

# DEPOSITORY

March 15, 2011

Mr. Rod Beckstrom  
President and Chief Executive Officer  
Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601

Re: Bulk Access Denial by the American Registry for Internet Numbers

Dear Mr. Beckstrom:

Depository, Inc. (“Depository”) respectfully submits this reply to the March 2, 2011, letter from John Curran, as President of the American Registry for Internet Numbers (“ARIN”), concerning ARIN’s denial of our request for bulk access. In that letter, Mr. Curran makes three points: A. that the denial was “in accordance with ARIN’s ‘Bulk Whois Acceptable Use Policy’”; B. that Depository’s “decision to appoint itself as an ‘IP number registry’ raises the potential that it is soliciting changes for the Whois entries”; and C. that Depository’s initiation as an IP number registry is contrary to the “global principles of number registry operation established between the Regional Internet Registry (“RIR”) community and the ICANN in Internet Coordination Policy 2 ‘ICP-2: Criteria for Establishment of New Regional Internet Registries.’” Depository offers the following reply.

A. ARIN’s Acceptable Use Policy (“AUP”)

As we pointed out in our initial letter, ARIN (a) did not cite it’s AUP as the reason for its denial of bulk access, (b) has never interpreted its AUP in the way it now self-interprets it, (c) violates its AUP for its own use in direct contradiction to the specific words in the AUP, and (d) allows for mirroring of the very same data within its closed group of regional Internet registries.<sup>1</sup> Only now does ARIN fall back upon it. All of these points were raised and explained more fully in our January 27, 2011, letter to you.

B. The “Potential of Soliciting Changes”

Perhaps, the gravamen of Mr. Curran’s entire response to ICANN can be seen in the following sentence:

Depository’s decision to appoint itself as an “IP number registry” raises the potential that it is soliciting changes for the Whois entries of number resources assigned to third-party organizations (organizations which might not even be aware that such changes would not be reflected in the global IP address registry system).

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<sup>1</sup> Depository’s request is to be treated the same, under ARIN’s AUP, as any other IP number registry. Here is a specific example: A search of ARIN’s Whois directory for the IP number block 192.0.32.0 will display ARIN’s Whois record as authoritative and APNIC’s record “mirrors” that data and provides full attribution to ARIN. See Attachments A (<http://whois.arin.net/rest/net/NET-192-0-32-0-1/pft>) and B (<http://wq.apnic.net/apnic-bin/whois.pl>).

We begin with the derogatory comment that Depository has “appointed itself” as an IP number registry. The corporate decision to offer registration services to IP number registrants who have no contract with any other registry on the planet is not “self-appointment.” It is the offer to provide better services with more responsive self-management to IP number holders who choose to register their IP number blocks with us. It is no secret that the Internet community is not, as a whole, satisfied with the service, policies, threats and performance of ARIN. Just as the Internet community benefited immeasurably in 1998 when Network Solutions, Inc. (“NSI”) and the Department of Commerce agreed to open up the Domain Name System (“DNS”) to global competition, so would all IP number registrants gain from having these same open standards of competition apply to ARIN. It is ironic that some of the same people who were involved in breaking the NSI monopoly thirteen years ago are now desperately trying to cling to a similar monopoly today. The primary difference is that NSI had a cooperative agreement with the United States government to run the DNS system on its behalf; ARIN has no such contractual relationship or claim to sovereignty. In fact, ARIN was, is and remains a 501(c)(6) business league, much like a trade association, and as such, has no legitimacy whatsoever to exert its authority over any non-signatory to its draconian contracts.

