



Newsletter

Issue 27 June 2018



GDPR And Domain Names - What You Need To Know



WHOIS has been a hallmark of the Internet, dating back to the original ARPANET in 1982. This system allows anyone to view the owner of a domain name, such as ihostingx.com. This is important to global commerce for a number of reasons:

- You can identify with whom you are conducting business
- You can sometimes identify whether or not one entity is owned by another
- You can find alternative contact information for a hard to reach individual or company
- You can determine the owner of a domain that you would like to purchase so you can reach out and make an offer

Towards the end of May 2018, ICANN, the Internet Corporation for Assigned Names and Numbers that manages the worldwide WHOIS system, recognized that the EU was not going to grant a requested extension for GDPR compliance. ICANN had

IN THIS ISSUE:

GDPR And Domain Names - What You Need To Know

German Regional Court to Revisit Ruling in Injunction Proceedings on Request to Preserve WHOIS data

2020 ICANN Public Meeting Locations Announced

requested this extension multiple times so that they could develop a fully-compliant solution that at the same time was not disruptive of commerce.

That didn't happen.

So what are the ramifications?

Well, for starters, most domain registrars have decided to hide all WHOIS details for all domains - whether or not the registrants reside, or are headquartered within, the European Union. This impacts consumers in two ways:

1. It decreases, essentially to zero, the fees that registrars collected for "domain privacy service" to replace WHOIS info with privacy forwarding information that protected the identity of the domain owner but still facilitated contact. These fees were an important source of revenue that helped to offset the cost of other products, such as domains themselves and even Web hosting plans. All of these things are likely to become more expensive over the next 12 months as companies' costs certainly have not suddenly and magically decreased.
2. It is now exponentially harder, particularly for an individual or small-time operator, to access the resources necessary to determine a domain name's owner. This has ramifications for those who like to buy domains, but even more serious ramifications for those who are defrauded or even just given poor service on the Internet. This change makes it significantly easier for fraudsters to prey upon individuals and even businesses, leading to real financial losses.

While it is likely that ICANN and domain registrars will eventually find a workable solution to this problem, in the interim year or two, it is easy to see how this change creates problems. The EU was very well-intentioned with the passage and introduction of this new regulation. Now, here's hoping they take a second pass and help clean up the mess being left in its wake.

By: Daniel Briere
Source: Host Review

German Regional Court to Revisit Ruling in Injunction Proceedings on Request to Preserve WHOIS data



LOS ANGELES - The Internet Corporation for Assigned Names and Numbers (ICANN) was informed that the Regional Court in Bonn, Germany, has decided to revisit its ruling in the injunction proceedings that ICANN initiated against EPAG, a Germany-based, ICANN-accredited registrar that is part of the Tucows Group.

On 13 June 2018, ICANN appealed the Regional Court's initial decision to reject ICANN's application for an injunction, in which ICANN sought a court order requiring EPAG to reinstate collection of administrative and technical contact data for new domain name registrations.

Upon receipt of an appeal, the Regional Court has the option to re-evaluate its decision that is being appealed, or affirm its decision and immediately forward the matter to the Higher Regional Court for consideration of the appeal.

In this instance, the Regional Court has decided to revisit its initial decision and has asked EPAG to comment on ICANN's appellate papers within two weeks.

ICANN is pursuing this matter as part of its public interest role in coordinating a decentralized global WHOIS for the generic top-level domain system. To that end, ICANN continues to seek clarity of how to maintain a global WHOIS system and still remain consistent with legal requirements under the European Union's General Data Protection Regulation (GDPR).

Background:

On 25 May 2018, ICANN filed the injunction proceedings against EPAG. ICANN asked the Court for assistance in interpreting the GDPR in an effort to protect the data collected in WHOIS. ICANN sought a court ruling to ensure the continued collection of all WHOIS data. The intent was to assure that all such data remains available to parties that demonstrate a legitimate purpose to access it, and to seek clarification that under the GDPR, ICANN may continue to require such collection.

ICANN filed the proceedings because EPAG had informed ICANN that as of 25 May 2018, it would no longer collect administrative and technical contact information when it sells new domain name registrations. EPAG believes

collection of that particular data would violate the GDPR. ICANN's contract with EPAG requires that information to be collected.

EPAG is one of over 2,500 registrars and registries that help ICANN maintain the global information resource of the WHOIS system. ICANN is not seeking to have its contracted parties violate the law. Put simply, EPAG's position spotlights a disagreement with ICANN and others as to how the GDPR should be interpreted.

On 30 May 2018, the Regional Court determined that it would not issue an injunction against EPAG. In rejecting the injunctive relief, the Court ruled that it would not require EPAG to collect the administrative and technical data for new registrations. However, the Court did not indicate in its ruling that collecting such data would be a violation of the GDPR. Rather, the Court said that the collection of the domain name registrant data should suffice in order to safeguard against misuse in connection with the domain name (such as criminal activity, infringement, or security problems).

The Court reasoned that because it is possible for a registrant to provide the same data elements for the registrant as for the administrative and technical contacts, ICANN did not demonstrate that it is necessary to collect additional data elements for those contacts. The Court also noted that a registrant could consent and provide administrative and technical contact data at its discretion.

On 13 June 2018, ICANN appealed the Regional Court's ruling to the Higher Regional Court of Cologne, Germany, and again asked for an injunction that would require EPAG to reinstate the collection of all WHOIS data required under EPAG's Registrar Accreditation Agreement with ICANN.

ICANN appreciates and understands the dilemma of EPAG in trying to interpret the GDPR rules against the WHOIS requirements, but if EPAG's actions stand, those with legitimate purposes, including security-related purposes, law enforcement, intellectual property rights holders, and other legitimate users of that information may no longer be able to access full WHOIS records.

In addition to the court proceedings, ICANN is continuing to pursue ongoing discussions with the European Commission and the European Data Protection Board to gain further clarification of the GDPR as it relates to the integrity of WHOIS services.

Source: ICANN

2020 ICANN Public Meeting Locations Announced



LOS ANGELES - the Internet Corporation for Assigned Names and Numbers (ICANN) announced the locations for the 2020 ICANN Public Meetings. Cancun, Mexico, has been selected as the location in the Latin America and Caribbean region to host ICANN's 67th Public Meeting, from 7–12 March 2020. The Community Forum will be held at the Cancun International Convention Center.

Kuala Lumpur, Malaysia, has been selected as the location in the Asia Pacific region to host ICANN's 68th Public Meeting, from 22–25 June 2020. The Policy Forum will be hosted by Dr. Suhaidi Hassan of the Internet Society Malaysia Chapter at the Kuala Lumpur Convention Center.

Hamburg, Germany, has been selected as the location in the European region to host ICANN's 69th Public Meeting, from 17–22 October 2020. The Annual General Meeting will be hosted by eco association, DENIC and the City of Hamburg at the Congress Center Hamburg.

ICANN holds three Public Meetings each calendar year in different regions of the globe. ICANN Public Meetings are a central principle of ICANN's multistakeholder model because they provide a venue for progressing policy work, conducting outreach, exchanging best practices, conducting business deals, and interacting with other members of the ICANN community, Board, and organization. Usually comprising more than 400 different sessions, these meetings are the focal point for individuals and representatives of the different ICANN stakeholder groups to introduce and discuss issues related to ICANN policy development. Participants may attend in person or remotely. Meetings are open to everyone and registration is free.

Source: ICANN

Please feel free to contact us at:
info@tag-domains.com
Tel.: +962 6 5100 900 ext.1625
Fax: +962 6 5100 901