



# Contractual Compliance Semi-Annual Report

December 2009

**I. Executive Summary**

- 1. Audits
  - 1.1 Deletion and Renewal Consensus Policy Audit
  - 1.2 Fees for Recovering Domains in Redemption Grace Period (RGP)
- 2. Additional Contractual Compliance Activities
  - 2.1 UDRP Best Practices Workshop
  - 2.2 Whois Data Problem Reporting System
  - 2.3 Whois Accuracy Study
  - 2.4 Study of Domain Names Registered Using a Privacy or Proxy Service

**II. Summary of Activities**

- 1. Deletion and Renewal Consensus Policy Audit
- 2. Fees for Recovering Domains in Redemption Grace Period (RGP)
- 3. Whois Data Problem Reporting System
- 4. Staff Additions
- 5. Escalated Compliance Actions

**III. Detailed Information Regarding Audit Findings and Compliance Activities**

- 1. Registrars' Deletion and Auto-Renewal Policy Audit
  - 1.1 Executive Summary
  - 1.2 Audit Objectives
  - 1.3 Methodology
  - 1.4 Follow-up Actions
- 2. Fees to Recover Domain Names in the Redemption Grace Period Audit
  - 2.1 Executive Summary
  - 2.2 Audit Objectives
  - 2.3 Methodology
  - 2.4 Findings
  - 2.5 Follow-up Actions
- 3. Whois Data Problem Reporting System
  - 3.1 Objective
  - 3.2 Recent History of the WDPRS
  - 3.3 Key Features of WDPRS Redesign
  - 3.4 Statistical Overview and Key Trends of Redesigned WDPRS System
  - 3.5 Escalated Compliance Activities
    - 3.5.1 Termination Notices
    - 3.5.2 Nonrenewals
    - 3.5.3 Breach Notices
  - 3.6 Consumer Complaints

**IV. Conclusion**

Welcome to the December 2009 edition of the Semi-Annual Contractual Compliance Report.

In this edition, you'll find updated information on ICANN's relationships with our contracted parties (e.g., registrars and registries). Now more than ever, it is critical that ICANN, registrars and registries comply with the terms of the agreements between the parties to ensure the stability, security and integrity of the Domain Name System.

The Contractual Compliance Team is working hard to help ICANN and its contracted parties build and maintain a strong values-based, self-governing global Internet culture of integrity through contractual compliance. This culture of integrity relies on a fundamental rules-based approach to make the agreements with contracted parties work for everybody. ICANN's ongoing and consistent enforcement of the rules we negotiate with contracted parties helps bind us all together as a global Internet community.

We believe the future of the Internet rests on the idea of governing through a common culture of integrity. Contractual compliance has an important role to play in ensuring this future. We're continuing to work hard to produce measurable contractual compliance improvements for the global community we serve. Please let us know how we're doing. We welcome your feedback.

## **I. Executive Summary**

As of the closing of the reporting period covered in this report, January through November 2009, the number of ICANN-accredited registrars stands at 938. During this time period, ICANN processed 10,709 consumer complaints.

ICANN's Contractual Compliance enforcement activity was as follows: 4290 enforcement

compliance and breached contract notices were sent to registrars, ten registrars had their accreditation terminated, and eight were unable to renew their accreditation.

### **1. Audits**

#### **1.1 Deletion and Renewal Consensus Policy Audit**

ICANN followed up with registrars that were not compliant with the requirement to provide information to registered name holders about the registrar's deletion and renewal policy. To further clarify the intent of the EDDP for two noncompliant registrars, Staff sent a copy of the EDDP, along with the Advisory concerning the requirement to post fees for expired domain names, to the two registrars for rapid implementation and posting. Staff will review these registrar's websites in early January to see if the content has been modified, based on the additional guidance, and will pursue enforcement action if required.

#### **1.2 Fees for Recovering Domains in Redemption Grace Period (RGP)**

All registrars are required to post actual fees charged to registered name holders on their website in order to recover their domain name if and when the name has entered the redemption grace period. Many ICANN-accredited registrars that were actively sponsoring domain names failed to display specific fee information on their website, suggesting the language contained in the Expired Domain Deletion Policy (EDDP), as adopted on 21 December 2004, could be clarified. Therefore, an advisory was sent to registrars to clarify the intent of that provision in the EDDP. After six months from the date of this report, ICANN will perform an audit of deficient registrars and take enforcement action where necessary.

## 2. Additional Contractual Compliance Activities

### 2.1 UDRP Best Practices Workshop

The Contractual Compliance Team conducted a Uniform Domain Name Dispute Resolution Policy (UDRP) Process Workshop in Sydney, Australia, during ICANN's 35th international public meeting. The workshop brought registrar representatives, dispute resolution providers and trademark attorneys together to discuss the proposed Registrar UDRP Best Practices Advisory developed by ICANN in consultation with members of the Registrar Constituency and offer recommendations to ensure that the proposed best practices enhances orderly administration of the UDRP. The draft advisory outlines best practices registrars should take to protect their customers by ensuring registrants receive notice of UDRP complaints involving their domain names and by ensuring a proper administration of the UDRP. The draft UDRP Best Practices Advisory can be viewed at <http://www.icann.org/en/compliance/draft-advisory-best-practices-udrp-complaint-31oct08-en.pdf>.

