PirateBay: Swedish registry acquitted (for now)

Over two years ago, a lawsuit was brought against IIS (formerly .SE) and the registrant regarding the confiscation of thepiratebay.se and piratebay.se. In May 2015, judgment was declared and IIS was acquitted: the District Court did not uphold the prosecutor's claim against IIS. However, the two domain names are to be confiscated from the registrant and transferred to the Swedish state.

By Elisabeth Ekstrand, Head of Legal and Policy at IIS and CENTR Board Member

This is the first time IIS has been tried in order to determine responsibility for complicity as a result of copyright crimes committed in relation to specific domain names, in this case thepiratebay.se and piratebay.se.

The judgment against the registrant has been appealed by the registrant and in early June, the prosecutor appealed the judgment against IIS. As the court of Appeal will have to give leave to appeal, it is unknown if the judgment against IIS will become enforceable or tried by a higher court.

Important issue for IIS

In recent years, various types of legal strategies to address the issue of breaches and copyright infringement on the internet have been attempted in Sweden. It has proven difficult to prosecute these breaches and infringements, which have resulted in the formulation of new strategies. These have focused on various types of intermediaries that facilitate communication.

The prosecutor's decision to file a lawsuit against IIS – and not the registrant alone – is a clear sign of these new strategies.

IIS was issued with a lawsuit relating to a separate action on confiscation, etc. under article 53 a of the Swedish Copyright Act or section 36 article 3 of the Penal Code.

The prosecutor requested that the court confiscate the domain names from IIS. The prosecutor did not go into any further detail on the practical implications that confiscation would have on IIS. In Layman's terms, confiscation means that the rights to a certain object are transferred to the ownership of the state.

For many, including IIS, these types of issues are interesting and important. They involve maintaining an open internet and protecting freedom of speech, at the same time as it is necessary to have effective processes to prosecute criminal activities on the internet.

From IIS' perspective, it is of course particularly interesting to find out the degree of responsibility that IIS can be deemed to possess in its capacity as top-level domain administrator in this respect and whether a domain name is considered an object or property under the laws in question.

The content of the judgment

The judgment is well written and contains nuances which clearly show that there is now a greater sense of understanding within the court system of the special circumstances which apply to the internet.

What has been tried is whether IIS can be held responsible for complicity as a result of copyright crimes committed in relation to the domain names thepiratebay.se and piratebay.se. The prosecutor had motioned for the confiscation of the domain names against IIS, alleging that IIS was aware of the operations and could have prevented the continued use of the domain names but instead chose to renew and charge for the domain name. It was therefore alleged that IIS was complicit in copyright infringement. However, the District Court held that IIS' actions in this case must be deemed permissible given that IIS has grounds for its position that it considered that in its position as the administrator of a service of public good, it is not obliged to judge as to what may or may not be illegal on different websites.

What is done now

As we do not know if the court of Appeal will give leave to appeal or not, we do not know if the current judgment will stand. Questions that will need answers are as to how the confiscation of the domain names from IIS is to be done in practical terms and what that will mean. Are they to be blocked forever? Is the government to pay an annual fee for the domain names as an ordinary registrant does? Who within the government will be the registrant? We will need to consider these issues and discuss them with representatives of the government.

CENTR Jamboree 2015

This year's Jamboree saw an overwhelming number of participants eager to meet and discuss the topics from every possible angle with colleagues from their field of expertise and beyond. More than 200 participants came to Stockholm to attend the Working Group (WG) meetings in the morning and to get involved in the joint and interactive sessions in the afternoon. IIS (.SE) made them feel at home in Stockholm and experience the dark and cold side of "Nordic Noir", as well as the bright and convivial side of Swedish culture. Read more

7th R&D Workshop

The 7th CENTR R&D workshop saw a range of presentations and updates from members on their ongoing and collaborative projects. DENIC and NIC.AT presented ideas in new transports for the DNS (apart from the standards of UDP and TCP), AFNIC and IIS (.SE) presented their ZoneMaster project – a DNS zone validation tool developed collaboratively and NIC.AT also presented ideas on using probabilistic data structure of a "bloom filter" which allows entities besides the Registry to quickly query domain name availability. Other topics included DNSSEC cryptographic demographics and research results into the nature of WHOIS queries (performed by Verisign).

