

OP3FT – Answers to MARQUES CyberSpace Team questions – December 28, 2015

Background

Philippe Collin, Head of Innovation Fostering at the OP3FT, presented the Frogans project during the MARQUES CyberSpace Team meeting (Vienna, September 15, 2015). The purpose of the presentation was to review the opportunities the Frogans technology offers to brands and answer questions from some of the leading brand stewards in the global Intellectual Property community.

The presentation is available here: <https://www.frogans.org/en/resources/presentations/access.html>

Following this presentation, on October 5, 2015 Nick Wood, Vice Chair, MARQUES CyberSpace Team and Council Member, submitted questions to the OP3FT relating to the protection of intellectual property rights in the Frogans project.

To the benefit of any Internet users interested in the Frogans technology, these questions have also been posted by Mercedes Vivó, Head of Projects, Com Laude, on the “early-questions” mailing list (<https://lists.frogans.org/early-questions/>) on December 22, 2015.

This document provides answers to these questions.

Reminder

The OP3FT is a non-profit organization whose purpose is to hold, promote, protect and ensure the progress of the Frogans technology in the form of an open standard for the Internet, available to all, free of charge.

The Frogans technology is a secure technology for the publishing of content on the Internet, open to the creativity of publishers and in the service of all Internet users: Frogans sites.

Frogans Addresses (pattern: “network-name*site-name”) are used to identify Frogans sites.

Frogans Addresses are registered in a core database, called the Frogans Core Registry or FCR. This database belongs to the OP3FT. The technical and commercial operation of this database is delegated to a separate entity putting itself at the service of Internet users, in a manner comparable to registry operators for domain names on the Internet. This entity is called the FCR Operator.

Frogans Addresses are registered and managed in the FCR through the intermediary of a person who has opened an administrator account in the FCR. This person is called an FCR Account Administrator. FCR Account Administrators are comparable to registrars for domain names.

Prior to the opening date of the FCR to Internet users, which is scheduled for 2016:

- a priority registration period for trademark holders took place from April 15 to June 15, 2015,
- a priority registration period for entrepreneurs ensued and is ongoing until February 15, 2016. Currently, any person seeking to develop an initiative based on the publishing of Frogans Sites can register Dedicated Frogans Networks with a Network Name chosen by that person, e.g., a generic term, a geographical name, a community name, a trademark, etc.

Answers to questions

Q1. *Would you consider a Blocking Programme like the DPML created by Donuts which allowed owners of registered rights to reserve from use a string across all of Donuts' registries?*

► Since 2012, we have considered several options for the launch of the Frogans Core Registry (FCR), including solutions similar to the DPML. It appeared this type of solution is difficult to implement and maintain in a cost-effective manner while minimizing the complexity for both registrants and the FCR Operator.

So we decided to stick with the historical launch model in force for domain names, which includes a priority registration period for trademark holders (sunrise).

However, since we did not want to incite trademark holders to proceed to defensive registrations, we designed and put in place a protective legal environment for trademark holders, including:

- the elaboration of the Uniform Dispute Resolution Policy for Frogans Addresses (UDRP-F) and its Rules of procedure: <https://www.frogans.org/en/resources/udrpf/access.html>
- the implementation of UDRP-F with Asian Domain Name Dispute Resolution Centre (ADNDRC)
- the implementation of UDRP-F with National Arbitration Forum (FORUM): <http://www.adrforum.com/domains>

► Concerning the protection of variations of a registered name, we think that protecting all possible variations based on the addition of words around the name would be questionable in legal terms. In any case, implementing this kind of protection in the 179 languages available in the FCR would require a huge amount of work.

However, we have developed a technical solution to mitigate the risks of confusion between names, which is a major concern on the Internet. This solution is called FACR (Frogans Address Composition Rules) and is applied automatically by the FCR Operator at the registration time. For more information on FACR, please read the introduction of the following specification: <https://www.frogans.org/en/resources/facr/access.html>

For instance, thanks to FACR, if the name "PEPSI" is registered in the FCR, then it is not possible to register "PEPS1" (I is replaced by the digit one). Furthermore, it is not possible to register a name where the Latin letter "E" is replaced by a similarly confusable character from a different writing system, e.g. the Cyrillic capital letter "IE" which is displayed as "E".

The FACR technical specification was discussed with stakeholders during ICANN 51 (October 12-16, 2014, Los Angeles) and was officially presented during the IDN Root Zone LGR Workshop at ICANN 52 (February 11, 2015, Singapore).

