

**ICANN Transcription
RPM TMCH Questions Sub Team
Monday, 17 October 2016 at 1800 UTC**

Note: The following is the output of transcribing from an audio recording of RPM TMCH Questions Sub Team call on the Monday, 17 October 2016 at 18:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. Attendance may be also found at:

<https://community.icann.org/x/tSK4Aw>

Audio may be found at:

<http://audio.icann.org/gnso/gnso-rpm-tmch-17oct16-en.mp3>

Coordinator: The recordings have started. Speakers, you may begin.

Michelle DeSmyter: Hi. Thank you. Good morning, good afternoon and good evening.

Welcome to the RPM TMCH Question Sub Team call on the 17th of October at 1800 UTC.

On the call today we have Paul Tattersfield, Susan Payne, Kathy Kleiman, Kurt Pritz and J. Scott Evans. We have a tentative apology from Philip Corwin and Paul Keating. From staff we have Mary Wong, David Tait, Maria Otones and myself, Michelle DeSmyter.

As a reminder please state your name for transcription purposes. And I will turn the call over to Kathy Kleiman and J. Scott.

J. Scott Evans: Good morning, good afternoon, good evening everyone. This is J. Scott. If you're just joining the call, Kathy and I have agreed that I would run this meeting today. And so I think we have in the window of the Adobe Connect

room, for those of you who have Adobe Connect, the suggested questions and the annotations to them in the redline.

I know they're hard to read, but you can bump up the size by either zooming in or increasing the size of the font down at the bottom in the toolbar that you see at the bottom. So let's go through.

I think on the call, you know, we had decided that there were some of the questions that were good but they seem to be leading and they seem to have some issues with them and so we wanted to work through them before we present them to anyone.

So and as I am chair and I am neutral, I am going to take the questions one by one, see if everyone is fine with it. If they're not we can have a discussion about what, if any, revisions we feel need to be made in order to get it in a way that we think is presentable for outside our group.

So we first - we have questions from the charter. And you see the first question is, "Should further guidance on verification guidelines for different categories of marks be considered?" So I will ask the question, is there anyone who believes that there needs to be any clarification or any different language? I see a handout from Mr. Pritz so I will call on him first. Kurt.

Kurt Pritz: So this is embarrassing but I don't really know what this question means. And I think -- I wasn't in the group that helped write the charter so I'm sorry to have missed that. But as somebody who wasn't, and read that cold, I'm not exactly sure what a gets at. And I think there could be more, I don't know, I think it could be more specific or clear. And I really can't ask it any better than that.

J. Scott Evans: Thank you, Kurt. So I guess...

((Crosstalk))

J. Scott Evans: I guess I have a question for staff. Is there any way we can go back to members of the charter group or somebody, the chair of the charter group and ask questions with regards to this what you meant by this question so we can get an understanding of it? Because I'm with Kurt, I'm not so sure I understand either. I see Mary's hand is up. Kurt, you need to lower your hand please. Mary.

Mary Wong: This is Mary from staff. And just to answer your questions or perhaps not in the way you wanted, these charter questions were not developed by the drafting team; these were pretty much verbatim taken from questions that have been suggested by the community to prior issue reports and reviews of the various RPMs.

So there have been no editing, which from the staff perspective, having looked at these since the, you know, timing of the issue report, but that is why we need to clarify many of those. Someone suggested we have is that if this team and the working group, you know, agree that certain questions could be tightened or clarified or edited that we could send the updated list of clarified questions around that community to see if we got it right.

That's probably, we think, the most effective way of making sure that we capture as well as understand what it is that the community was trying to ask. And I see Susan has her hand up, J. Scott.

J. Scott Evans: Yes, thanks, Mary. Susan.

Susan Payne: Yes, hi. It's Susan Payne for the record. Mary, it was just a question really, is it possible that the staff member who pulled these questions together would be either able to remember where it came from or would be able to look back? I'm presuming it in the comments on the...