The working group also discussed administrative aspects such as their scope and workshop frequency and a new co-chair was appointed – Alex Mayrhofer (NIC.AT).

9th Security Workshop

CENTR's Security working group opened a row of three technical related workshops on the first day of the 2015 CENTR jamboree with their 9th Security workshop. Among the 75 participants in the room were not only Security Officers, but also technical operational people; the main topic of discussion was thus domain abuse. Different registries shared their experiences with how they deal with domain abuse. Beside the abuse topic, SIDN made an excellent presentation on how they deployed secure software development within the .nl registry. The CENTR Security working group also welcomed JPRS, the .jp registry who for the first time gave an overview on their security activities for the CENTR working group. The workshop was concluded by a presentation on the results of a specific study on the factors of domain abuse, commissioned by CENTR and conducted by Architelos.

47th Legal & Regulatory Workshop

From the host presentation by Elisabeth Ekstrand, the following figures stood out: IIS (.SE) has an annual turnover of 18 million SEK, 6 million of which going to internet development initiatives. Also worth noting is that 70% of registrants have 1 name only.

Two of the presentations focussed on Whois and privacy. Anne-Cathrin Marussen from Norid presented on the possible impact of ICANN Whois reforms on ccTLDs, Tania Baumann from Nominet discussed the impact of changing landscapes and privacy needs on the way Nominet is reviewing its Whois and how they will deal with privacy services.

In addition, Ficora's Kirsi Sunila-Putilin presented Finland's draft domain regulation with focus on security incident reporting and notification obligations for registrars. Filippa Murath from IIS (.SE) explained the pitarebay.se court case and the implications for both domain name holders and the registry. Drew Bagley from the Secure Domain Foundation gave an overview of SDF's proactive approach to Domain abuse, with focus on commonalities in Whois information and IP addresses.
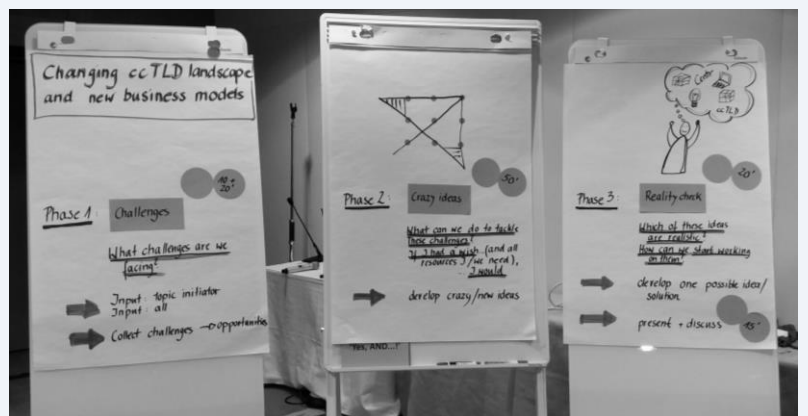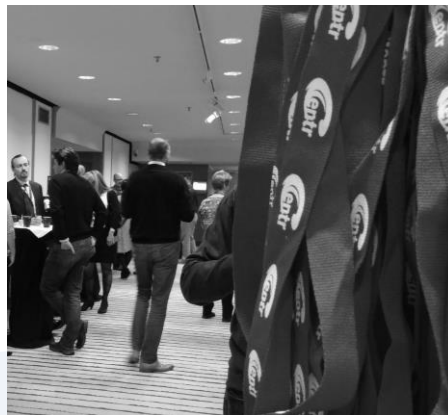
35th Admin Workshop

During the Tour de Table, registries shared updates on their latest developments. These included, among others, the introduction and implementation of services and processes (often related to security, such as DNSSEC, validation and verification systems, AuthInfo transfer, registry lock, ISO27001 etc.) with a view to upgrade or streamline their own systems, meeting legal requirements, and offering new or better services or support to registrars. The latter, in several cases, included an upgrade of the registry's website to ease usability or targeted initiatives following considerable segmentation efforts. The meeting also saw the approval of the scope of the working group, which now awaits approval by the GA in October this year.

