



NEW ZEALAND INSTITUTE OF PATENT ATTORNEYS INC

.NZ WHOIS SERVER POLICY REVIEW

SUBMISSION

The New Zealand Institute of Patent Attorneys (“the Institute”) is an incorporated body representing most, though not all, of the New Zealand registered patent attorneys who are resident in New Zealand. Patent attorneys specialize in intellectual property matters such as patents and trade marks and in recent years have become heavily involved in domain name management and disputes on behalf of clients.

1. Should all the information currently displayed (see [example](#)), continue to be available as a result of a whois query?

The Institute believes a whois query should at a minimum provide:

- the Registrant’s name, address, phone number, fax number and e-mail address;
- the name and contact details of the Registrar responsible for the domain name;
- the registration date and expiry date of the domain name; and
- the nameserver details for the domain name.

The Institute believes the other details currently provided could be optional.

2. If yes to question 1 – why?

The purpose of the whois query is to enable parties having a legitimate need to contact the Registrant of a domain name. Examples of such legitimate needs include where a person wishes to discuss the purchase of the domain name, or provide feedback or comments to a website owner. It can also include providing a means of serving legal proceedings on the Registrant of a domain name, or the owner of a website.

The Institute considers it vital for domain name registrations to require the full legal name of the Registrant, and for this information to be accessible via a whois query, along with accurate contact details. An inability to access this information substantially prejudices the ability of a party to bring legal proceedings against a Registrant. This interferes with the public’s right of access to justice.

Access to the name and contact details of the Registrant also allows preliminary research to be carried out into their activities. In cases of suspected cybersquatting, this can allow a party to determine whether or not the Registrant has a legitimate right to a domain name, avoiding unnecessary allegations and/or correspondence between the parties, and the associated costs of such correspondence.

Having nameserver details easily obtainable benefits domain name owners. Many domain names are managed by large organizations who have many domain names from many jurisdictions in their portfolios. These are often registered by different staff members, consultants, web developers, etc. Having nameserver details readily visible often assists in managing names.

4. Should there be any distinction between information displayed where the domain name is registered to an individual compared to one registered to an organisation?

No. For legal purposes, the same details of individuals and organisations are required.

6. Do you agree with the current policy position that wild card searches, and bulk whois queries, should not be permitted? Why?

No, the Institute does not agree with the current policy position in relation to wild card searches. The inability to carry out wildcard searches makes it difficult for the owners of intellectual property rights to determine whether or not their rights are being infringed.

For instance, take a fictional company, Cozcom Ltd, which wants to know whether or not its trade marked name COZCOM is being infringed via domain name registrations. At present, Cozcom must identify and search for particular domain names, such as cozcom.co.nz or cozcomproducts.co.nz. It is practically impossible for Cozcom to identify all potential infringements using this approach, as there are so many possible domain names that could include COZCOM, such as cozcomonline.co.nz or cozcom-products.co.nz. Cozcom would be in a much better position to protect its rights if it could carry out a wildcard search for domain names incorporating COZCOM.

7. What are your views on the position of InternetNZ to not publish the levels set for monitoring Whois query transactions?

The Institute has no particular view on this position. Publishing a level may enable spammers to operate just below that level when collecting domain names. However, not publishing a level may result in spammers simply increasing their queries until they receive a warning from InternetNZ, then dropping to just below that level.

8. Should the Whois policy specify the actions the registry can take when abuse of the Whois is suspected? Why?

The Institute has no particular view on this position.

9. Are there any other issues you think the working group needs to consider in the course of the review?

The Institute believes the working group should consider allowing the public to search the .nz register by Registrant, and possibly by other fields.

An important issue in cybersquatting cases is whether or not the Registrant of a domain name has a history or repeated pattern of registering domain names closely linked to other entities.

It is currently very difficult for intellectual property rights owners to determine whether or not a Registrant has engaged in such a pattern of behaviour.

Allowing searches by registrant and admin contact email address in particular would facilitate such research. This would benefit both Registrar and Complainant, as it would avoid spurious allegations being brought.

We understand the privacy issues, but suggest that domain names should be compared to any public register of property such as for land, patents or trade marks. Those registers are fully searchable by virtually any parameter.