

# Additional Topics

## Registrar-Applied Post-Creation Lock and Post-Transfer Lock

### Introduction - Status Quo

There is no requirement in ICANN policy to lock a domain against transfer for 60 days **following the registration of a domain name**. This requirement appears in some RAs and is reflected in corresponding RRAs.

There is no requirement in ICANN policy to lock a domain against transfer for 60 days **following the transfer of a domain name to a new registrar**. This requirement appears in some RAs and is reflected in corresponding RRAs.

Note that the post-transfer lock is different from the 60-day Change of Registrant Lock which is reflected in ICANN policy. See a summary of locks [here](#).

### Relevant Inputs to the Transfer Policy Status Report

In [WIPO's input](#) to the [Transfer Policy Status Report](#), WIPO notes:

*Decision implementation/case suspension and settlement:*

*Registrar action to be taken in the implementation of a decision per UDRP paragraph 4(k)/a settlement agreement between the parties per UDRP Rules paragraph 17 – namely, the transfer of a domain name to the complainant – are functionally equivalent under the IRTF. We note that the WIPO Center often receives registrar queries as to the process by which such a transfer should take place.*

*Given our narrow role as a UDRP provider however, we are limited to referring registrars and parties to the applicable rules and encouraging them to cooperate to facilitate the secure transfer of an impacted domain name.*

*Two issues related to the IRTF in particular seem to negatively impact UDRP processes:*

*. . . (ii) in some instances an intra-registrar transfer has been rejected as it was requested within 60 days of the creation date or last transfer date. In some instances this may be due to the action of the registrar itself where it modifies the relevant registrant details (e.g., by moving the domain name to a secure account, or by modifying the registrant information pursuant to RAA paragraph 3.7.5.7 in the event of domain name expiry). . .*

### Deliberations on this Topic

There are no charter questions specifically addressing this topic; however, the working group identified several issues that could be addressed through policy recommendations:

#### **Issues: Post-creation lock**

- Inconsistent application of these locks across the industry creates a bad experience for registrants and may create confusion among registrants.
- [Is it also challenging for Registrars to connect their systems with the variety of Registries that do or don't require this create lock?]
- In the limited cases that the RNH wants to transfer a domain within 60-days of initial registration, this lock can be prohibitive.

#### **Issues: Post-transfer lock**

- Inconsistent application of these locks across the industry creates a bad experience for registrants and may create confusion.
- In cases that the RNH wants to transfer a domain within 60-days of an inter-registrar transfer, this lock can be prohibitive.

Should the post-creation and post-transfer locks include opt-outs at the mutual agreement of the registrar and registrant? Should the policy specify a range of time that the lock may be applied (for example, a minimum of 10 days and maximum of 30 days)?

- PRO:
  - Greater flexibility for registrars and registrants.
  - There may be legitimate reasons to request a transfer relatively quickly after initial registration or after inter-registrar transfer.
  - A registrant may be well known to the registrar and in such cases the lock may not be necessary.
- CON:
  - Less consistency across the industry.
  - a party engaged in fraud could potentially approve the opt-out, therefore negating the lock's value.

#### **Is 10 days the right period of time for both locks?**

Note: 10 days was suggested as the shortest possible period that the WG would consider recommending. A 10-day period would prevent transfer during the AGP and therefore would not interfere with the ability to monitor whether registrars are complying with the AGP Limits Policy.

Post-creation:

- From one perspective, the post-creation lock should ideally be 60 days to provide sufficient time to investigate potential cases of cybersquatting, and then to prepare for and initiate UDRP proceedings, but 30 days may be acceptable. From this perspective, if the post-creation lock is 10 days, a UDRP is initiated on day 11, and then a transfer immediately takes place before the UDRP lock is put in place, there is additional

overhead for the complainant with respect to the case. In addition, a longer lock “also assists with preventing registrar hopping when a registrar is asked to take enforcement proceedings against an infringing or unlawfully used domain name.”

- From another perspective, even if the domain is transferred to another registrar, the transfer should not be a significant barrier to moving forward with a UDRP proceeding. Further, this scenario could come up regardless of the length of the post-creation lock. It is not clear that it would be more of an issue if the lock was 10 days as opposed to, for example, 30 days.

#### Post-Transfer

- From one perspective, the post-transfer lock should be longer than 10 days, because it plays an important role in protecting registrants.
- From another perspective, if a fast undo mechanism is recommended in phase 2, the fast undo period should correspond to the period of the post-transfer lock. 10 days is not a sufficiently long period for a fast undo window. 30 days is better.

From one perspective the lock period should cover at least one full credit card billing cycle. It is most likely that credit card fraud or other credit card billing issues will be identified at the end of the billing cycle, resulting in potential chargebacks. Chargebacks can be an indication of malicious activity. If the domain is transferred before the issue is identified, it can be more difficult to stop the malicious activity.

#### Consistency

- From one perspective, the two locks should be the same length of time to provide clarity and consistency.

Should the lock be applied by the registry or the registrar?