((Crosstalk))

Susan Payne:draft report or on the draft issue report and identify the context in which - I gave rise to this question? Because with the context it might be easier for us to work out how to frame this. I don't know if that's an achievable ask or not.

J. Scott Evans: Mary.

Mary Wong: J. Scott, may I reply? Yes. So Susan, that is something that actually - that's something that actually I was thinking about. And I can recall at least three very likely sources for these questions. One would be the staff paper on the RPMs from 2015. Another would be, as you said, community responses to the issue report for this PDP. And the third is probably more historical documentation such as the previous issue report just on the UDRP.

I will say that of the three sources, the easiest and actually potentially the most illuminating would be the staff paper because as I recall, and as I think almost everybody on this call will recall, the staff paper was structured according to each RPM. So it might be relatively easy for us to go back and collate them.

I'm not certain that we would be able to get back to everyone before this Wednesday or at least even if we can get it to everyone on this group that we would necessarily have time to review it before the full working group meets on Wednesday, which is of course a different problem. But, yes, the answer is we can go back and look as far as we can.

J. Scott Evans: Okay. Thank you very much. Kathy.

Kathy Kleiman: Thanks, J. Scott. I think today I will just participate as a regular member of the subgroup. So I think this is interesting, should further guidance on verification guidelines, I think the key here is verification guidelines. And I don't know who drafted this question; I wasn't part of the charter, and I just participated like everyone else.

I think we need - given that we've talked a lot about verification and the Trademark Clearinghouse, provider's role, Deloitte's role, in verifying, we actually have a number of questions in this category. So I would recommend changing the category from guidance to verification because that's what this seems to fall under.

We also, and I don't see them here. I might be missing them. We have a number of questions about design marks and the verification of design marks. So I would recommend we create a category about verification, we can call it verification guidelines or verification process. And this would be one that's related to different categories of marks. We still have to figure out if someone is trying to - I still like the idea of trying to delve into the history of the bit to see if we are talking about use or categories of goods and services, you know, what it is that the drafter or drafters might have wanted.

But I think we now have a group of questions under verification processes for the Trademark Clearinghouse that would be - that are going to be useful to look at, and may give us an interesting starting point.

J. Scott Evans: Okay, I guess I have a question because are you - are you wondering about qualification to get into the TMCH? Because it seems to me that verification is only make sure that you hit whatever bona fides are required to qualify.

Kathy Kleiman: I would think that's what this question is going to is how something qualifies or is verified for the Trademark Clearinghouse.

J. Scott Evans: Okay, because what I'm saying is let's say we say that only red marks could be in the Clearinghouse. Okay? That's the qualification so you have to be a red mark to be in the Clearinghouse. And then the job of the Clearinghouse is to verify that the mark submitted is actually a red mark and not a blue one and not a green one or not a multicolored one.

So my question is, this question seems to be asking about verification, not about qualification. So my question is, are you saying that we need to have a group of questions that are around how they verify? Or are you saying we need to delve into what qualifies?

Kathy Kleiman: I would think it might be a broad category, J. Scott, of qualification and verification. There seemed to be a group of questions that fall generally into what comes in the door and then how it goes into the database.

J. Scott Evans: Okay. Could you identify for us those questions so that we can maybe have staff pulled them into a grouping and we can look at them all together?

Kathy Kleiman: I think that's a great idea. And for the next, you know, for the next time we see this list sorting by category would be - I think would be really useful. But for right now the ones that come to mind, and I, you know, I haven't looked through everything with your question in mind, and let's call it now qualification and verification as just a category, would be this one, whatever the question means - current question Number 1.

And then I know there are questions out there, a number of questions about design marks and wherever they are they should come in here. This would be a good place to look at those.

J. Scott Evans: Okay.

Kathy Kleiman: They may be in other categories of questions.

J. Scott Evans: With regards to question 1, it seems like we haven't come to any point of -- well I think we have another handout. Kathy, are you finished?

((Crosstalk))

Kathy Kleiman: I am. Thanks, J. Scott.