### 2.2 Whois Data Problem Reporting System

ICANN's contractual authority to enforce Whois data accuracy requirements is contained in Section 3.7.8 of the Registrar Accreditation Agreement (RAA). This provision requires ICANN-accredited registrars to investigate all claims of Whois inaccuracy upon receipt of such claims. This system is ICANN's primary tool for assessing registrar compliance with Whois inaccuracy investigation requirements. This system allows the public to file Whois data inaccuracy reports and those reports are forwarded to registrars for investigation. The history of the Whois Data Problem Reporting System and its recent improvements are contained in this report.

### 2.3 Whois Accuracy Study

ICANN launched the Whois Accuracy Study in coordination with the National Opinion Research Center at the University of Chicago (NORC). Over the years, ICANN constituencies and others have reported inaccuracies in Whois contact data provided by registrants when registering and maintaining domain names. This study is intended to inform community discussion regarding Whois policy and informs ICANN on prospective compliance activities aimed to address Whois inaccuracies. ICANN and NORC hosted a workshop at ICANN 36 in Seoul, South Korea, to provide an update regarding the study's progress. NORC's sample plan and proposed design methodology are available for the community to view at <http://www.icann.org/en/compliance/norc-whois-accuracy-study-design-04jun09-en.pdf>.

### 2.4 Study of Domain Names Registered Using a Privacy or Proxy Service

ICANN has obtained preliminary results of its study of domain names, registered among the top five gTLDs, which appear to have been registered using a privacy or proxy service. ICANN published preliminary findings on its website (that 15–25% of these domain name registrations used these services) and will seek validation of the study's findings with the registrars of record for those domain names.

## II. Summary of Activities

### 1. Deletion and Renewal Consensus Policy Audit

In January 2009, ICANN conducted a review of all its accredited registrars that were actively sponsoring domain names to determine whether they were complying with the Expired Domain

Deletion Policy concerning the deletion and renewal of domain names. As of February 2009, 156 registrars did not provide this information on their websites. This report provides an update on what additional steps the Contractual Compliance Team took to bring a small number of registrars into compliance.

## 2. Fees for Recovering Domains in Redemption Grace Period (RGP)

All registrars are required to post fees on their website to ensure that registered name holders know what they would have to pay to recover their domain name if and when it has entered the redemption grace period. Many ICANN-accredited registrars failed to display specific fee information on their website, suggesting the language contained in the Expired Domain Deletion Policy (EDDP), as posted by the Board on 21 September 2004 and adopted on 21 December 2004, may not be fully understood by the registrar community. This report discusses how Contractual Compliance clarified this to the noncompliant registrars and will follow up.

## 3. Whois Data Problem Reporting System

On 19 December 2008 the new Whois Data Problem Report System (WDPRS) went live, significantly enhancing the processing of Whois inaccuracy reports. In addition to greater accuracy, the new system has shown an increased capacity with regards to ensuring that registrars are complying with their contractual obligation to investigate all Whois inaccuracy claims (pursuant to Section 3.7.8 of the Registrar Accreditation Agreement, or RAA). The WDPRS system can be accessed at <http://wdprs.internic.net>. Further details and statistical analysis regarding the enhanced WDPRS system are contained in this report.

## 4. Staff Additions

In August 2009, ICANN continued to enhance its Contractual Compliance Program by adding a staff member, a Senior Director of Contractual Compliance, based in Sydney, Australia. This newest addition to the team will promote and ensure contractual compliance in the Asia-Pacific region.

## 5. Escalated Compliance Actions

ICANN's Contractual Compliance Program is designed to ensure that registrars comply with their agreements, which recognizes that violations of ICANN's Registrar and Registry agreements can cause serious detriment to consumers and the Internet community. In most cases ICANN informally handles instances of noncompliance by registrars, and depending on the registrar reaction to the compliance notice, these informal steps can be followed by escalated compliance actions.

During any given reporting period, ICANN updates the community on specific escalated compliance actions involving registrars that have been afforded multiple opportunities, yet ultimately fail, to demonstrate a commitment to their accreditation agreement.

ICANN previously reported in the February 2009 semi-annual report on the Whois Data Inaccuracy Investigation Audit. The audit highlighted registrars that had a significantly high percentage of WDPRS complaints that met the following criteria:

- Registrant Whois contact data associated with the domain name was allegedly inaccurate.
- Complainants confirmed the alleged inaccuracy within 10 days of filing the report.

- The Whois data associated with the domain name had not changed in the registrar's Whois database within 90 days from the date the complaint was filed.

Staff asked registrars to provide specific information about how the registrar met its obligation to investigate each inaccuracy for select domain names audited. Pursuant to Section 3.7.8 of the RAA, registrars are required to take reasonable steps to investigate alleged Whois inaccuracies reported through the WDPRS. Failure to comply with the obligation to investigate and correct alleged inaccurate Whois data where necessary constitutes a breach of the RAA.

ICANN placed Beijing Innovative Linkage Technologies Ltd. dba dns.com.cn (Beijing Innovative) on remediation plan for Whois inaccuracies. The plan required Beijing Innovative to provide monthly updates on its disposition of alleged Whois inaccuracies for a term of six months. Specifically, Beijing Innovative agreed to report to ICANN on its attempts to work with registrants to bring them into compliance by providing accurate information to the registrar. To do this, the registrar used a template developed by ICANN to keep track of its correspondence with registrants and report

on the actions taken regarding each specific complaint. More specifically, the remediation plan required the registrar to complete a spreadsheet for each domain name that was reported to have an inaccuracy through the Whois Data Problem Reporting System. This template was completed each month, for a total of six months, and was closely reviewed by ICANN.

