

Availability of Registrant Info Privacy or Accessibility?

- Access to dn registrant information
- Historically reasonable accessibility...but
- Problem with verification/Current info
- Problem with enforcement of penalties for failure to provide accurate information
- Far from a perfect system but open and sometimes useful.

Privacy or Accessibility Debate

- Transcends Domains
 - ICANN Task forces
 - CIRA Proposed Policy
 - Eg. Norway

FICPI Work

- -ICANN Strategic Plan
- -Comments from members in many countries
- high level of consistency
- **WANT ACCESS**

Canadian Problem

- CIRA Privacy Policy (not WHOIS access Policy)
- Priority clearly to protect privacy rights of individuals
- No meaningful way to determine who is behind infringement or wrongful registration

CIRA Characterization

- Following a substantive review conducted during 2003-2004, we amended our operational and policy approaches to WHOIS in order to achieve a number of policy objectives, including the enhancement of registrant privacy. In particular, we imposed significant new limits upon the disclosure of registrant data via WHOIS and upon the entitlements of third parties to use information acquired via WHOIS.

What Info Does CIRA Have

- Name & Number
- Registrant & Rep's address/phone/fax etc.
- Description of business
- Name & address admin. Contact
- Server info
- Domain name info: when reg. When changed, transfers, dispute res.

What do We Need to Enforce TM Rights?

- Sufficient information to determine who has registered for example domain name containing a client's mark;
- Info to determine who is behind site involved with tm infringement
- Name/address definitely
- Bus info & transfers etc. would be helpful

Under Policy

What will we get?

- For individual Registrants (Can. Citiz., Residents, Legal Reps)
 - Domain Name
 - Registrar's (not registrant's) name
 - Expir. Date & date of last change
 - Info regarding suspension/transfer
 - IP numbers and names of primary, secondary...servers.

What we won't get

- Any information which might facilitate determination of who is responsible for content which might infringe tm rights or who might have registered a domain name containing or comprising a client's tm.

Balance - such as it is

- DN holder may volunteer information
- Info disclosed pursuant to a Court Order etc.
- Policy seems to apply to individuals only or small businesses but requirements fit what it often the profile of an infringer/cybersquatter.
- Even if larger company have person within hold the name thereby shielding information.

How balance could have been achieved

- Privacy waiver part of contract
- May have been no need to protect privacy since questionable whether applies to public registries
- Limitations on when info released, for example with reasons provided

Can the proposed policy be fixed?

- IPIC voiced its concerns to no apparent effect
- Privacy interests very strong and appear to completely trump IP interests
- Can Government assist in preserving enforceability of tm rights?
- IP needs voice within CIRA

Question for Audience

- How should privacy versus access be balanced?
- What reasonable limitations on access to information can be offered to appease privacy interests?

UK

- NOMINET UK ("we", "us", "our") provides access to WHOIS records for information only to help people ("you", "your") find out registration information about a *.co.uk*, *.ltd.uk*, *.me.uk*, *.net.uk*, *.org.uk* or *plc.uk* domain name. We do not guarantee the accuracy or availability of the WHOIS records. Any WHOIS record provided is provided on an "as is" basis without any representations or warranties of any kind. We are entitled to change the WHOIS records, or withdraw the service, at any time. We are entitled, in our sole discretion, to terminate or slow down your access to the WHOIS for, including but not limited to, excessive querying of the WHOIS or for a failure to adhere to these terms.

UK con't

- You are not allowed to reuse, compile, store or transmit any or all of the WHOIS records unless you have our prior written consent. You are not allowed to conduct automated queries or use this service for advertising or similar activities. By using the WHOIS you accept that we are not liable for any damages or loss of any kind arising out of or in connection with the WHOIS or the records generated by the WHOIS or for any omissions or errors in the WHOIS records.