J. Scott Evans: Kurt.

Kurt Pritz: Well you're going to get to the same conclusion after I'm done talking. So I think the question might be about different categories. You know, I was going to recite the different categories of marks that are allowed in the clearing house. There is these three and I think there is, you know, one got famous for version, whatever the registries wanted. But so I think the question might be about categories. So I think we are going to get to what you were about to say about needing some clarification around the question.

J. Scott Evans: Yes, so with regards to Question 1 I think that we don't know - it seems to me that what they're - not having any information other than my limited understanding of reading the words on the sheet in front of me, it seems to me that they are asking whether there needs to be further guidance on the types of marks that are -- that can be considered for acceptance into the Clearinghouse.

And it talks -- so we could look at different marks, you know, design marks versus word marks versus combination marks for design and word. That looks like to me what they're trying to get to. Can we agree that that is what they're trying to get to and craft questions that has clarified that way rather than this question that leaves a lot of ambiguity? Can we as a group agree that that is what this question is trying to get at and craft a clearer question? I'll look for checks or Xs or whatever.

Kurt agrees with me. So why don't we do this, Mary, why don't you when I take Number 1 under consideration and try to by the time we reach back to this group we've crafted a different question that we think gets to the heart of why they're trying to ask? But before we agree to that writer and I get to Susan Payne because her hand as just come up?

- Susan Payne: Thanks, J. Scott. I guess I think this is about verification. I don't think this is about categories of marks at all. It doesn't say anything about what marks should or should not be allowed in the TMCH. It just talks about whether there is sufficient verification guidelines. I don't read it as any more than that. But, I, you know, I wasn't the source of the question.
- J. Scott Evans: Okay so we'll - can - alright so you don't think it has to do with that. So we need to come to some sort of understanding on what it is trying to ask. I mean, or either we are just going to sit here and go through all the questions and decide we'll discuss it when we come back. So is there anyone else who interpreted differently? Susan, why do you think they're asking? I'm sorry, I my phone was ringing and I was sending someone a message at the same time you were talking so I didn't -- what do you think this question means?
- Susan Payne: Sorry, clear. I don't think it's very clear. But I think it's just saying is there sufficient guidance on how marks are verified when they go into Clearinghouse.
- J. Scott Evans: Okay. All right so then if that's what you think this question means then I will leave it to you to craft a question, if you don't mind, that says that clear. And then once we see the question, the group can agree or disagree. Are you willing to do that for me, Susan?
- Susan Payne: Sorry, I was saying okay with my thing on mute.
- J. Scott Evans: Okay. All right now let's move to Question 2. Is the protection of the TMCH too broad? Is the TMCH providing too much protection for those with a trademark on a generic or descriptive dictionary word? Mary.
- Mary Wong: Hi, J. Scott and everyone. Just to point out that one of the comments from the working group called last week was that this Question 2 could perhaps be combined with Question 4 because they seem to cover a similar type of scope.

J. Scott Evans: Kurt.

Kurt Pritz: Yes so Mary is right and I think she also has an excellent suggestion in her comments to make this kind of an overview question and put some of the other questions underneath it.

J. Scott Evans: Okay, I can see her comment. So I'm happy with that. Does anyone disagree with that suggestion?

Kurt Pritz: Can you hear me?

J. Scott Evans: Gas I can hear you, Kurt.

Kurt Pritz: Okay well my second comment was to make it a little more neutral so not say providing too much protection but just, you know, just write protection or adequate protection and the same thing with Question 4, make that, you know, we want to ensure that individual registrants are not losing legitimate rights.

J. Scott Evans: Okay. I see Kathy's hand is up.

Kathy Kleiman: True, we do want to make sure they're not losing legitimate rights. But these two questions kind of raise different aspects so I would hate to combined them and lose some of the nuances. Happy to combined them and keep it but one of the questions has to do with the legitimate protections of trademarks and kind of the limits of those protections. And so it's not just protections for registrants, potential, you know, current and future but also is the balance here working? Do trademark owners have more protection or less protection we are providing than they might in the real world?

