognize as a legitimate access seeker the requester of information under the IPRED right to information.

These recommendations actually flow quite a lot from the 2021 discussion paper that we made, because we were involved throughout the process, so there's some good synergies here.

In the recommendation, the EUIPO is also encouraged to extend the current information and alert system that we have developed together with EURid on trademarks to GIs, and we are involved in dissemination of this recommendation, which is what I'm doing now, and in monitoring the follow-up. We are monitoring the impact of this recommendation, and this will feed into the European Commission's assessment of the recommendation by

spring next year, and in particular, I was referring to this, we will monitor existing intermediary practices, and this repository that I was talking about will be a key tool in this context. Next slide, please.

I was talking about the fact that the recommendation suggests that we extend our information and alert system that we have with EURid to GIs, so I wanted to talk about our cooperation with EURid more broadly. This is something that is managed by a business development department.

It revolves mainly around training, awareness-raising around the interplay between trademarks and domain names, but there is also a technical cooperation aspect, which relates to this trademark and domain name information and alert system, where when you file an EU trademark application, you're offered the .eu domain name matching, and when doing a WHOIS search for a .eu domain name, the results will indicate whether the European trademark is already registered with a link to the EUIPO, and then there is an alert system when a .eu domain name is registered that matches an existing trademark.

On the subject of the information and alert system more broadly, you may know that a similar system for geographical indications and crafts and industrial geographical indications is being considered in EU regulations. This is something that we are in exchange with the European Commission about, and exploring the expansion is also something that is part of our strategic plan.

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Another recent development is that in the past six months we launched a new pre-assessment tool designed to help users identify potential issues with the trademark that they're considering applying for. This is a tool to detect problems early to have a less error-prone application process, and specifically apart from checking some trademark distinctiveness and descriptiveness aspects, it checks .eu .org .com and .net for any existing trademarks that are identical or very, very similar to the trademark that you're considering applying for. This is another development. And if I have another, how many minutes do I have? If I have a little bit. Yes, please go ahead.

UNKNOWN SPEAKER

I'm so sorry, but just another question because that's very interesting. With the early trademark screening, was EUIPO something that was negotiated with VeriSign for .com and .net, and did they cooperate with you, or is that just something that EUIPO was able to do on its own by observing the new domain name registrations?

ANNE-SOPHIE DE BRANCION

It's the latter. It's something that we're able to do by accessing publicly available lookup tools.

UNKNOWN SPEAKER

Okay, thank you so much.

ANNE-SOPHIE DE BRANCION

Next slide, please. I also wanted to take this opportunity, and as suggested by Marie, who is well aware of these activities and thought that they might be interesting to you, I wanted to take this opportunity to tell you about our anti-scam activities, and my legal department colleagues have briefed me because they are very happy to have this opportunity to inform the ICANN community on our work in this area and the challenges that we encounter.

So, the issue is bad access, impersonating IP offices, requiring payment of, well, fictitious invoices, playing on the fear of losing your IP right, and EUIPO has established an anti-scam network to coordinate activities against these senders of misleading payment requests, and it brings together national regional IP offices from the European countries, the EPO, WIPO, Europol, Eurojust, and several user associations. There's been a number of attempts to -- well, there's been a number of legal actions, including two successful cases, and a landmark case in which basically a national court ruled that this kind of activity is criminal fraud, not just a misleading offer.

We've been reporting and requesting takedown of domain names registered and used in bad faith by scammers. We have an agreement with the cyber security service of the EU institution, CERT-EU, that provide brand protection in a very narrow sense, but it really has to be EUIPO. So, this is about the enforcement of our own name in the domain name space, but the easy cases for

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takedown are very, very rare, because ? it's a lot more sophisticated than just an identical domain. Next slide, please.

Some of the trends that we've seen are, for example, using a free mailing service on minister.com, using this confusion that minister is probably something official and coming from a public administration, requesting payment for registration in TMView. We're also seeing, and this echoes to some extent what we heard yesterday in the session on AI, that there is some new use of AI changing the fraud trends, but at the moment it's not so much about generating websites and registering domain names, but it's about AI used to impersonate voice calls to give more legitimacy to the request.