From October 2008 through March 2009, Beijing Innovative submitted monthly updates to ICANN explaining its attempts to contact registered name holders of domain names that presented inaccuracies. Upon receiving the reports, ICANN requested that the registrar submit copies of the original emails sent to the registered name holders and had them translated them into English. The content of those emails, along with the fact that a number of the domain names that had inaccurate Whois data were placed on hold status, provided ICANN with the information it needed to conclude that Beijing Innovative had taken reasonable steps to correct these Whois inaccuracies. ICANN communicated the results of the remediation plan to Beijing Innovative via electronic mail on 24 August 2009 (see Figure 1).

Subject: ICANN Contractual Compliance: Outcome of Whois Investigation Remediation Plan

Date: Monday, August 24, 2009 10:13 AM

From: William McKelligott-- ICANN Contractual Compliance <william.mckelligott@icann.org>

Dear Ms. Hu and Mr. Zhai,

ICANN carefully reviewed all of your registrar's submissions in relation to the Whois investigation remediation plan your registrar was placed on in October 2008. We have determined that your registrar appears to have taken steps to investigate Whois inaccuracy claims identified during the remediation period in a manner that is consistent with the terms of the Registrar Accreditation Agreement (RAA).

To avoid future noncompliance concerning RAA Section 3.7.8, ICANN encourages you to diligently investigate every claim of Whois inaccuracy brought to your registrar's attention. Additionally, we encourage you to maintain all relevant registration records as required by Section 3.4.2 of the RAA, including records demonstrating your efforts to investigate Whois inaccuracy claims.

Your registrar is no longer on an ICANN remediation plan and therefore no further submissions of data are necessary.

Please let me know if you have any questions.

Sincerely,

William A. McKelligott

Auditor, Contractual Compliance Team

Internet Corporation for Assigned Names and Numbers (ICANN)

1875 I (Eye) Street, NW, Suite 501 Washington, DC 20006 United States of America

P (202) 429-2709

F (202) 429-2714

M (310) 409-9763

william.mckelligott@icann.org

Did you know? ICANN is responsible for the global coordination of the Internet's system of unique identifiers. These include domain names (like .com, .uk, and .jobs), as well as the addresses used in a variety of Internet protocols. Computers use these identifiers to reach each other over the Internet. Learn more at <http://icann.org>

**Figure 1 – Results of remediation plan**

### III. Detailed Information Regarding Audit Findings and Compliance Activities

#### 1. Registrars' Deletion and Auto-Renewal Policy Audit

##### 1.1 Executive Summary

ICANN's agreements with accredited registrars and gTLD registry operators require that they comply with various procedures and policies. In particular, registrars are required to comply with the Expired Domain Deletion Policy (EDDP). Pertinent language from the EDDP states:

*At the conclusion of the registration period, failure by or on behalf of the Registered Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier). Among other requirements, the registrar must provide notice to each new registrant describing the details of their deletion and auto-renewal policy including the expected time at which a non-renewed domain name would be deleted relative to the domain's expiration date, or a date range not to exceed ten days in length. If a registrar makes any material changes to its deletion policy during the period of the registration agreement, it must make at least the same effort to inform the registrant of the changes as it would to inform the registrant of other material changes to the registration agreement.*

##### 1.2 Audit Objectives

The primary objective of the Registrars' Deletion and Auto-Renewal Policy Audit was to determine which registrars actively sponsoring domains have a statement addressing their deletion and auto-renewal policy posted on their website.

The audit was also intended to protect registrants by ensuring that they receive notice of the expired name practices of the registrar with whom they have registered their domain name.

##### 1.3 Methodology

ICANN's Contractual Compliance staff developed a list of all ICANN-accredited registrars that were actively registering domain names. ICANN staff examined the website for each registrar to determine where, if at all, the registrar's deletion and auto-renewal policy was made available to current and potential registrants.

##### 1.4 Follow-up Actions

ICANN sent notices to 156 registrars that did not appear to have a statement disclosing their deletion and auto-renewal policy posted on their websites, asked them to clarify the reasons for this failure and provided them five business days to post their policies. As a result of these notices, only two registrars have not remedied their noncompliance. Following discussions with the need to clarify the EDDP and its related requirements, Compliance is working with two registrars to rapidly implement the information that has to be posted on their websites.

#### 2. Fees to Recover Domain Names in the Redemption Grace Period Audit

##### 2.1 Executive Summary

ICANN conducted an audit of all accredited registrars that were actively sponsoring domain names as of May 2009 to determine if they were compliant with the Expired Domain Deletion Policy as it relates to informing registrants about fees for recovering domain names that have entered the redemption grace period. The redemption grace period, often referred to as "pending delete," is a time frame in which



domain names that expire go into a period of stasis after their deletion so that inadvertent expirations can be corrected (refer to Figure 2).

## 2.2 Audit Objectives

- To protect the registrants by ensuring they are provided notice of the expired domain name practices of the registrar with whom they have registered their domain name.
- To determine that those registrars actively sponsoring domains have posted the information on their website regarding fees for recovering domain names during the redemption grace period.

## 2.3 Methodology

ICANN's Contractual Compliance Team developed a list of all ICANN-accredited registrars that were actively sponsoring domain names. For each registrar listed, ICANN staff examined the content of those registrars' websites to determine where, if at all, the fee information for recovering domain names that are in redemption grace period was posted.