Q2. *Are you considering a programme to facilitate the rapid takedown of Frogans sites that are supporting the sale of counterfeits or the sharing of pirated copyright material or fake sites phishing for customer personal data?*

Any person intending to use the Frogans technology (end users, content publishers, developers, hosts, etc.) must comply with a policy elaborated and adopted by the OP3FT. This policy, referred

to as the Frogans Technology User Policy, is published on the official Web site of the Frogans technology at: <https://www.frogans.org/en/resources/ftup/access.html>

Under the Frogans Technology User Policy, the publisher of a Frogans site bears sole responsibility for the contents of that Frogans Site. In this regard, the publisher undertakes to respect third party rights, including intellectual property rights and privacy.

It is possible for anyone to report to the OP3FT a breach by the publisher of a Frogans site of any one of the duties defined in the Frogans Technology User Policy. Reports are made at: <https://report.frogans.org/en/main.html>

In the case of a breach by the publisher, the license to use the Frogans technology may be terminated under the procedure detailed in article 3 of the Section IV.5 (Breaches Of User Duty And Termination Cases) of the Frogans Technology User Policy. This procedure takes a minimum of three or four weeks to complete. This procedure can lead to the cancellation of the Frogans Address registration and therefore to the takedown of the Frogans site.

Q3. *Would you consider a fast track process to enable challenge where Whois / contact details are falsified or incorrect? What data will be available in the whois and how will you verify this data? (eg via credit card check). Will you take (or enable owners of relevant IP rights to take) any action against those who provide false or incomplete details when registering site names?*

► As stated in Section II.4. (FCR Whois Database Query Service) of the Frogans Technology User Policy, the information available in the FCR Whois Database includes:

- for an individual: name, complete postal address, telephone number, fax number (optional), and E-mail address; or
- for an organization: name of the organization, name of the contact person inside the organization, complete postal address, telephone number, fax number (optional), and E-mail address.

The FCR Whois Database query service is provided free of charge by the FCR Operator. This service is available at: <https://whois.fcr.frogans/>

► Under the Frogans Technology User Policy, the Holder of a Frogans Address undertakes to provide complete, accurate and up-to-date contact information, and to update this information.

The Holder of a Frogans Address must confirm his contact information during the registration process and every time this information is updated (by sending a confirmation token to his FCR Account Administrator).

This contact information is not verified by the FCR Operator during this process. However, it is possible for anyone to report to the OP3FT false or incomplete contact information at: <https://report.frogans.org/en/main.html>

In the case of a breach by the Holder of a Frogans Address, the license to use the Frogans technology may be terminated under the procedure detailed in article 3 of the Section IV.5 (Breaches Of User Duty And Termination Cases) of the Frogans Technology User Policy. This will lead to the cancellation of the Frogans Address registration.

Q4. *How do you help rights owners to monitor Frogans sites? Is there a look-up (like whois)? Will monitoring companies be able to access and manipulate this data? If you offer Proxy and Privacy Services, will you implement a process to enable rights owners to get behind the shield in cases of infringement.*

► The FCR Operator provides an FCR Whois Database query service free of charge at: <https://whois.fcr.frogans/>

The FCR Whois Database contains the contact information of Holders of Frogans Addresses and of Frogans Networks, as well as administrative and technical information on registrations of Frogans Addresses and Frogans Networks in the FCR. The FCR Whois database also contains contact information of FCR Account Administrators, as well as administrative information on FCR Accounts.

For more information on using the FCR Whois Database query service, see Section II.4. of the Frogans Technology User Policy.

► The FCR Operator provides a service for downloading FCR Public Data at: <https://public-data.fcr.frogans/>

FCR Public Data is a set of downloadable files which contain information on Frogans Addresses and Frogans Networks registered in the FCR, as well as information on FCR Account Administrators. The downloadable files are reports (CSV format) containing, in particular, the list of FCR Account Administrators and the list of Frogans Addresses or of Frogans Networks registered in the FCR.

Anyone can download the FCR Public Data in order to provide paying or free-of-charge services using this data, for example legal monitoring services on registrations of Frogans Addresses or Frogans Networks.

For more information on using the FCR Public Data download service, see Section II.5. of the Frogans Technology User Policy.