And the challenges, the difficulties reported by my colleagues to take down the domain names are indeed this difficulty to mobilize CERT-EU, except in very, very clear-cut cases of identity or almost identity with our name. Either we don't receive replies to a takedown request to domain name service providers or registrars, or we just receive a template reply because there's no judgment. My colleagues say that they have stopped referring to UDRP conditions and refer to phishing instead, so that's the difficulties that they encounter. Yes.

UNKNOWN SPEAKER

I'm so sorry, I hope you don't mind all the questions. Has EUIPO considered possibly registering as a trusted flagger under the Digital Services Act? Because my understanding is if you're a

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trusted flagger, they have to respond to your notifications and remove the domain names or do something more than just not respond.

ANNE-SOPHIE DE BRANCION To my knowledge, this has not been considered, but also we would have to get appointed. We couldn't just register, so I don't see this really being on the cards, but it's an interesting question.

UNKNOWN SPEAKER My understanding was that organizations can apply and then the Digital Services Coordinator for each member state has to agree to appoint it, but my understanding is you don't have to wait to be appointed.

ANNE-SOPHIE DE BRANCION I don't think that it would be appropriate for us to play this role. I feel out of my depth, I don't even want to go there, but I don't think that it would be suitable or appropriate for us to have this role. However, we do have a role in supporting the implementation of the DSA, providing IP expertise to the Commission, but that's a completely different aspect. Yes?

MARGIE MILAN Regarding the fraud trends, have you or your organization seen difficulties in getting access to the registration data to find out who's behind these fraudulent attacks?

ANNE-SOPHIE DE BRANCION      So, sorry, difficulty getting access?

MARGIE MILAN                      Have they made information requests from the registrars to get information?

ANNE-SOPHIE DE BRANCION      Yes, I believe they have, and they have had a lot of difficulty getting any information back as long as there was no judgment, basically.

MARGIE MILAN                      Yes, thank you.

ANNE-SOPHIE DE BRANCION      Yes?

RICK LANE                              So, a while back, I wrote a piece on cyber scam networks and the weaponization of domain names, mostly around AI and the impact and the national security threat that this is going to cause. One of the things, the trends that is coming is sort of scamming as a service, where you're able to bundle domain names, websites, and agentic AI to go out and use name, image, and likeness, the NIL problems, all in one package. So anybody, you don't have to be sophisticated. It's sort of like what we're seeing with sextortion of

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children around the world. It's not sophisticated individuals with massive computer power. They just have the tools to do it.

What proactively are you looking at? Because once the scam happens, you never find people are losing their life savings in this, using domain names that are trademarked and all the other problems associated. Are you looking at how we can be more proactive working within ICANN? Because right now we're blocked because of the dark WHOIS, and it's getting worse and worse. What steps are you doing to help alleviate the dark WHOIS, as well as being proactive in figuring out how we stop this from occurring before it happens?

ANNE-SOPHIE DE BRANCION

And I guess at this stage, I can say that my colleagues from the legal department are looking at what we could do further. And there are some connections starting to be made here with me coming with also our next anti-scam network meeting involving bringing in some experts to talk about domain name specific dynamics. So it's yes, indeed. And you yourself, will you be there? Yes. And even better. So, yes, it's work in progress, but I think that's within ICANN, our engagement so far is still in its early days. Next slide, please. Yes, sorry. Marie, go ahead.

MARIE PATTULLO

Thanks, Anne-Sophie. For those of you that don't know me, I'm gate crashing. I'm from the BC. But in my real life, I work for AIM,

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the European Brands Association. So I work with Anne-Sophie pretty much every day. If I can add a little bit of information, if that's okay about the anti-scam network.

ANNE-SOPHIE DE BRANCION      You're actually more involved than me directly.

MARIE PATTULLO      Thank you. First up, if anybody, and you all do, all of you and your clients receive emails every day asking you to renew a trademark, to register a trademark from something that looks like it is an official IPO, and we all know it's not. Everybody in this room knows it's not. Your finance departments do not know it's not. Your small clients do not know it's not. Should you receive any of those scam invoices, don't pay them, number one. Number two, if possible, please retain the email. I'll share with John afterwards the address at the EYPO because they maintain a repository. And the idea is that the news can get out. So if it looks like this, for heaven's sake, don't pay it.