Further, as we hopefully made clear in our appeal to you, Depository has not *sought IPv4 number allocation* authority from ICANN’s IANA function. Thus, the issue is not whether Depository can or cannot be an *allocation* authority. The single issue raised by this appeal is simply one of bulk access to a Whois database which is not owned in any way by ARIN. The specter of competition in the provision of registration services, however, apparently strikes a certain level of fear. Mr. Curran’s statement that the appearance of a new registry “raises the *potential* that it is soliciting changes” is very telling. Please note, Depository has categorically stated its purpose for requesting bulk access, *i.e.*, to make sure that our registrants’ published data is accurate and that our database accurately reflects the data of other registries with full attribution to those other registries, as is the current custom among all registries. Depository has categorically stated that it does not intend to use bulk access to solicit anyone. Mr. Curran, however, has a difficult time completing his own sentence: “...[s]oliciting changes for the Whois entries of number resources assigned to third-party organizations....” Mr. Curran may have more simply stated: Depository might seek to have a contractual relationship with those IP number holders with whom ARIN has no contractual relationship. “Third-party organizations” are IP number holders who should have a choice to have their registration services provided by the registry of their choice. They should not be constrained to use one source which effectively refuses to provide them with critical directory updates necessary for the Internet at-large unless the block owner agrees to sign ARIN’s illusory contract.<sup>2</sup> In our discussions with both signed and potential customers, we have discovered that there is a great deal of animosity and resentment towards ARIN’s self-referential policies, a sentiment that you have no doubt encountered.

Finally, perhaps the most alarming and telling comment in this letter is Mr. Curran’s threat to IP number holders in ARIN’s Whois database: “...(organizations which might not even be aware that such changes would not be reflected in the global IP address registry system.)” (Emphasis added). First, Mr. Curran is telling ARIN’s registrants that, for his part, ARIN does not intend to mirror Depository’s registration database. Second, Mr. Curran is implying that ARIN can stop the publication of Depository’s customers’ routes. That kind of threat can only come from a monopolist mindset and is clearly not beneficial to the Internet at large; but rather solely advantages Mr. Curran’s organization (ARIN). Third, the statement is incorrect. ARIN does not control the “global IP address registry system.” ARIN merely provides services for its

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<sup>2</sup> For further discussion, see Ernesto Rubi, *The Impending IPv4 Crisis*, Contract Law and ARIN’s Contracts – Illusory?, at p. 20.

(<http://ciara.fiu.edu/publications/Rubi%20%20Property%20Rights%20in%20IP%20Numbers.pdf>).

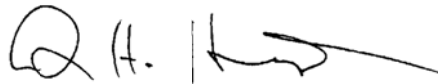
membership, such as a Whois directory, sending data fragments to the in-addr.arpa zone file for its registrants and routing through an Internet Routing Registry (*i.e.*, Merit, Inc.). Depository provides the same functions. Our request to ARIN for cooperation, by providing us with a copy of its WHOIS database so that we can better serve our customers, does not affect ARIN's members who have entered into a contractual relationship with ARIN. It does, however, give everyone else, including legacy holders, a choice.

C. Violation of ICP-2 – New Regional Registries

As Mr. Curran well knows, the ASO, which developed the “Criteria for Establishment of New Regional Internet Registries,” is totally controlled and populated by members of the five regional Internet registries. Sometimes, there is a lack of balance when a group creates its own rules.

There is one slight ray of hope raised by Mr. Curran at the end of his letter. Mr. Curran states that the “stability and design” of the IP number “registry system... may not be the optimal structure in light of the many changes taking place...” He then welcomes discussions and considers “ICANN instrumental,” as does Depository. There is no need or place for the assertion of monopolistic power over the various elements of Internet infrastructure. ICANN's entire *raison d'être* was, and is, to allow for and to increase competition. We suggest that people not lose sight of the possibilities that competition holds for us all. We would entertain discussions with ARIN and suggest that they be initiated and facilitated by ICANN. In the interim, we ask that ICANN, in the interests of the security and stability of the Internet, direct ARIN to provide Depository with bulk access to the Whois database maintained by ARIN. This access will allow our clients and all who use our database to find the necessary operational information they may seek.

Respectfully,



David H. Holtzman  
President, Depository, Inc.

Encl.

cc.