► Concerning the anonymization of the Holder of a Frogans Address, the document “Rules for the registration of a Dedicated Frogans Network during the priority registration period for entrepreneurs” (<https://fcr.frogans/en/resources/prp-ent/access.html>), which is incorporated by reference in the Frogans Technology User Policy, states:

“If the Holder of a Dedicated Frogans Network is located in a country where the law entitles individuals intervening in a non-professional capacity to benefit from anonymization in databases, the Holder can request its FCR Account Administrator to anonymize its Holder contact information in the FCR Whois Database. The FCR Account Administrator must know the real contact information of the Holder and must verify the legitimacy of the Holder's request. In the case of anonymization of Holder contact information, the FCR Operator does not know the Holder's real identity and the Holder contact information available via the FCR Whois Database query service appear as being anonymized. Any postal mail or email sent by a third party to the postal address or E-mail address given in the anonymized contact information is received by the FCR Account Administrator, which must then forward it to the Holder without delay. This anonymization option is only available if the Holder and the FCR Account Administrator are located in the same country and if this option is allowed by this country's law. The procedure to lift anonymity is implemented by the FCR Account Administrator.”

Q5. *Will you be offering a reverse lookup – all the sites owned by one registrant?*

This functionality is not currently included in the FCR Whois Database query service provided by the FCR Operator.

After the opening of the FCR to Internet users, we will consider whether to include this functionality in the FCR Whois Database query service.

In any case, the UDRP-F providers (currently FORUM and ADNDRC) are required to publish in full over the Internet all the decisions taken under the UDRP-F. This information can help complainants quantify past activities of a potential infringer.

Q6. *Can Frogans site names be transferred/sold from the applicant to a purchaser? What is the process?*

Concerning the transfer of Frogans Addresses, the document “Rules for the registration of a Dedicated Frogans Network during the priority registration period for entrepreneurs” (<https://fcr.frogans/en/resources/prp-ent/access.html>), which is incorporated by reference in the Frogans Technology User Policy, states:

“The Holder of a Dedicated Frogans Network can transfer the registration of its Dedicated Frogans Network to a new Holder.

The Holder of a Dedicated Frogans Network is free to set, with the new Holder, the conditions for the transfer of the registration of the Dedicated Frogans Network. For example, the transfer can be carried out free of charge or at a cost.

The Holder of a Dedicated Frogans Network can, if it wishes, promote its intention to transfer the registration of its Dedicated Frogans Network to a new Holder, doing so by using the means it wishes. These means include, for example, advertising or auctions.

The transfer of the registration of a Dedicated Frogans Network grouping Frogans Addresses leads to the transfer of all the registrations of these Frogans Addresses to the new Holder. The Holder of a Dedicated Frogans Network cannot transfer separately the registration of a Frogans Address of its Dedicated Frogans Network to a third party.”

The transfer of Dedicated Frogans Networks and Frogans Addresses will be available on the opening date of the FCR to Internet users.

Transfers will be implemented by FCR Account Administrators using the interface provided by the FCR Operator. Transfers will require the confirmation of both the current Holder and the new Holder (by sending confirmation tokens to the FCR Account Administrator).

The fees paid to the FCR Operator for transferring the registration of a Dedicated Frogans Network or a Frogans Address to a new Holder are presented here: <https://fcr.frogans/en/resources/fcr-fees/access.html>

Q7. *We know you will have the Frogans (F)UDRP but will you have the faster, less expensive version for slam-dunk infringement, the (F)URS?*

The URS-F (Uniform Rapid Suspension for Frogans Addresses) does not currently exist.

After the opening of the FCR to Internet users, we will consider whether to elaborate such policy.

In any case, the Frogans Technology User Policy is applicable, as well as the Uniform Dispute Resolution Policy for Frogans Addresses (UDRP-F) and its Rules of procedure.

Q8. *It is important that rights protection measures are affordable. We understand that each network name is \$1500, but will there be breaks for someone who buys multiple networks for their brands?*

There will be no such breaks.

Indeed, concerning the fees for the addressing services provided by the FCR Operator to FCR Account Administrators, the “Frogans Core Registry Delegation Agreement” (<https://www.frogans.org/en/resources/fcrda/access.html>) states:

“The only customers of the Frogans Core Registry Operator are FCR Account Administrators. The fees apply in the same manner to all FCR Account Administrators, without discrimination. No discounts nor special conditions can be granted by the Frogans Core Registry Operator to any FCR Account Administrator.”

For more information on the fees for the addressing services provided by the FCR Operator, see <https://fcr.frogans/en/resources/fcr-fees/access.html>

Please note that these fees are in euros and not in US dollars. For example, the fee for the initial registration of a Dedicated Frogans Network is 1,500.00 euros per year (excluding value-added tax applicable in European Union countries).