So I really like the category balance here and I think it's a good idea to combine it with other questions below but hate to lose the nuances. I think

these questions kind of cut at similar issues from different perspectives.

Thanks.

J. Scott Evans: Susan.

Susan Payne: I think we need to be careful about saying are trademark owners being given more protection than they would be given in the real world. That wasn't the purpose -- preventing that was not the purpose of the RPMs. The purpose of the RPMs was to address the substantial additional opportunities for cyber-squatting that would arise in TLDs and to try to minimize the costs and the admin burden for the brand owner.

So I just think we need to be careful about the language that we're using in the question and to be a bit more neutral.

J. Scott Evans: Thank you. Kathy.

Kathy Kleiman: With great respect for Susan, I don't agree. I really think from the beginning, certainly from the very beginning of the IRT, it was about protection for trademark owners. But once I got to the STI my recollection, and I lived and breathed that group for six weeks or more, was that it was about balance; trying to make sure that what we were doing in the ICANN community did reflect the balance of the real world.

So I would hate to lose that. We can, you know, of course bring these into what's considered more neutral. But it seems like, you know, a fair question is, is the protection of the Trademark Clearinghouse too broad? That is - that seems like...

((Crosstalk))

Kathy Kleiman: ...I mean, we've heard that question...

J. Scott Evans: I want to delve into some things real quick. And I'm going to raise my hand and not be taking chair prerogative and talk about some nomenclature. First of all, the Trademark Clearinghouse provides no protection. None. Sunrise does. Claims may. But the Clearinghouse provides no protection. It is merely a database.

Secondly, with regard to this question, here we go again with the nomenclature that just drives me bananas, there is no such thing as a generic term. There is a term that is generic when it is applied to goods and services in the sense of the trademark world, but there is no such as a generic term. There are dictionary terms, there are fanciful terms, Xerox, but there is no such thing as a generic term.

So I want that out of this question. I'm happy to talk about dictionary terms all day long. But I'm not going to talk about generic terms because that is incorrect.

Kathy Kleiman: J. Scott, can I cite the International Trademark Association? Generic terms are common words or terms often found in the dictionary that identify products and services and not specific to any particular source.

((Crosstalk))

J. Scott Evans: That is only in regards to trademarks, not in regards to the world. There is no such thing outside of trademark law as a generic term. There is a dictionary term.

Kathy Kleiman: But...

((Crosstalk))

J. Scott Evans: A dictionary term is generic when it is applied to goods and services. Car is generic for automobile. Apple is generic for apples. Apple is not generic with regards to computers. It is a dictionary term...

Kathy Kleiman: But generic terms is a commonly understood and used term for a group of...

((Crosstalk))

Kathy Kleiman: ...services and products provided...

((Crosstalk))

J. Scott Evans: ...commonly understood term by trademark attorneys. But I think when I listen and read blogs put out by civil libertarians, 90% of them can't pull their head far enough out of their ass to understand. They don't know and they misstate it all the time.

Kathy Kleiman: J. Scott, I think you're crossing over the neutrality border and...

((Crosstalk))

J. Scott Evans: No, I'm not being - I said I'm not being chair here.

Kathy Kleiman: I know but...

J. Scott Evans: I am advocating as Adobe.

Kathy Kleiman: In trademark law you can never register a generic term for generic purpose. That's how you refer to it. You can come up with a million other words but that's the best way to describe it and that's the way it's always been described in the articles and in other materials.

Generic words cannot be registered for generic purposes. That's it. And using the word dictionary term does not...

((Crosstalk))

J. Scott Evans: But, Kathy, when we had our call the other week you specifically started about generic terms like freedom when it comes to freedom and trust. And those aren't generic terms in the abstract. Freedom is a generic term if what I was doing was I was offering services to liberate people from oppressive governments.

But freedom as to jeans or to perfume is not generic. And you started talking about the fact that you were highly disturbed by the fact that all these, quote unquote, generic terms are being taken by, but they're not generic terms. They're only generic terms in context of how they're being used. And so that's what bothers me is you start classifying them as some sort of generic term that belongs to the civil libertarian community and that is incorrect.