17th Marketing Workshop

At the 17th CENTR Marketing Workshop, 22 registries presented updates during an efficient and content-filled tour de table. Topics covered included a wide range of projects, including several new registry websites, funding and CSR programmes, promotional, awareness and price campaigns, targeted campaigns towards SMEs, gTLD and ccTLD collaboration in marketing efforts, and registry and registrar collaboration, among others. Participants also listened to presentations by Patrick Myles (CENTR), who gave an overview of the latest trends in the ccTLD industry amongst CENTR members, David Morrison (.nz), who explained the process of implementing registrations at second level in the .nz domain space, and Måns Jonasson (.se), who presented a marketing campaign that was launched by IIS called 'Domain Pirates' and that aimed, among other things, at finding an efficient way to keep track of conversion rates.

32nd Technical Workshop

The CENTR Technical working group met on the second day of the CENTR workshop jamboree for their first of two workshops in 2015. Being the working group's 32nd standalone workshop, it was held during this Jamboree in parallel with the 35th CENTR Administrative workshop. Among the various technical topics that were discussed during the meeting, two outstanding presentations can undoubtedly be highlighted: a project by the .eu registry that allows easy exploration of operational log data to provide registries with more data for taking business or operational decisions was presented by Peter Janssen. A second was the update given by Patrik Wallström on the collaborative project between Afnic and IIS (.SE) called 'Zonemaster', a DNS checking tool. At the end of the workshop Marcos Sanz announced he was stepping down as chair of the CENTR Technical working group after ten years. The almost 80 people from 31 ccTLD registries in the room all gave Marcos a standing ovation for his excellent chairmanship.

EU Policy *Update*

By Nina Elzer, CENTR Policy Adviser

Council adopts conclusions on IANA Stewardship Transition

In its conclusions, the Council welcomes the progress achieved so far and appreciates the efforts by volunteering stakeholders so far. It urges, however, that the transition take place in a timely and well prepared manner with a view to retaining "the Internet as a single, open, neutral, free, and un-fragmented network". At the same time, the Council notes that "any unjustified delay of this process could negatively impact internet governance debates worldwide" (see press release).

German parliament approves IT Security Law

Providers of critical infrastructure, such as energy providers, but also providers of telecommunication services, will need to implement minimum security standards and report security incidents to a central authority – otherwise they could face penalties of up to 100,000€. In addition, telecom providers need to warn their customers if they notice an abuse of their systems. Read more

Update on the NIS directive (June 2015)

Negotiations are ongoing at Council-level with the European Parliament getting more and more frustrated about the "no-progress", which the Presidency describes as "substantial progress" and the Commission hails as an exercise "breaking new ground". At this point, it seems very unlikely that negotiations can be concluded under the Latvian Presidency. Read more

Data retention – Another one down

After Germany and The Netherlands, the Belgian Constitutional Court has declared the country's data retention law illegal. The national law had been linked to the EU directive, which was struck down by the European Court of Justice last year. While NGOs, which - together with lawyers - had challenged the law, hail this as a victory of human rights, others consider this a serious step back in terms of legal certainty, law enforcement and efficient cooperation among stakeholders. Read more

IGF workshop proposal approved

"How communities restore trust in the digital environment" – this will be the subject of a debate at the upcoming joint workshop of CENTR, LACTLD, AfTLD and APTLD at the IGF in Brazil in November 2015. Under the leadership of Giovanni Seppia, Chair of CENTR's Board, and in cooperation with the ROs, CENTR submitted the proposal earlier this year. Read more

Council of Europe Declaration on ICANN

Last week, a Council of Europe Committee adopted a Declaration on "ICANN, human rights and the rule of law". It refers in particular to the role and responsibilities of ICANN with regards to Internet Governance and its "mandate to manage the Internet's global domain name and addressing system in the public interest". Read more

More information on selected topics

★ *Council on Fundamental Rights Charter*

★ *Net neutrality X 3* (Telecoms package, EuroDIG, BEREC report)

★ *Data protection –Trilogue negotiations can start*

★ *Priorities of the Luxembourgish Presidency*

★ *Commission study on data location rules*

"Netoscope" gives advice to parents (.ru) Netoscope is one of the examples of how the cooperation between large companies can significantly affect safety of the Internet and decrease the number of malicious webpages.