Now, at the moment, of course, all of the IPOs themselves are battling against fraudulent, not just invoices, but as Ann-Sophie is saying, spoofed email addresses. And oh my goodness, they're claiming to be me, which is why at the upcoming meeting in October, we've got Clean DNS going to talk to them. I've spoken both with Alan and with Chris, who I think are not going to be physically there bearing in mind it clashes with the AGM.

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But it will be an online presentation. If you want to know more about it, please come and talk to me or to Ann-Sophie afterwards. But John, I would be grateful if you spread the word that if you get these alerts, please let the EYPO know because then they can do something hopefully together. Thank you.

JOHN MCELWAINE

Yeah, I will send that out to the IPC list because I have seen that just with some of my clients that have European trademarks. John.

JOHN

Thank you very much for that. On this particular slide, I was particularly interested in the second point on the right-hand side about the no responses from the registrar and host service provider. When you get a no response or an insufficient response or maybe a response but not enough information to correct the information, have steps been taken to elevate that, for example, reporting that to the ICANN abuse reporting system or something like that? Are you aware if there's been like another layer that's been taken? Thank you.

ANNE-SOPHIE DE BRANCION

I'd have to double check with my colleagues, but I'm not aware that this is a step that has been taken. Yes, sorry, if you could please go to the last slide. Basically, this brings me to the end of the presentation. So I've given you a little bit of an update on different recent developments within the EYPO and the observatory that

could be of relevance. We would be interested in any input or expertise on our ongoing work on hosting services, on our work on doing a repository of online IP threats and observed intermediary practices.

I didn't put this as a specific follow-up, but indeed, as regards IAM2SCAN activities, any information that comes back to us would also be useful. And otherwise, we will continue our work on raising awareness of the interplay between trademarks and domain names. Especially with smaller companies, promoting cross registrations and also raising awareness of the risk that you need to take both parts into account in your strategy to promote better registrations, unintended overlaps and prevent avoidable issues as well as misuse. And yes, we'd love to continue to engage with you. Thank you for the invitation on any further initiatives to improve the interaction between the two.

JOHN MCELWAINE

Thank you. We really will take you up on that to continue to engage. I mean, this room, as you can tell from some of the questions, has the expertise that you're looking for to deal with these scams and online fraud, whether it's at the hosting level or at the domain name level. You've got a really, really great group internationally here to help out with that. So thank you for coming out.

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ANNE-SOPHIE DE BRANCION Thank you very much.

JOHN MCELWAINE Okay. Thank you. Margie, you want to come on up to the DS and we can hear? Yeah. Come on down.

MARGIE MILAN Hello, everyone. I'm Margie Milan. I'm the policy coordinator for the IPC. For the next 10 minutes or so, we want to talk about some topics that are top of mind for the IPC and make this an engaging discussion to get feedback from you all. Yesterday, or at least in our closed session, we talked about the SSAD and the DNS abuse mitigation. So I don't think we'll really talk about that here because that's an ongoing discussion and a lot of that is public and our representatives are doing a great job on that.

The first topic I think we want to talk about is compliance related and get some feedback for how the IPC members feel that the compliance efforts from ICANN are in dealing with some of the WHOIS issues. And John, I know you've done a lot of work in this regard. Do you want to kick it off by talking about some of the experiences you've had and issues you think we should focus on?

JOHN MCELWAINE Sure. You know, back in the day, I did file a few compliance requests and it has only been since the recent inaction of the registration data policy that it really made sense to start doing that again. And so the registration data policy is the implementation of

the first part of the EPDP concerning the registration data disclosures. And it has some just basic measurable objective aspects to it.

For instance, all registrars must have a link on their website to a form where you can submit an RDRS request or registration data request. And we're not seeing great compliance with that. I filed a compliance complaint against one registrar whose their alleged link on their page was a link to their terms of service, which was 65 pages long.