## 2.4 Findings

About half of all ICANN-accredited registrars that were actively sponsoring domain names as of May 2009 did not post fee information for recovering domain names that are in RGP. Figure 2 contains the text posted by a registrar that satisfies the requirement.

---

### Recover your .com, .net, .info, .biz or .org domain

---

When a .com, .net, .info or .org domain name is deleted, it automatically goes into a 30 day period where it is held by the Registry before being released for re-registration.

If your domain is in this status, then your domain name was not renewed prior to its expiry date and was deleted.

If you are the former Registrant of the domain, it may be possible to recover this domain during the Redemption Grace Period.

How do I recover my domain name?

#### Step 1

Download the Domain Recovery application form by clicking [Domain Recovery Application](#). Fill out the form by following the instructions provided.

#### Step 2

Retrieve a copy of the former [Whois Information](#). Follow the instructions located on this page.

#### Step 3

Fax the completed Domain Recovery application form and the Whois information to +1 613 221 1206.

#### When should I send my Domain Recovery Application to Namescout.com?

Immediately! To stop your domain from being released to the public for re-registration, the Domain Recovery application process must be completed before the 30-day RGP ends.

Note: Recovering a domain from RGP is a manual process. So it may take several days before the domain name can be returned to an 'ACTIVE' status again.

#### How much does it cost to recover a domain name that is in RGP status?

The cost for the Recovery procedure is US \$175 per domain. This fee includes a one (1) year renewal fee.

---

Figure 2 – Acceptable fee information for domains in the RGP

## 2.5 Follow-up Actions

Due to the large number of registrars that failed to understand the intent of the Expired Domain Deletion Policy as it concerns fees to recover domain names in RGP, ICANN developed and posted on the ICANN website an advisory to the community to clarify the intent of the EDDP. The advisory can be viewed in Figure 3 or at

<http://www.icann.org/en/compliance/advisory-deleted-domain-restoration-fees-17dec09-en.pdf>. Following the implementation of this advisory by registrars, ICANN will conduct an audit no later than 6-months from the publication of this report to determine the level of registrar compliance.

### **Advisory Concerning Posting of Registrar Fees for Restoring Deleted Domain Names**

#### **Purpose**

The purpose of this advisory is to clarify a provision of the Expired Domain Deletion Policy (EDDP), a Consensus Policy adopted by ICANN's Board of Directors on 21 September 2004 (see <http://www.icann.org/en/registrars/eddp.htm>). The EDDP is incorporated into ICANN's Registrar Accreditation Agreements (RAA) at Sections 3.7.5 (<http://www.icann.org/en/registrars/ra-agreement-21may09-en.htm#3.7.5>). This advisory focuses on the requirement that an accredited registrar's website must clearly display both the registrar's "deletion and auto-renewal policies" and "any fee charged for the recovery of a domain name during the Redemption Grace Period."

#### **Redemption Grace Period**

The Redemption Grace Period (RGP) is an optional service offered by some registries and registrars. Its implementation is different in different gTLDs. When a deleted domain name enters the RGP, it will not be included in the zone file (i.e., the domain name will not resolve—no web traffic or e-mails will reach the domain). Unless restored, the domain name will be held in the RGP for 30 calendar days. At the conclusion of that RGP (and a brief pending-delete period), the domain name will be returned to the pool of domain names available for registration.

#### **Informing Registered Name Holders of Actual Fee(s)**

To recover a domain name that has entered the RGP, the registrar must pay a fee to the registry. Registrars typically recover this fee through a charge to the Registered Name Holder requesting the redemption. ICANN's Contractual Compliance unit is working with registrars to promote compliance with RAA section 3.7.5 and the rest of the RAA. Through its compliance efforts, ICANN has noted that some registrars are not in compliance with their obligations under the EDDP and RAA because their websites either: (1) do not mention fees for recovering domain names in RGP; or (2) mention that there are fees for recovery of domain names in RGP but do not specify what those fees are.

In accordance with Section 3.7.5.6 of the RAA, registrars are obligated to post the actual amounts of any fee(s) that a Registered Name Holder will have to pay if it wishes to recover a domain name that has entered the RGP. In cases where a registrar offers differential pricing for Registered Name Holders, the fee(s) posted must at least indicate the maximum amount a Registered Name Holder might have to pay for the recovery of a domain name that has entered the RGP. A registrar is therefore in breach if it charges any fee for recovery of domain names in RGP if the fee has not been posted in accordance with the RAA.

The RAA does not specify exactly where on the registrar's website the information on registrar deletion policies and restore fees must be posted, just that the information "must be clearly displayed on the website" and that it must be posted "both at the time of registration and in a

clear place on its website ..." (RAA sections 3.7.5.5 and 3.7.5.6). Registrars may exercise reasonable discretion in deciding where to post this information. Customers might reasonably expect to find such information in the sections of registrar websites that deal with issues such as customer care, FAQs, pricing, and domain registration and renewal policies.

#### Contact

Feel free to contact ICANN's Contractual Compliance Team member William McKelligott with any questions or comments relating to the Expired Domain Deletion Policy at [william.mckelligott@icann.org](mailto:william.mckelligott@icann.org).