.ch: domain transfer progressing quickly At the start of June last year, around 1.2 million .ch domain names were still registered with SWITCH. Today this number had fallen to just under 400,000, i.e. less than a third.

The domain name market: 2017, year of consolidation? The May 2015 edition of the Afnic Industry Report on Domain Names sets out a projection of the domain name market development for the next five years.

Q1 2015 .eu progress report now available The latest progress report from the .eu registry, EURid, has shown that the total number of .eu domain names registered at the end of Q1 represented an increase of 2.3%.

Blog: ICANN's CEO, the "I" farewell tour Earlier this month at the European Parliament, ICANN's CEO began what can only be described as his farewell tour. The topic of discussion at the European Internet Forum (EIF) dinner should have been about the IANA Stewardship Transition. Read on

Blog: CSTD 18th Session: one step closer to deciding what WSIS will look like for the next 10 years - The Commission for Science and Technology for Development (CSTD) is a United Nations (UN) agency unlike some of the other key UN agencies involved in the Word Summit on the Information Society (WSIS) process. ITU, UNESCO, and UNCTAD all contain a membership of all UN-recognised Member States. Read on

2015 CENTR Awards – Deadline for applications fast approaching!

The 2015 CENTR Awards aim at highlighting country code top-level domain (ccTLD) registry projects, teams and people that make a difference in the domain name industry.

The five award categories for this year include the Security Award, the Research and Development Award, the Marketing Award, the Corporate and Social Responsibility Award and the Contributor of the Year Award. The CENTR Awards ceremony will be held on 7 October 2015 at the Palais des Académies in Brussels, Belgium.

The deadline for applications is **1 July 2015** – nominate a project today!

More information on the CENTR Awards
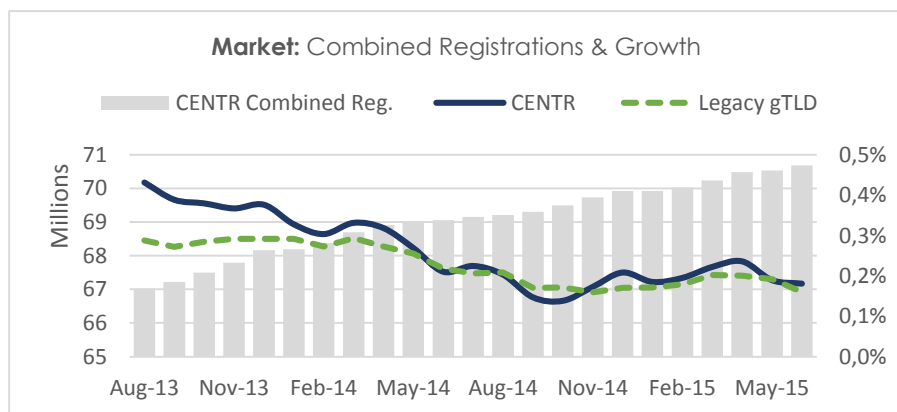Submit a nomination *(members only)*

Upcoming CENTR Events

7 October 2015

CENTR **Registrar Day & 54th CENTR General Assembly** (Brussels, Belgium)

If you are a **registrar** and would like to receive an invitation to CENTR's Registrar Day, please send your contact information to alex@centr.org.

Domain Name Statistics

Market: Combined Registrations & Growth

CENTR Combined Reg. — CENTR --- Legacy gTLD

Source: CENTR (based on 57 ccTLDs), ICANNwiki
Growth lines use 3 month Moving Averages to smooth the line * Refers to CENTR full members only

CENTR Combined Registrations*

70.7 *million*

Combined registrations among CENTR full members hit 70 million in early 2015 and has grown 2.4% over the past 12 months. Over the past 6 months combined growth stabilised a little however the long term trend is declining. Median growth (42 ccTLDs) over the past 12 months was 3.5%

CENTR produces comprehensive registration stats and trends to its members internally