

2007 NAMES POLICY PANEL

Third Meeting
8 May 2007, 2.00-5.00pm
Maddocks Lawyers, Melbourne

MINUTES

Present:

Bruce Arnold, Michael Bouy, Darrell Burkey, Grace Chu Te, Simon Delzoppo, Peter Firminger, Sally Foreman, David Goldstein, Kim Heitman, Graham Ingram, Jo Lim, Jeff Marr, Andrew McCullough, George Pongas, Holly Raiche, Tony Steven, Derek Whitehead

Teleconference:

Brett Fenton, Amin Kroll, Bennett Oprysa, Bruce Tonkin, Paul Szyndler

Apologies:

Philip Argy, Jamie Murphy, Alex Woerndle

Actions:

- DW and JL to revise draft Issues Paper and circulate to Panel for comment.
- GI to provide wording re “illegal and malicious use” for the Paper.
- JL to release Issues Paper for public consultation.

Discussion:

1. auDA survey report

The Panel noted the report by Nexus Research on the surveys conducted by auDA during March/April.

2. Draft Issues Paper

In relation to direct registrations and secondary market, the Panel agreed that the Issues Paper should be neutral and list pros and cons of each issue.

In relation to the current policy rules, the Panel agreed that the Paper should invite people to comment generally on whether they think the rules should be relaxed or tightened up. It should also invite people to provide examples of where the rules have prevented them from registering a domain name they wanted.

a. Discussion of Secondary Market

The Panel continued discussion from the previous meeting, and noted the following points for inclusion in the Issues Paper:

- One of the aims of the current prohibition on selling domain names was to prevent domain hoarding and speculation in the early days of .au, so that all the “good” names would not be registered before others had a fair opportunity

under a first come, first served system. However, now that there are nearly 1m .au domain names, most of the “good” names have now been registered and the potential for domain hoarding and speculation has lessened.

- To the Panel’s knowledge, no other TLD has a prohibition on a secondary market for domain names. However, some TLDs like .biz have rules against registering a domain name for the sole purpose of selling it.
- What is the policy reason for stopping someone who is willing to pay a secondary market price for a domain name from paying it?
- Under current policy, a registrant may transfer their domain name if they sell part or all of their business operations or assets.

The Panel agreed that if a secondary market were to be allowed, it should be subject to normal policy rules, ie. the buyer would need to meet the eligibility criteria for the domain name. Under current policy, this would mean that buying the domain name for the purpose of domain monetisation would constitute a close and substantial connection. Some Panel members expressed concern that domain monetisation might subvert the common understanding of good and bad faith registrations.

There was general agreement among Panel members that allowing a secondary market would be acceptable provided that current levels of trust and confidence in the .au domain are maintained. Whether this would be achievable within the existing policy rules, would need to be tested by working through some use cases.

b. Discussion of Policy Rules

The Panel discussed three proposals for change put forward by individual Panel members:

1. That the policy rules should include a clear process and authority for the deletion of a domain name for illegal or malicious use. The Panel agreed that this proposal should be included in the Issues Paper, but without specifying which party would have authority/responsibility to act. GI agreed to provide details of what might constitute “illegal or malicious use” for the Paper.
2. That the allocation rules be replaced by a general warranty statement that the registrant is not infringing the legal rights of a third party. The Panel noted that the current policy already requires registrants to agree to a comprehensive warranty statement. JL advised that a test for infringing legal rights would be harder than auDA’s test for breach of the close and substantial connection rule; for example, auDA was able to delete the registrations of the Beaconsfield miners’ names by a domainer for breach of the close and substantial connection rule, whereas the registrations probably did not infringe any legal rights.
3. That the rules for com.au should allow the registration of personal names without any eligibility criteria (ABN, RBN etc). The rationale for the proposal was that there is high demand for com.au domain names among individual non-commercial users, who do not want to register in id.au because it is not well-known or attractive.

No Panel member suggested that the policy rules should be removed altogether. It was generally felt that the policy rules work quite well and strike an appropriate balance between allowing people to register the domain names they want whilst protecting the overall integrity and usability of the .au domain.

Some Panel members thought that the policy has been relaxed too much, leading to a breakdown of the 2LD hierarchy and many inappropriate registrations, particularly

in org.au. It was also suggested that auDA's complaints-based enforcement approach is not adequate in dealing with registrations that breach policy.

Next meeting:

Tuesday 19 May, 2-5pm in Sydney