Figure 3 – Advisory concerning posting of registrar fees for restoring deleted domain names

### 3. Whois Data Problem Reporting System

#### 3.1 Objective

The central objectives of the Whois Data Problem Report System (WDPRS) are to improve Whois data accuracy and assist registrars in complying with their obligations to investigate Whois inaccuracy claims. All ICANN-accredited registrars are required to investigate all claims of Whois inaccuracy upon receipt of such claims. ICANN's contractual authority to enforce Whois data accuracy investigation requirements is contained in Section 3.7.8 of the Registrar Accreditation Agreement (RAA).

#### 3.2 Recent History of the WDPRS

The WDPRS has continually evolved to ensure that community concerns regarding ICANN compliance follow-up action with registrars are addressed. Before 2008 ICANN was receiving several hundred reports per day, but in the past 18 months, the number of reports has increased sharply to sometimes over 3,000 per day. Understandably, this new influx of reporting brought about new challenges for ICANN and the community. The parties that expressed the most interest concerning the WDPRS were:

- Registrars, as they are required to investigate all reports that come from the WDPRS;
- Individuals and groups that frequently use Whois data in attempting to protect

intellectual property rights, such as counsel for brand owners; and

- Members of the public that frequently use the WDPRS to file reports.

As a result of these and other concerns, ICANN redesigned the WDPRS in 2008. ICANN analyzed a random sample of 6,813 reports from July 2008 to December 2008. These were reports that the complainants responded to, claiming that 45 days after their initial report, no changes had been made to the Whois information. When analyzing these reports, it was discovered that 44 percent were invalid as the domain names had already been suspended or duplicate reports were filed.

ICANN consulted with the Registrar Constituency, the Intellectual Property Constituency and a high-volume reporter to address the full spectrum of WDPRS concerns. ICANN took all of these concerns into consideration when designing the new system. In December 2008 the newly designed system was launched.

#### 3.3 Key Features of WDPRS Redesign

- Greater detail is captured from complainants to assist registrars in investigating Whois inaccuracies.

- Duplicate reports regarding the same Whois inaccuracy category for the same domain name are not accepted by the system.
- Reports concerning domains already on hold are not forwarded to registrars for investigation.
- Increased capacity to allow for bulk report submissions.
- Enhanced report tracking and processing features to assist reporters and registrars in resolving Whois inaccuracy claims.

### 3.4 Statistical Overview and Key Trends of Redesigned WDPRS System

Right from the inception of the redesigned WDPRS, the new levels of filtering facilitated a drastic reduction in invalid Whois inaccuracy reports, allowing registrars to focus their resources on valid claims. Additionally, the registrar compliance checks improved the ability of ICANN to determine which registrars are not investigating Whois inaccuracy claims, thus improving ICANN’s escalated compliance action against registrars in violation of Whois related provisions of the RAA.

The redesigned WDPRS was launched in December 2008. The first two months after the redesigned system was implemented, a random sample of 2,277 Whois data inaccuracy reports indicating “no change,” as responses from complainants after 45 days, showed that only 10 percent of these reports were invalid due to names that had already been suspended. Prior to the WDPRS redesign, suspended domains accounted for 44 percent of invalid claims. This clearly demonstrates the new system’s enhanced filtering capabilities. As shown in the graph above, this trend has continued.

Overall, it is clear these changes have continued to enhance the effectiveness of the WDPRS.

#### 19 December 2008 to 7 December 2009

ICANN received a total of 81,006 confirmed WDPRS reports. Of those reports, 28,434 were invalid reports prevented by the WDPRS Filtering System. This left ICANN with 52,572 reports on which registrars were required to investigate and take action. Of that number, registrars took action either by suspending, deleting, or updating data regarding domain names associated with 8,159 reports before ICANN transmitted its standard 15-day courtesy notice reminding registrars of their obligation to investigate all Whois data inaccuracy claims.

Consequently, 50,981 45-day follow-up notices were sent to reporters to determine if action had been taken by registrars to rectify the confirmed complaints. Of the 50,981 follow-up notices sent to reporters after 45 days, reporters responded back to ICANN concerning 21,965 reports.

Reporters revealed the following:

• Whois Data Corrected	1,096
• Whois Data Remains Inaccurate	10,008
• Domain Name Deleted	9,713
• None of the above (comments unrelated to categories; for example, comment regarding spam)	1,148

ICANN reviewed the records of the Whois data inaccuracy reports reported as continuing to reflect inaccurate data after 45 days and found that, of the 10008 ongoing inaccuracy claims, registrars took action on slightly more than 50 percent of them, or 5,610 reports (i.e. registrars suspended the domain name, registrars verified the Whois data as correct, registrars updated the data, registrars deleted the domain name or the domain name placed on hold). That left 4,398 reports wherein it appeared that the Whois data remained inaccurate after 45 days. ICANN sent compliance notices to registrars of record regarding 2,759 reports, inquiring about the steps

taken to investigate the Whois inaccuracy claims as required by RAA Section 3.7.8. After receiving compliance notices from ICANN, registrars took action regarding another 45 percent, or 2007, Whois data inaccuracy reports (i.e., registrars suspended the domain name, registrars verified the Whois data as correct, registrars updated the data, registrars deleted the domain name or the domain name was placed on hold). ICANN is continuing to investigate Whois data inaccuracy claims concerning approximately 2,391 reports. In all, ICANN was able to resolve about 76 percent of all claims of inaccurate Whois data that reporters, 45-days after first reporting this to ICANN, continued to identify as inaccurate.

