KnujOn (nûj-ôn)

Documentation of Ongoing Issues with Registrar Obligations under 3.7.8 and ICANN Compliance Procedures

Prepared by Garth Bruen of KnujOn.com, LLC for ICANN Compliance and ALAC/At-Large Working Groups

15 June, 2012

Registrar Concerned: Moniker Online Services (#228)

Brief: This document concerns a Registrar who has apparently failed to fulfill its obligations under RAA 3.7.8\(^1\). The Registrar sponsors or did sponsor a domain advertised in unsolicited email. The domain was found to have inaccurate WHOIS. A complaint filed through ICANN’s WHOIS Data Problem Report System (WDPRS). The registrant failed to update the WHOIS record during the 45-day complaint period and the Registrar and/or ICANN have not provided evidence that the Registrar fulfilled its obligation to investigate or correct the inaccuracy. The issue is compounded by the fact that the domain in question is one the many notorious “rogue” pharmacies which are known to traffic in controlled substances, sell adulterated or possibly poisonous medications, and be affiliated with organized crime. This is one of the most negative interactions of the Internet user or consumer. The failure of ICANN to properly address these violations by contracted parties threatens consumer trust and the overall stability of the Domain Name System.

\(^1\) http://www.icann.org/en/resources/registrars/raa/ra-agreement-21may09-en.htm#3.7.8
Chronology:

5 May 2011: In attempting to contact the administrator of antiimpotencedrugs[DOT]com at the address indicated in the WHOIS record: info@antiimpotencedrugs.com, we received a rejection notice stating “No Such User Here”

10 May 2011: A WDPRS complaint was filed and given the ticket number 153e760e8896aa4dc0ae90a25ed4d0f186a0f790

24 June 2011: The 45-day complaint cycle closes without the inaccurate WHOIS data being updated. The follow-up report was filed as “unchanged.” The domain was still active with the same content.

21 November 2011: KnujOn sent an official inquiry to ICANN Compliance about this issue.

25 March 2012: ICANN Compliance responded stating “Registrar provided steps taken to investigate alleged inaccuracies. The domain transferred out of their registration. NO ACTION required. RESOLVED.”

3 May 2012: KnujOn requested clarification on this issue as the transfer occurred long after the complaint period and available DNS records do not show any changes to the WHOIS during the complaint period. We specifically requested to know if the investigation occurred during the 45-dya complaint period.

21 May 2012: Compliance responded: “Registrar did not take steps between 10 May 2011 and 24 June 2011, as Moniker claimed that they did not receive the initial report.” AND “W-Tickets are closed when registrars transfer domain names, as once the domain name is transferred the previous registrar no longer sponsors the domain name.”

Issue(s):

1. The Compliance response from 21 May 2012 of “Registrar did not take steps between 10 May 2011 and 24 June 2011” contradicts the Compliance response from 25 March 2012 of “Registrar provided steps taken to investigate alleged inaccuracies.”

2. If the “Registrar did not take steps between 10 May 2011 and 24 June 2011” they are in breach of their contract and should be issued a breach notice.

3. The transfer of this domain occurred five months after the closure of the complaint period so it is irrelevant to the issue.
4. It is unclear how the transfer of a domain absolves a Registrar of responsibility when their obligations are specific to the time period when they sponsored the domain.

5. It is unclear how a registrant with an open issue can transfer a domain name without resolving the issue first.

6. It is unclear how "Moniker claimed that they did not receive the initial report" is an acceptable response to an inquiry.

7. ICANN and/or the Registrar have not produced any evidence of compliance with RAA 3.7.8 within the 45-day period which requires a Registrar to "take reasonable steps to investigate that claimed inaccuracy..." and "...take reasonable steps to correct that inaccuracy."

**Background Documentation:**

**Content (Illicit Pharmacy)**

![Image of illicit pharmacy products]

**WHOIS record**

```
Administrative Contact [16238059]:
    James D. Seller info@antiimpotence drugs.com
  1770 Goff Avenue
  Saint Joseph
  MN
  49085
  US
  Phone: +1.2695560916
```
Original Rejection notice

<table>
<thead>
<tr>
<th>I'm afraid I wasn't able to deliver your message to the following addresses. This is a permanent error; I've given up. Sorry it didn't work out.</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:info@antiimpotencedrugs.com">info@antiimpotencedrugs.com</a>: 208.43.165.48 does not like recipient. Remote host said: 550 No Such User Here Giving up on 208.43.165.48.</td>
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