- Registry: Some registries already apply post-creation and post-transfer locks, so it would be logical to extend this responsibility.
- Registrar: Registrars are the primary parties responsible for actions associated with inter-registrar transfers, and therefore registrars should be responsible for enforcing these requirements.

### Post-Creation Lock: Proposal

**Proposal:** Introduce a policy requirement that it is not possible to transfer a domain to a new registrar within [10] [30] calendar days of domain registration. The lock is applied at the registrar.

#### Rationale:

- Provides registrars with a reasonable period of time to address issues related to chargebacks associated with fraudulent transactions.
- The mandatory lock period may also deter fraud to some extent.
- Applying a policy obligation across the board creates a more consistent experience for registrants and contracted parties.

- Legitimate transfers are not delayed excessively.
- Prevents transfer during the AGP and therefore will not interfere with the ability to monitor whether registrars are complying with the AGP Limits Policy.
- [Potentially addresses WIPO's concern regarding UDRP decision implementation.]

**Notes:**

- A domain may still be locked if it is subject to dispute.
- Independent of this mechanism, there will be an option for clawback.

## Post-Transfer Lock: Proposal

**Proposal:** Introduce a policy requirement that it is not possible to transfer a domain to a new registrar within [30] calendar days of an inter-registrar transfer. The lock is applied at the registrar.

**Rationale:**

- Prevents repeated transfers in rapid succession.
- Applying a policy obligation across the board creates a more consistent experience for registrants and contracted parties.
- Legitimate transfers are not delayed excessively.
- Affords enough time to file a dispute in many cases, after which the domain will be locked in relation to the dispute.
- [Potentially addresses WIPO's concern regarding UDRP decision implementation.]

**Notes:**

- A domain may still be locked if it is subject to dispute.
  - Independent of this mechanism, there will be an option for clawback.
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## CANDIDATE RECOMMENDATIONS AND EXPLANATION

While there is no question in the working group's charter that addresses this specific issue, the working group considered that in some cases, a domain is locked against inter-Registrar transfer for 60 days following the registration of the domain name or the transfer of the domain name to a new Registrar. Requirements regarding post-registration and post-transfer locks appear in some Registry Agreements and are reflected in corresponding Registry-Registrar Agreements. This practice is neither required nor prohibited in the Transfer Policy and is applied inconsistently across the industry.

The working group considered that this inconsistent practice may cause confusion among registrants and may lead to poor registrant experience. The working group supported establishing a standard set of requirements that apply across the industry. While some members also supported opportunities for opt-outs or flexibility in the requirements (for example a minimum lock period with an option to implement a longer lock period), the working group ultimately agreed that consistency needs to be maintained.

In the course of deliberations, the working group discussed three possible time periods for post-registration and post-transfer locks<sup>1</sup>: 10 days, 30 days, and 60 days. Working group members supported maintaining consistency between the period that a transfer is prohibited following registration and following inter-registrar transfer. Some working group members have advocated for establishing a "fast undo" process along the lines of the Expedited Transfer Reverse Process (ETRP) considered in Inter-Registrar Transfer Policy (IRTP) Part B. The IRTP Part B Working Group ultimately did not adopt the ETRP proposal. "Fast undo" discussions will continue in Phase 2 of the Transfer Policy Review PDP, and the Working Group has not yet considered this topic in depth. At this stage, some Working Group members noted that if a "fast undo" process is ultimately adopted, the period for which a domain is eligible for "fast undo" following an inter-Registrar transfer should likely correspond to the lock periods, and should be sufficiently long to identify the need to invoke the "fast undo" process.

**Recommendation 16:** The Registrar MUST restrict the RNH from transferring a domain name to a new Registrar within 30 days of the initial registration date.

**Rationale:** The working group believes that a single requirement across the industry will result in a better experience for registrants. The working group recommends that 30 days is the appropriate period for this requirement because:

- It provides a window of opportunity to identify issues associated with credit card payments, including unauthorized use of a credit card. This may assist with addressing criminal activity and deterring fraud.
- It provides a window of opportunity for a complainant to file a UDRP proceeding without the domain being transferred to a new registrar. Once the proceeding is underway, the domain will be locked in relation to the dispute.

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<sup>1</sup> Use of the term "lock" is not intended to imply or require a specific technical solution for implementation. Rather, it is used as shorthand meaning that the domain is ineligible for inter-registrar transfer for a period of time.

- For registrants who legitimately want to transfer a domain shortly after registration, the working group believes that 30 days is a reasonable period of time to wait.

**Recommendation 17:** The Registrar MUST restrict the RNH from transferring a domain name to a new Registrar within 30 days of the completion of an inter-registrar transfer.

**Rationale:** The working group believes that a single requirement across the industry will result in a better experience for registrants and will also consistently prevent the transfer of a domain multiple times in rapid succession, a practice associated with domain theft. The working group recommends that 30 days is the appropriate period for this requirement because:

- It provides a window of opportunity to identify issues associated with credit card payments, including unauthorized use of a credit card. This may assist with addressing criminal activity and deterring fraud.
- For registrants who legitimately want to transfer a domain again shortly after an inter-registrar transfer has taken place, 30 days is a reasonable period of time to wait.