ICANN will continue to explore ways to enhance the WDPRS as a tool for improving Whois data accuracy. ICANN encourages the Internet community to provide comments regarding the redesigned WDPRS to ensure its continual improvement and effectiveness. The Whois Data Problem Reporting System can be found at <http://wdprs.internic.net/>.

### 3.5 Escalated Compliance Activities

#### 3.5.1 Termination Notices

ICANN sent a notice of termination to **Droplimited.com, Inc. (DropLimited)** on 8 April 2009, based on its failure to cure several breaches of its RAA. More specifically, ICANN sent DropLimited a breach letter on 4 February 2009 for failing to escrow gTLD registration data, provide port 43 Whois services and pay accreditation fees. DropLimited failed to take action to address these deficiencies. A copy of the notice of termination can be seen viewed here:

<http://www.icann.org/correspondence/burnett-e-to-bordes-08apr09-en.pdf>.

ICANN sent a notice of termination to **Parava Networks, Inc dba 10-Domains.com (Parava)** on 9 April 2009, based on its failure to cure several breaches of its RAA. More specifically, ICANN sent Parava a notice of breach on 27 February 2009 for failing to escrow gTLD registration data, failure to investigate claimed Whois inaccuracies and pay accreditation fees. Parava failed to take action to address these deficiencies. A copy of the notice of termination can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-valdes-09apr09-en.pdf>.

ICANN sent a notice of termination to **Clertech.com Inc. (Clertech)** on 10 June 2009, based on its failure to pay accreditation fees as required in its RAA. ICANN sent Clertech a notice of breach of its RAA on 2 December 2008 for failing to pay accreditation fees. Clertech failed to take action to address this deficiency. A copy of the notice of termination can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-clervrain-10jun09.pdf>.

ICANN sent a notice of termination to **Sundance Group, Inc. (Sundance)** on 10 June 2009, based on its failure to pay accreditation fees as required in its RAA. ICANN sent Sundance a notice of breach of its RAA on 30 March 2009 for failing to pay accreditation fees. Sundance failed to take action to address this deficiency. A copy of the notice of termination can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-young-10jun09.pdf>.

ICANN sent a notice of termination to **Hi Yi Global Information Resources (Holding) Company (Hi Yi)** on 10 June 2009, based on its failure to pay accreditation fees as required in its RAA. ICANN sent Hi Yi a notice of breach of its

RAA on 30 March 2009 for failing to pay accreditation fees. Hu Yi failed to take action to address this deficiency. A copy of the notice of termination can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-ho-10jun09.pdf>.

ICANN sent a notice of termination to **AfterGen, Inc. dba Jumping Dot (AfterGen)** on 10 June 2009, based on its failure to pay accreditation fees as required in its RAA. ICANN sent AfterGen a notice of breach of its RAA on 20 April 2009 for failing to pay accreditation fees. AfterGen failed to take action to address this deficiency. A copy of the notice of termination can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-bourov-10jun09.pdf>.

ICANN sent a notice of termination to **Maxim Internet, Inc. (Maxim)** on 10 June 2009, based on its failure to pay accreditation fees and insolvency. ICANN sent Maxim a notice of breach of its RAA on 30 March 2009 for failing to pay accreditation fees. It was later brought to ICANN's attention that Maxim had become insolvent and was going out of business. A copy of the notice of termination can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-palm-10jun09.pdf>.

ICANN sent a notice of termination to **Desto! Inc. (Desto)** on 8 October 2009 based on its failure to pay accreditation fees. ICANN sent Desto a notice of breach of its RAA on 30 March 2009 for failing to pay accreditation fees. A copy of the notice of termination can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-wu-08oct09-en.pdf>.

ICANN sent a notice of termination to **OOO "Russian Registrar"** on 25 November 2009 based on its failure to pay accreditation fees. ICANN sent "OOO" Russian Registrar a breach notice

on 22 June 2009 for failing to pay accreditation fees. A copy of the notice of termination can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-petrov-25nov09-en.pdf>.

ICANN sent a notice of termination to **R.B. Data.Net Ltd.** on 25 November 2009 based on its failure to pay accreditation fees. ICANN sent R.B. Data.Net Ltd a breach notice on 20 April 2009 for failing to pay accreditation fees. A copy of the notice of termination can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-bass-25nov09-en.pdf>

### 3.5.2 Nonrenewals

On 14 July 2009, the RAA between ICANN and registrar **Lead Networks Domains Pvt. Ltd. (Lead Networks)** expired without renewal because Lead Networks failed to comply with the requirements of that RAA. The letter ICANN sent to Lead Networks detailing the grounds for nonrenewal can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-malik-14jul09-en.pdf>.

On Friday, 24 July 2009, Lead Networks began the process of commencing an arbitration proceeding with the American Arbitration Association (AAA) challenging ICANN's decision to allow the RAA to expire without renewal because of Lead Networks' failure to comply with the requirements of its RAA.

In its filing to initiate arbitration, Lead Networks requested that ICANN and the arbitration panel stay the nonrenewal until an arbitration decision is rendered. Although Lead Networks allowed the RAA to expire before seeking to arbitrate, ICANN determined that a temporary stay was warranted in this case to protect affected registrants and users. ICANN reinstated Lead Networks as a registrar effective Tuesday, 4

August 2009 pending the determination of the arbitration.