Mr. John Curran  
President and CEO  
American Registry for Internet Numbers  
3635 Concorde Parkway, Suite 200  
Chantilly, VA 20151-1125

Vernita D. Harris  
Senior Telecommunication Policy Specialist  
National Telecommunication and Information Administration  
U.S. Department of Commerce

James J. Tierney, Chief  
Networks and Technology Enforcement Section  
Anti-Trust Division  
Department of Justice

## ATTACHMENT A

## WHOIS-RWS

NETWORK	
NetRange	192.0.32.0 - 192.0.47.255
CIDR	192.0.32.0/20
Name	ICANN-MDR
Handle	NET-192-0-32-0-1
Parent	NET192 ( <u>NET-192-0-0-0-0</u> )
Net Type	Direct Assignment
Origin AS	AS26711
Nameservers	C.IANA-SERVERS.NET A.IANA-SERVERS.NET NS.ICANN.ORG B.IANA-SERVERS.ORG D.IANA-SERVERS.NET
Organization	ICANN ( <u>ICANN</u> )
Registration Date	2009-06-29
Last Updated	2010-02-09
Comments	
RESTful Link	<u><a href="http://whois.arin.net/rest/net/NET-192-0-32-0-1">http://whois.arin.net/rest/net/NET-192-0-32-0-1</a></u>
See Also	<u>Related organization's POC records.</u>

ORGANIZATION	
Name	ICANN
Handle	ICANN
Street	4676 Admiralty Way Suite 330
City	Marina del Rey
State/Province	CA
Postal Code	90292
Country	US
Registration Date	2001-03-30
Last Updated	2011-02-18

Comments	
RESTful Link	<a href="http://whois.arin.net/rest/org/ICANN">http://whois.arin.net/rest/org/ICANN</a>
FUNCTION	POINT OF CONTACT
Tech	MAK93-ARIN ( <a href="#">MAK93-ARIN</a> )
Tech	JAB349-ARIN ( <a href="#">JAB349-ARIN</a> )
Admin	DCL131-ARIN ( <a href="#">DCL131-ARIN</a> )
Tech	DCL131-ARIN ( <a href="#">DCL131-ARIN</a> )
Tech	DSO63-ARIN ( <a href="#">DSO63-ARIN</a> )

POINT OF CONTACT	
Name	AKCIN , Mehmet
Handle	MAK93-ARIN
Company	ICANN
Street	4676 Admiralty Way Suite #330
City	Marina del Rey
State/Province	CA
Postal Code	90292
Country	US
Registration Date	2006-12-11
Last Updated	2009-10-27
Comments	
Phone	+1-424-298-1903 (Mobile) +1-310-823-9358 (Office) +1-310-823-8649 (Fax)
Email	mehmet@icann.org
RESTful Link	<a href="http://whois.arin.net/rest/poc/MAK93-ARIN">http://whois.arin.net/rest/poc/MAK93-ARIN</a>

POINT OF CONTACT	
Name	Abley , Joe
Handle	JAB349-ARIN
Company	ICANN
Street	4676 Admiralty Way, Suite 330

City	Marina del Rey
State/Province	CA
Postal Code	90292
Country	US
Registration Date	2009-03-20
Last Updated	2009-03-20
Comments	
Phone	+1-310-823-8649 (Fax) +1-519-670-9327 (Mobile) +1-310-578-8673 (Office)
Email	joe.abley@icann.org
RESTful Link	<a href="http://whois.arin.net/rest/poc/JAB349-ARIN">http://whois.arin.net/rest/poc/JAB349-ARIN</a>

POINT OF CONTACT	
Name	Closson , David
Handle	DCL131-ARIN
Company	ICANN
Street	4676 Admiralty Way, Suite 330
City	Marina del Rey
State/Province	CA
Postal Code	90292
Country	US
Registration Date	2009-03-21
Last Updated	2009-04-09
Comments	
Phone	+1-310-823-8649 (Fax) +1-310-578-8670 (Office)
Email	david.closson@icann.org
RESTful Link	<a href="http://whois.arin.net/rest/poc/DCL131-ARIN">http://whois.arin.net/rest/poc/DCL131-ARIN</a>

POINT OF CONTACT	
Name	Soltero , David
Handle	DSO63-ARIN
Company	ICANN

3/11/2011

Whois-RWS

Street	4676 Admiralty Way, Suite 330
City	Marina del Rey
State/Province	CA
Postal Code	90292
Country	US
Registration Date	2009-03-21
Last Updated	2009-03-21
Comments	
Phone	+1-310-823-8649 (Fax) +1-310-926-9635 (Mobile) +1-310-301-3890 (Office)
Email	david.soltero@icann.org
RESTful Link	<a href="http://whois.arin.net/rest/poc/DSO63-ARIN">http://whois.arin.net/rest/poc/DSO63-ARIN</a>

To assist you with debugging problems, this whois query was received from IP Address

[REDACTED]  
Your web client may be behind a web proxy.