In that terms of service, in one section had a way to, you know, a blurb about how to get a registration data request submitted and then had to go to their DMCA contact email, which was another 40 pages down in the document. I was able to find it, but, and most of the folks in this room could do that, but no average consumer is going to be able to find that. So those are the types of things we need to be looking for and sort of surfacing at the IPC level to try to get better compliance with these really basic situations that will help get registration data.

Another example was that I'd submitted a registration data request for some DNS abuse, trademark infringement related DNS abuse, and got a response back, denied, you have to have a court order. Well, that's not what the registration data policy requires. It requires the registrar to undertake a balancing test and then just give you a disclosure back of something in writing back saying, this is my rationale for denying it.

Well, the rationale just can't be you have to have a court order because that's not the case. So that's another good example of a compliance complaint. That one was filed and the registrar actually did contact me and say, you're right, my bad. Here's the information.

And then there's also just the, there's basic timing requirements. They have to respond within two days, acknowledging the request in 30 days. So it's worthwhile read the registration data policy. I think we presented on it a couple of meetings back, but it's good to start surfacing that on the IPC calls. We've got a list. I put a summer intern on looking at a number of the registrars and kind of going through with, again, these are all objective criteria that you don't have to go to law school to determine. So we're starting to measure all of that.

And just to preview, we're in the meeting with the contracted parties house on Thursday. We're going to bring up the whole issue of what are your best practices? This isn't going to be a name and shame type exercise because most of those folks in the room are doing it. But what are they doing to kind of get out this information to other registrars to comply? So that's what's going on in the compliance area.

MARGIE MILAN

And Mark.

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MARC TRACHTENBERG      So, John, in your complaint to compliance, did compliance take a position on whether it was permissible for a registrar to have a subpoena or court order only policy?

JOHN MCELWAINE      Yes, that was the, that they did not go through the process of doing a proper analysis, balancing test. You just can't say denied. You need a court order. That's not a proper balancing.

MARC TRACHTENBERG      But so I guess just to further drill down, if the registrar had said it did a balancing test, right? ICANN would not have looked at what that balancing test was, right? They would have just accepted at face value the registrar's assertion that it did the balancing test. To clarify.

JOHN MCELWAINE      Yeah. So to be clear, I'd never got a ruling from ICANN compliance saying that was not a proper response. And so to your point, there has to be some balancing that goes on. But I think it does illustrate that if you file a compliance complaint, takes it up to maybe the legal counsel level and they'll do the right thing.

MARC TRACHTENBERG      But I was just trying to explore, I think from the registrar perspective, the way they could avoid the obligation is by instead of responding that they only provide the request in response to a

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subpoena, if they just simply respond that they did the balancing test and sorry, then probably there would not be a compliance issue. I'm not saying they're complying with the spirit of the RDP. I'm just trying to play this out to see how they may adapt in the future.

JOHN MCELWAIN

You are correct. Well, if you look at the RDP, it does say they have to provide a reasoned response so that you can understand why they say, they can't just say apply the balancing test denied. They need to explain what they balanced, what law they applied to come up with that. And we're going to start seeing some of that additional policy get developed in the SSAD literally at the next meeting that we have, which I think is tomorrow where we're talking about what's a proper response and sort of process that the registrars must go through in doing that balancing test.

MARGIE MILAN

David, go ahead.

DAVID HUGHES

And John, so are there any consequences of their initial response? Is there any kind of compliance wrist slapping or anything? Or are they just going to keep doing it over and over and over?

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JOHN MCELWAINE

I mean, I do think if they're over and over in getting the same compliance complaints and then getting wrist slapped by ICANN compliance, I would hope that there would be some repercussion from all of that. But folks that know that aspect of the compliance and registry agreements could probably answer it better. But I think it's going to take a number. You're right. It is an uphill battle.

MARGIE MILAN

The one thing I wanted to bring to the IPC's attention is the advisory that was published in May. Did any of you see that? I'll put it in the chat. But it talks specifically about what the registrar requirements are related to facilitating email communication to the registrant. And it was actually when I read it, I was pretty surprised because I thought it took a very conservative view and made it very difficult for requesters to get information because essentially the advisory says something to the effect of -- and I think the question had to do with the utility of a web form.

