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.

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:

USA

PORTUGAL
Association Electronique Libre, http://www.ael.be
BELGIUM

Association for Progressive Communication, http://www.apc.org
USA

AUSTRALIA

AUSTRALIA

Canadian Internet Policy and Public Interest Clinic (CIPPIC),
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Centre de Coordination pour la Recherche et l'Enseignement en Informatique et Société (CREIS),
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FRANCE

Centre de Ressources pour la Promotion des Droits des Personnes Handicapées (CRPH)
SENEGAL

USA

USA


USA

Consumer Federation of America, http://www.cfa.org

USA

Consumer Project on Technology, http://www.cp.tech.org

USA


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

Electronic Frontiers Australia Inc. (EFA), http://wwwefa.org.au

AUSTRALIA

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

FINLAND
Electronic Frontier Foundation, http://www.eff.org
USA

Electronic Frontier Italy (ALCEI), http://www.alcei.it
ITALY

Electronic Privacy Information Center, http://www.epic.org
USA

Fairfax County Privacy Council
USA

FRANCE

UK

HANDICAP FormEduC (Formation Education Communication et Culture)
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Imaginons un Réseau Internet Solidaire (IRIS), http://www.iris.sgdg.org
FRANCE

Information Network for the Third Sector – Rede de Informações para o Terceiro Setor (RITS),
http://www.rits.org.br
BRAZIL
Instituto de Investigación para la Justicia, http://www.iijusticia.edu.ar
ARGENTINA

USA

USA

PERU

LINK Centre, http://link.wits.ac.za/
SOUTH AFRICA

USA

USA

Netzwerk Neue Medien e.V. (Network for New Media), http://www.nnm-ev.de
GERMANY

AUSTRALIA
Petition.hu
HUNGARY

PrivacyActivism, http://www.privacyactivism.org
USA

USA

USA

Privacy Times, http://www.privacytimes.com
USA

Privacy Ukraine, http://www.internetrights.org.ua
UKRAINE

Private Citizen, Inc., http://www.private-citizen.com
USA

Privaterra - An ongoing project of CPSR, http://www.privaterra.org
USA

Projet Garentic (Groupe Africain de Recherche et d'Etude sur les Nouvelles Technologies de l'Information et de la Communication), http://www.garentic.org
SENEGAL
Public Interest Advocacy Centre, http://www.piac.ca

CANADA

Quintessenz, http://quintessenz.org

AUSTRIA

Statewatch, http://www.statewatch.org

UK


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

USAConsertAction 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
REFERENCES:

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