WHOIS Letter to ICANN

28 October 2003

Mr. Paul Twomey

President and Chief Executive Officer

Internet Corporation for Assigned Names and Numbers

4676 Admiralty Way, Suite 330

Marina del Rey, CA 90292-6601

United States of America

Dear Mr. Twomey,

We write to you, on behalf of many consumer and civil liberties organizations from around the world, regarding the significant privacy issues surrounding the WHOIS database and the need to ensure that strong privacy safeguards are established. ICANN has moved aggressively to establish accuracy requirements for domain name registrants, but has failed to establish corresponding protections for personal information that is provided. As representatives of Internet users around the world, we are keen to ensure that the policies developed for the WHOIS database respect the freedom of expression and the privacy of every individual who registers Internet domains.

Many organizations, consumer advocates, and technical experts have advocated strong protection for privacy interests. Those privacy concerns have not thus far been adequately addressed. We hope that our comments will be given due consideration during the WHOIS workshop at the upcoming ICANN meetings in Carthage, Tunisia.

1. The main purpose of the WHOIS database should be to resolve technical network issues, the most important being spam.

The WHOIS database was originally intended to allow network administrators to find and fix problems to maintain the stability of the Internet. It now exposes domain name registrants' personal information to many other users for many other purposes unrelated to network access.

Anyone with Internet access can now have access to WHOIS data, and that includes stalkers, governments that restrict dissidents' activities, law enforcement agents without legal authority, and spammers. The original purpose for WHOIS should be reestablished.

One of the most important technical problems that threaten public use of the Internet today is spam. A sensible WHOIS policy would improve contact-ability and data accuracy for network administrators. It would not make personal information more widely accessible to third parties.

2. The use and management of the WHOIS database without adequate data protection safeguards raises risks for domain name holders' right to privacy and freedom of expression.

Users of domain names have a legitimate and reasonable expectation of privacy. There are many users, particularly in the non-commercial world, who have valid reasons to conceal their identities or to register domain names anonymously. Although there are some domain name registrants who use the Internet to conduct fraud or to infringe on other people's or companies' intellectual property rights, we believe that a sensible privacy policy for WHOIS must protect the legitimate privacy expectations for domain registrants.

First, for domain name registrars to compel registrants to disclose personal information, even information related to domain registration, poses dangers to freedom of expression and privacy on the Internet. Many domain name registrants--and particularly noncommercial users--do not wish to make public the information that they furnished to registrars. Some of them may have legitimate reasons to conceal their actual identities or to register domain names anonymously. For example, there are political, cultural, religious groups, media organizations, non-profit and public interest groups around the world that rely on anonymous access to the Internet to publish their messages. Anonymity may be critical to them in order to avoid persecution.

Second, WHOIS data should not be available to just anyone who happens to have access to the Internet. It is well known that broad access to personal information online contributes to fraud such as identity theft. US Federal Trade Commission (FTC) advises consumers to protect themselves from identity theft, and generally from Internet-related frauds, by not disclosing personally identifiable information. The mandatory publication of WHOIS data is contrary to the FTC's advice.

We urge ICANN to consider the views of consumer organizations and civil liberties groups on the WHOIS. At a minimum, we believe that adequate privacy safeguards should include the following principles:

- The purposes for which domain name holders' personal data may be collected and published in the WHOIS database have to be specified; they should, as a minimum, be legitimate and compatible to the original purpose for which this database was created; and this original purpose cannot be extended to other purposes simply because they are considered desirable by some users of the WHOIS database;
- The most relevant purpose for collecting WHOIS data is to combat spam;
- The amount of data collected and made publicly available in the course of the registration of a domain name is limited to what is essential to fulfill the purposes specified;
- Any secondary use that is incompatible with the original purpose specified requires the individual's freely given and informed consent;
- The publication of individuals' personal information on the Internet through the WHOIS database should not be mandatory; it should be possible for individuals to register domain names without their personal information appearing on a publicly available register; and
- Disclosure of WHOIS information to a law enforcement official or in the context of civil litigation must be pursuant to explicit legal authority set out in statute.

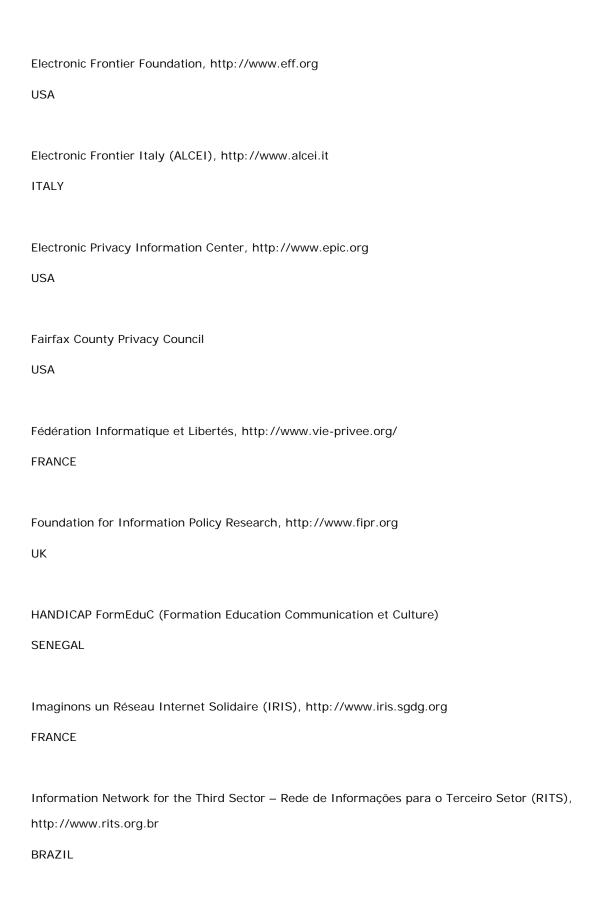
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Such a policy would not frustrate lawful criminal investigations. It would instead establish necessary
privacy safeguards, and reduce the risk that the widespread availability of WHOIS information will
lead to greater fraud, more spam, and jeopardize freedom of expression.
Respectfully submitted,
Signatories:
American Library Association, http://www.alawash.org
USA
ANSOL - Associação Nacional para o Software Livre, http://www.ansol.org
PORTUGAL