ICANN sent a notice of nonrenewal of its RAA to **South America Domains Ltd. dba namefrog.com (South America)** on 30 July 2009, based on its failure to provide port 43 Whois services. The letter ICANN sent to Simply Named detailing the grounds for nonrenewal can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-friedman-30jul09-en.pdf>.

ICANN sent a notice of nonrenewal of its RAA to **Simply Named Inc. dba SimplyNamed.com (Simply Named)** on 30 July 2009, based on its failure to escrow gTLD registration data and pay accreditation fees. ICANN sent Simply Named a notice via US postal mail on 14 December 2007 of its obligation to begin escrowing certain enumerated gTLD registration data by no later than 1 March 2008. ICANN attempted to Notify Simply Named on 1 May 2008 via phone its breach of its accreditation agreement on 30 March 2009 for failing to pay accreditation fees. The letter ICANN sent to Simply Named detailing the grounds for nonrenewal can be viewed here: <http://www.icann.org/correspondence/burnett-e-to-pearcy-30jul09-en.pdf>.

ICANN sent a notice of nonrenewal of its RAA to **Tahoe Domains Inc. (Tahoe Domains)** on 30 July 2009, based on its failure to escrow gTLD registration data and failure to pay accreditation fees. ICANN notified Tahoe Domains via courier on 29 September 2008 of its obligation to begin escrowing certain enumerated gTLD registration data by no later than 30 November 2008. ICANN notified Tahoe Domains on 24 April 2009 and 22 June 2009 of its breach of its RAA for failing to pay accreditation fees. The letter ICANN sent to Tahoe Domains

detailing the grounds for nonrenewal can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-ball-30jul09-en.pdf>.

ICANN sent a notice of nonrenewal of its RAA to Naugus Limited, LLC (Naugus) on 9 October 2009, based on its failure to escrow gTLD registration data. ICANN notified Naugus via facsimile on 18 December 2007 of its obligation to begin escrowing certain enumerated gTLD registration data by no later than 15 July 2008. ICANN notified Naugus on 7 July 2008 and 26 August 2009 via email of the breach described above. The letter ICANN sent to Naugus detailing the grounds for nonrenewal can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-goodwin-09oct09-en.pdf>.

Naugus quickly remedied their noncompliance and ICANN posted information on its website to clear this for the community. The web posting can be viewed here:

<http://www.icann.org/en/announcements/announcement-28oct09-en.htm>.

ICANN sent a notice of nonrenewal of its RAA to **BP Holdings Group, Inc. dba IS.COM (BP Holdings)** on 9 October 2009, based on its failure to escrow gTLD registration data, pay accreditation fees to ICANN, and provide public access to data on registered name holders. ICANN notified BP Holdings on 13 December 2007 of its obligation to begin escrowing certain enumerated gTLD registration data by no later than 1 March 2008. As of 9 October 2009, BP Holdings had not deposited data in furtherance of BP Holding's escrow obligation. ICANN notified BP Holdings on 20 April 2009 via courier a Notice of Breach of Registrar Accreditation Agreement for failure to pay accreditation fees. BP Holdings failed to cure this breach in the time

period allowed by the RAA. Additionally, ICANN attempted to access BP Holding's web-based and port 43 Whois services several times over the time past two weeks, all of which were unsuccessful. The letter ICANN sent to BP Holdings detailing the grounds for nonrenewal can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-bahlitzanakis-09oct09-en.pdf>.

ICANN sent a notice of nonrenewal of its RAA to **Mouzz Internative, Inc. (Mouzz Interactive)** on 9 October 2009, based on its failure to pay accreditation fees. ICANN sent Mouzz Interactive, via courier, a Notice of Breach of Registrar Accreditation Agreement on 20 April 2009 for failure to pay accreditation fees. Mouzz Interactive failed to cure this breach in the time period allowed by the RAA. ICANN also notified Mouzz Interactive via email on 26 August 2009 of the breaches described above. The letter ICANN sent to Mouzz Interactive detailing the grounds for nonrenewal can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-faziani-09oct09-en.pdf>.

ICANN sent a notice of nonrenewal of its RAA to **Domain Jingles** on 19 November 2009, based on its failure to escrow certain enumerated gTLD registration data, pay accreditation fees, and provide public access to data on registered names. ICANN sent Domain Jingles several breach notices for each of the items listed above, via courier. The letter ICANN sent to Domain Jingles detailing the grounds for nonrenewal can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-dicker-19nov09-en.pdf>.

### 3.5.3 Breach Notices

ICANN sent a letter of breach of its RAA to **CodyCorp.com Inc. (CodyCorp)** on 8 October 2009 for failing to escrow gTLD registration data and failure to provide public access to data on registered names. The letter ICANN sent to CodyCorp can be viewed here:

<http://www.icann.org/correspondence/burnett-e-to-bahlitzanakis-08oct09-en.pdf>.

### 3.6 Consumer Complaints

ICANN processed 10,709 complaints from 1 January 2009 to 30 November 2009 as part of ICANN's consumer complaint processing system. Staff analyzes grievances to identify registrar violations of the RAA that require compliance enforcement. Consumer complaints that are not addressed in the RAA, e.g., overbilling, transfer of ownership from one registered name holder to another and registrar customer service, all of which fall outside of ICANN's authority to resolve, are forwarded to registrars for resolution.