% APNIC found the following authoritative answer from: whois.arin.net

#  
# The following results may also be obtained via:  
# <http://whois.arin.net/rest/nets;q=192.0.32.0?showDetails=true&showARIN=false>  
#

**NetRange:** 192.0.32.0 - 192.0.47.255  
**CIDR:** 192.0.32.0/20  
**OriginAS:** AS26711  
**NetName:** ICANN-MDR  
**NetHandle:** NET-192-0-32-0-1  
**Parent:** NET-192-0-0-0-0  
**NetType:** Direct Assignment  
**NameServer:** C.IANA-SERVERS.NET  
**NameServer:** A.IANA-SERVERS.NET  
**NameServer:** NS.ICANN.ORG  
**NameServer:** B.IANA-SERVERS.ORG  
**NameServer:** D.IANA-SERVERS.NET  
**RegDate:** 2009-06-29  
**Updated:** 2010-02-09  
**Ref:** <http://whois.arin.net/rest/net/NET-192-0-32-0-1>

**OrgName:** ICANN  
**OrgId:** ICANN  
**Address:** 4676 Admiralty Way  
**Address:** Suite 330  
**City:** Marina del Rey  
**StateProv:** CA  
**PostalCode:** 90292  
**Country:** US  
**RegDate:** 2001-03-30  
**Updated:** 2011-02-18  
**Ref:** <http://whois.arin.net/rest/org/ICANN>

**OrgTechHandle:** MAK93-ARIN  
**OrgTechName:** AKCIN, Mehmet  
**OrgTechPhone:** +1-310-823-8649  
**OrgTechEmail:** mehmet@icann.org  
**OrgTechRef:** <http://whois.arin.net/rest/poc/MAK93-ARIN>



**OrgTechHandle:** JAB349-ARIN  
 OrgTechName: Abley, Joe  
 OrgTechPhone: +1-519-670-9327  
 OrgTechEmail: joe.abley@icann.org  
 OrgTechRef: http://whois.arin.net/rest/poc/JAB349-ARIN

**OrgTechHandle:** DCL131-ARIN  
 OrgTechName: Closson, David  
 OrgTechPhone: +1-310-823-8649  
 OrgTechEmail: david.closson@icann.org  
 OrgTechRef: http://whois.arin.net/rest/poc/DCL131-ARIN

**OrgTechHandle:** DSO63-ARIN  
 OrgTechName: Soltero, David  
 OrgTechPhone: +1-310-301-3890  
 OrgTechEmail: david.soltero@icann.org  
 OrgTechRef: http://whois.arin.net/rest/poc/DSO63-ARIN

#  
 # ARIN WHOIS data and services are subject to the Terms of Use  
 # available at: https://www.arin.net/whois\_tou.html  
 #

- **Bold: Object type.**
- Underlined: Primary key(s).
- **Hyperlinks: Searchable Attributes.**

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**8 records found for '192.0.32.0'**

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Search for

**IP address lookups**

- I** 1st level less specific
- L** All less specific
- m** 1st level more specific
- M** All more specific
- x** Exact match only

**Miscellaneous queries**

- i** Inverse attributes  - T** Object types

All ▲

as-block ▢


as-set ▼

aut-num ▼

**Query hints**

- Include "AS" in front of an AS number.

Example: AS4808

**-d** Associated reverse domain 

- Include "-t" (template only) or "-v" (template and description) in front of an object name to view the template  
Example: -t inetnum

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For more information see:

- [Using Whois](#)
- [Report invalid contact](#)