Association Electronique Libre, http://www.ael.be BELGIUM
Association for Progressive Communication, http://www.apc.org USA
Australian Council for Civil Liberties, http://www.nswccl.org.au/ AUSTRALIA
Australian Privacy Foundation, http://www.privacy.org.au/ AUSTRALIA
Canadian Internet Policy and Public Interest Clinic (CIPPIC), http://www.commonlaw.uottawa.ca/tech/html/lawclinic.html CANADA
Centre de Coordination pour la Recherche et l'Enseignement en Informatique et Société (CREIS), http://www.creis.sgdg.org FRANCE
Centre de Ressources pour la Promotion des Droits des Personnes Handicapées (CRPH) SENEGAL
Common Cause, http://www.CommonCause.org USA
Computer Professionals for Social Responsibility, http://www.cpsr.org

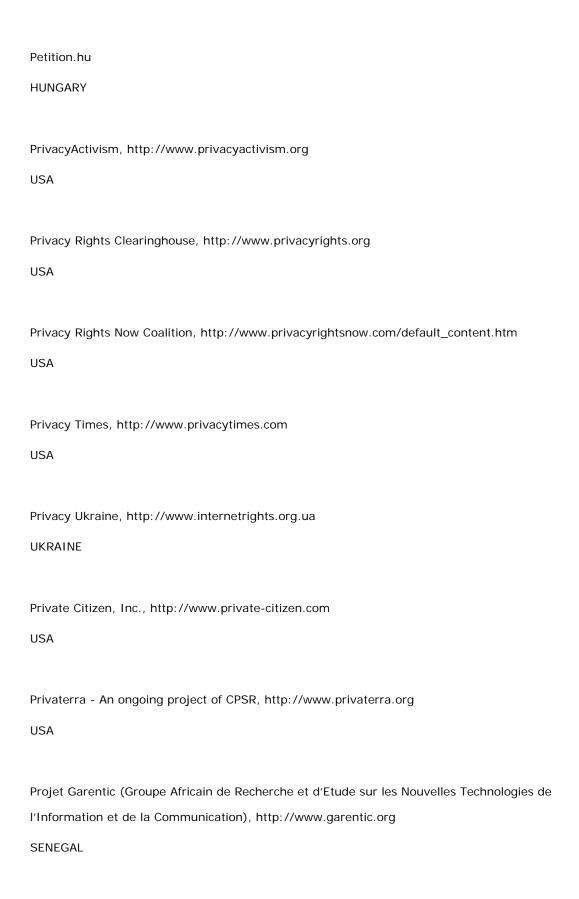
USA
Consumer Action, http://www.consumer-action.org
USA
Consumer Federation of America, http://www.cfa.org
USA
Consumer Project on Technology, http://www.cptech.org
USA
Cyber-Rights & Cyber-Liberties, http://www.cyber-rights.org
UK
Digital Rights, http://www.digitalrights.dk
DENMARK
Ekpizo (Consumers' Association for the Quality of Life), http://www.ekpizo.org.gr/
GREECE
Electronic Frontier Argentina
ARGENTINA
ANGENTHAL
Electronic Frontiers Australia Inc. (EFA), http://www.efa.org.au
AUSTRALIA

Electronic Frontier Finland, http://www.effi.org

FINLAND



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Public Interest Advocacy Centre, http://www.piac.ca
CANADA
Quintessenz, http://quintessenz.org
AUSTRIA
Statewatch, http://www.statewatch.org
UK
STOP1984, http://www.stop1984.org
GERMANY
Studentski domovi v Ljubljani - lokacija Rozna dolina
SLOVENIA
Think Centre, http://www.thinkcentre.org
SINGAPORE
Taiwan Association for Human Rights (TAHR), http://www.tahr.org.tw
TAIWAN
USAConcertAction Femmes Estrie, http://www.femmesenestrie.qc.ca/cafe/
CANADA
US Public Policy Committee of the Association for Computing Machinery (USACM),
http://www.acm.org/usacm/
USA

VECAM, http://www.vecam.org
FRANCE
VIBE!AT - Verein für Internet-Benutzer Österreichs, http://www.vibe.at/
AUSTRIA
Virtual Activism USA, http://www.virtualactivism.org
USA
DEFEDENCE
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