And what the advisory says is while the policy requires a web form facilitate email communication with the relevant contact, it does not have an explicit requirement that the registrars provide a free text option or forwarding capabilities as a means of facilitating that communication. So it's interesting because if you want to send a communication to the registrant, there's no obligation in the policy to forward it according to ICANN's own interpretation in the advisory. And I find that quite startling because if there's no way to

get a hold of the registrant, then how do you deliver your requests and make your arguments that there needs to be data provided?

And Marc, I know you were speaking with compliance about advisories. Any updates on that or what is your reaction to the advisory that was published?

MARC TRACHTENBERG

So I actually have another meeting with compliance at 1 p.m. today to go over the list of process friction issues that registrars create. I added a number more from some suggestions that other people provided to me and that I experienced as well, including things like requiring an actual email message or even the headers to report phishing, which in a lot of cases, it's not available just because the reporter deleted the message because it was phishing or for other reasons. So I'll update people after that meeting. Supposedly, we're supposed to get a draft of the advisory to address these issues in May. Obviously, that didn't happen, but I hope to get a further update from Leticia today.

As far as the advisory you're discussing, I was pretty disappointed to see that, but I don't know that that has to be the final word. I mean, that's their view, but it doesn't mean that we can't raise it. I think the question is, what is the best vehicle to raise that in? How do we do it? Maybe at a minimum, it starts with a letter to ICANN compliance or ICANN legal, maybe, or copy ICANN legal. I don't

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know. But I think that we shouldn't just accept this as the final decision and we should challenge it and raise this for discussion.

I mean, I think the registrar that was probably complained about was GoDaddy. And I think that their form is probably driven by a different revenue incentive, which is that they don't want people to be able to contact registrars to discuss purchase of the domain names. They want people to have to go to their brokers.

So, I think that's really a revenue-based decision more than anything else that has to do with IP rights or customer protection or anything else. And I don't know that that needs to be mentioned in our inquiry or challenge, but I think that we should think carefully about how we want to frame this and try to leverage the language that exists there and make a reasoned argument that registrars should not be able to select three arbitrary messages as a way to communicate with the registrant.

Because you can imagine a scenario where they pick three totally irrelevant things and it's just meaningless. And the registrant is likely to think that it's just spam, which they already do anyway when it comes into the form. So, this is not really, from a practical perspective, what the policy would have contemplated or a reasonable person would contemplate as communication.

JOHN MCELWAINE

Yeah, I hadn't seen this because I had submitted a compliance complaint on that just same topic. And it was prior to this coming

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out and that compliance ticket's just been sitting with ICANN. So, I guess it's going to get denied soon, but yeah.

MARGIE MILAN

Rick?

RICK LANE

Yeah, I find this a little shocking that that's the position of ICANN, considering that in the 1999 letter from Chairman Bliley from the Department of Commerce and the General Counsel, Andy Pincus, they specifically stated in the conversations of knowing who is behind a website and having accurate information for the sole purpose of being able to contact the registrant.

So, if you go back to the white and green papers about the creation of ICANN when it was NUCO, the fundamental aspect was having the ability to contact a registrant because of trademark concerns and other, they didn't even say cybersecurity concerns back then, mostly it was scam and fraud concerns, which is why the Federal Trade Commission usually comes here, as well as NTIA. So, I think ICANN needs to look at its history and its creation and not what maybe the contracted parties are telling them. You know, go back and look at where you started, not where you think they are.

So, it's basically the foundation of the contracts, the RIA and the other contracts between the registrars, the registries and ICANN and originally with the Department of Commerce. But I was there when all this was happening.

DAVID HUGHES

Did your mic stop working?

SIMON KNOLL

Yes, I could. And for the sake of time, it's probably the best decision. So, I will be real quick. I think I don't need 10 minutes. For the record, my name is Simon Knoll and I'm the chair of the Communications and Outreach Committee. I was asked by leadership to give an update on our efforts for a new website, has been subject to several calls in advance, but just scrolling down the website would be actually quite boring. So, I have to take over control now of the screen. I prepared a small presentation. There you go. So, how do I get rid of this? I'm sorry. This was not supposed to be happening. All right. So, now it's working. Perfect.