ICANN's Complaint Intake System (CIS) captures data by categorizing information provided by the user through the complaint form, <http://reports.internic.net/cgi/registrars/problem-report.cgi>. The analysis performed on the data indicates that the top five categories (transfer problems, domain name disputes, other, Whois and spam) accounted for 64% of the 10,702 complaints received.

Figure 4 illustrates the volume of consumer complaints processed by ICANN during 1 January 2009 to 30 November 2009.



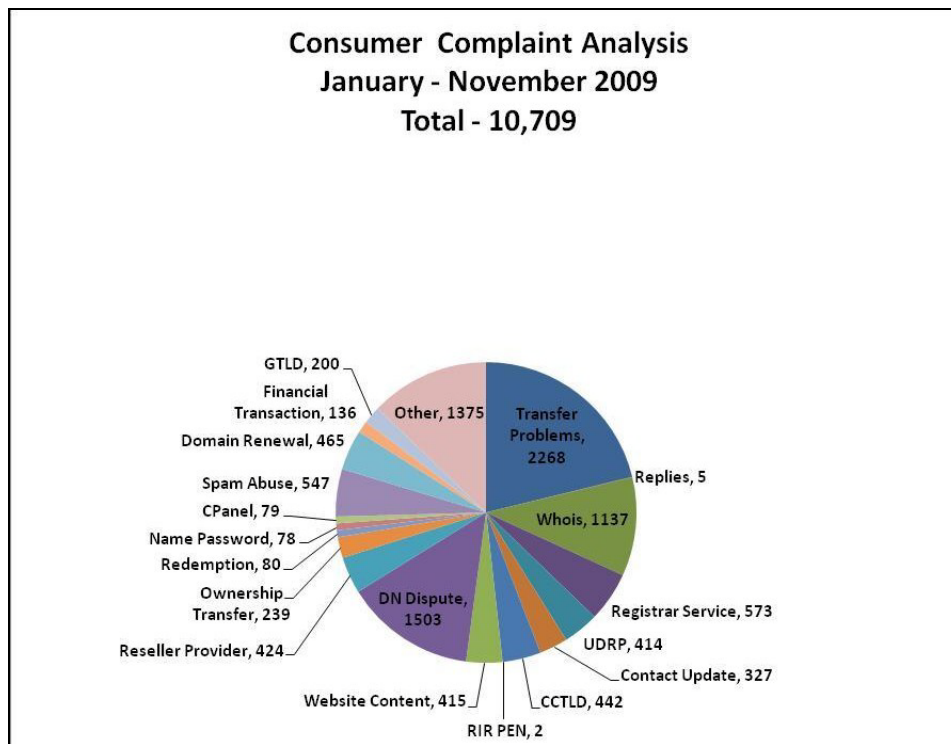


Figure 4 – Consumer complaints analysis

The following are key findings for the reporting period 1 January 2009 to 30 November 2009:

- Transfer problems comprised 21.0% (2,268 of 10,709) of all complaints received. To address this issue, ICANN will be conducting an Inter-Registrar Transfer Policy Audit in 2010.
- Domain name disputes accounted for 14.0% (1,503 of 10,709) of all complaints received.
- Typical complaints that are categorized as “Other” include questions about how to become an ICANN-accredited registrar, policy questions, legal advice, transfer procedures, ICANN fees, clarification about topics posted on the ICANN website, etc., basically, all complaints that do not fall in the specified categories accounted for 12.0% (1,375) of the complaints.
- Whois inaccuracy claims represented 10.6% (1,137 of 10,709) of all complaints received.

- Spam complaints comprised about 5% (547 of 10,709) of all complaints received.

While many complaints are about transfer problems, most complaints are about issues over which ICANN has no authority (e.g., spam, website content, reseller providers and financial transactions) because they are not addressed in the RAA and are not a violation of the RAA.

Please see <http://www.icann.org/registrars/ra-agreement-17may01.htm>. For these issues, registrants should contact private sector agencies such as The Better Business Bureau <http://www.bbb.org>, law enforcement agencies, or governmental consumer protection entities such as The International Consumer Protection and Enforcement Network <http://www.icpen.org> for assistance.

#### IV. Conclusion

ICANN's Contractual Compliance Team continued to build upon a track record of enforcement and serving as a resource for the community to address their complaints concerning the domain name space.

During this reporting period, the new version of the RAA was introduced and signed by over 600 registrars; more registrars will follow suit. Among other enhancements, the new RAA provides ICANN the authority to breach registrars when they do not respond to Compliance's requests in support of audit work.

Section 3.14, Registrar Audits: "Registrar shall, upon no less than fifteen (15) days notice and as part of any reasonable contractual compliance audit, (1) timely provide the documents and information known by Registrar necessary to demonstrate compliance with the terms of this Agreement; and (2) permit ICANN to conduct site visits in compliance with all applicable laws to assess compliance with the terms of this Agreement, provided that ICANN, in its notice, states the specific compliance audit that it intends to conduct.

ICANN shall not disclose Registrar confidential information gathered through such audits except as expressly permitted by an ICANN specification or policy. If such specification or policy permits such disclosure, ICANN will provide Registrar no less than fifteen (15) days notice of its intent to disclose such information. Such notice shall include to whom and in what manner ICANN plans to disclose such information." As more registrars enter into the new agreement, ICANN will use this new authority to strictly enforce audit responsiveness.

The RAA includes additional enforcement provisions, such as the ability to suspend registrars for noncompliance and impose sanctions, which strengthen the overall state of compliance and ensure a stable Domain Name System.