First thing for everybody that doesn't know, who are we? We're a committee that was installed by IPC leadership last September. So, we have been working slightly over nine months as of now. We have the strict objective to manage the external representation and visibility of the IPC in accordance with its purpose and ensure the consistent communication of the corporate identity with its members. And by this, assisting IPC leadership with the communication of activities and perspectives. So, taking some work off the shoulders of individual people who have been involved in such efforts for quite some time already.

What do we do? Real quick. In the beginning, the objective was not to reinvent the wheel. We basically tried to detect and streamline efforts that have been conducted by individual people, like the website that has been there already, of course. Flyers and an IPC table, social media appearance and everything has been there, but was not streamlined. So, that's basically what we did. Step by step, we came up with a new logo that basically combined several logos that had been out there thus far. And slightly proceeding, preparing also letterheads and everything that we are still trying to make leadership use for the agenda as well.

And our thus far biggest achievement gets from purely external communication to also some kind of internal communication, which is a meeting report, which I again, I asked that yesterday already, please don't call it newsletter. We don't want people to hate it from the start. So, it's a meeting report that will be published after every meeting. It will be prepared by the committee and it's like four pages long and it's meant to be circulated to members and from members, it can be circulated to clients as well. So, it can be used also to justify why you should come to ICANN meetings.

That being said, the cherry on the pie will be for external communication will be a new website, which I have the honor to present to you today. As I said, I will not scroll down the website. I prepared a video. It's five minutes long, which will basically keep us in time more or less. There's a mobile version and I will just play the video and I can tell you something in between. The website is

nothing entirely new. The content or the website as a whole will be circulated after this meeting. We are right now at a stage where it looks actually quite nice. We are happy with it. So, now we would like to have input from everybody.

Please keep your facial expressions under control because our website developer is also in the meeting. She is participating online at a prime time hour in New Zealand. Yeah, if you're not happy with your picture, you will have the chance to provide comments until next Monday, eight o'clock in the morning, Central European time. We have alternative pictures as well. We took a lot of care. That's why there are some pictures that people might not be happy with because we just don't want the website to be over-johned. We had a lot of John pictures and we just don't want John everywhere. And I believe he doesn't want that either. So, that's basically the point.

Please remember, it's just the external version of the website. There's going to be a membership plus section in which we will provide mainly information that should not be circulated or is not intended to be circulated with the public. So, closed meeting recordings and everything are going to be published there. There is a resources section that is public and that is actually something new. Links to the recordings of all open IPC meetings ever since it has been there. So, we will come to that.

Margie received a new picture, I believe. The old one was older. And as mentioned in the last closed meeting, that one is important

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as well. We also implemented a small bio because that's an outreach measure as well that we wanted to include ICANN Wiki. So, yes, there's a URL to the bio of ICANN Wiki because it has been there. It's kind of an outreach measure as well, as I mentioned.

Yes, and I believe comment-wise from my side, that's it. We probably finished the video. We still have -- No, we're already set. So, maybe I should proceed a little bit. So, that's what I mentioned basically. It's public comments that have been submitted to several topics and then there is. Yes

MICHAEL

To be able to update those, I see the last one we have is 2015.

SIMON KNOLL

Exactly. Yeah, that's a very important point. Thank you, Michael. The website is built on WordPress. So, we will be able to update it ourselves at a certain point in time. Of course, we will have to finish everything that has been prepared there with all the comments. We might have some more work to do.

I think I will make a cut here for the sake of time to mention the last thing that is important. So, you will be circulated, as I mentioned, the website including a URL to a Google Doc where you can provide your comments until Monday, 15 June, 8 a.m. Central European Time. So, yes, everything that is on there, I have already mentioned. There is going to be a Members Plus section as well. And after that, we are basically finished with everything that we

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had on our agenda for 2026. We will continue our work. However, we will need a new seat, a new chair for the committee. This is something that we're going to take on. Thank you.

JOHN MCELWAINE

Okay, we're at time, but thank you very much for that. I'm excited to see the launch of the website soon and appreciate all the hard work Simon, you and the Communications Committee have done. Thank you. And I think with that, we can conclude the meeting. Thanks.

**[END OF TRANSCRIPTION]**