Kathy Kleiman: Right. I never said anything about anything belonging; I just said you don't get to take it out.

((Crosstalk))

J. Scott Evans: But you kept saying that it was a generic term and it is not a generic term unless you see it in context. And I'll look at the transcript. But you said that. You called it - trust, peace, freedom, love I think were the terms you said and you said these generic terms are being used - removed from the lexicon and that is incorrect. They're only being removed from the lexicon if it is freedom for jeans, freedom for perfume and it is not a generic term.

Because in that sense it's been classified as registered as a trademark by a government for the goods and services its registered.

((Crosstalk))

J. Scott Evans: ...we are really clear intellectually here about what we're speaking about.

Kathy Kleiman: I think we're combining two things. One was the - that 9 of the 10 words being - that the Analysis Group found were most heavily used during the trademark claims period were dictionary - basic dictionary terms. And the other is that I am concerned about the use generic terms that the person making - you can use milk for children's clothing and wind up perhaps blocking it or other forms from all the groups that would be using it in the industry of milk producers as a commodity as a generic term .

That and that they're basic words like liberty...

((Crosstalk))

Kathy Kleiman: And that was an email and so you can get the transcript but you won't see it because I followed up and did the research on freedom, trust, liberty.

((Crosstalk))

J. Scott Evans: ...but again we're not talking about generic terms. We're talking about dictionary terms that in certain instances can be trademarked and in certain instances would be generic. But milk is not a generic term in the abstract.

Kathy Kleiman: But it is a generic term for milk producers...

((Crosstalk))

Kathy Kleiman: ...milk providers, exactly.

J. Scott Evans: As applied to milk but not as applied to jewelry, not as applied to computers, not as applied to automobiles. That's the reason I think we have to be careful

about our nomenclature. We're dominating this discussion and I think Susan has her hand up.

Kathy Kleiman: Sure.

Susan Payne: Yes, I just - I wanted to address it in the context of what the question is asking, which is talking about protection the TMCH grants. And is the TMCH giving too much protection for generic terms or descriptive dictionary words? I'd favor the use of descriptive dictionary words in this type of scenario, but I think what we really - the real issue is that this isn't a question about the TMCH. This is a question about the sunrise potentially and a question about the claims potentially.

But it's not actually a question about the TMCH because actually it doesn't really matter if there's a - what Kathy is perceiving as a generic term being in the TMCH, it only matters if when used in context in a particular registry context it's perhaps it may matter, perhaps, if it's blocking some other descriptive use in the context of the registry, because of what the brand owner chooses to register as a domain name.

So I think perhaps, you know, we could stop having this argument if we were actually to remove this question to be a question about the sunrise and a question about the claims which it still needs redrafting to be less biased and more neutral. But I think that's the problem with the question is actually what we're asking the question of and it's not an issue about the Trademark Clearinghouse.

J. Scott Evans: Okay I think I liked the suggestion that Kurt had about using one question as a overall, overarching question and then maybe having sub questions under that that relate back to the overall question. So, I mean, we might, you know, something to point of, you know, is - are the rights protections mechanisms that stem from the TMCH too broad or something like that and then ask the questions underneath that. I think was it Number 4 we said would come in

there and organizing them that way to do sub questions to give more specific issues of how it might be.

So in other words, I think Kathy, when we were looking at the question before us, if you answer yes to the top - the chapeau question then you would go down in the sub questions and drill down into the specifics of how it might be too broad. That seems to me to be a way we could organize them and keep them as Kathy suggested earlier sort of grouped together by subject matter. Is that something that people think they could get behind?

Okay Kathy likes the idea of grouping. Is there any way we can have someone - I'm happy to have staff do it or I'm happy to have people who feel like Kathy feels very passionate about the idea of not losing the nuance and making sure that the things that go to what defines what types of protections are in - or stem from the information that's in the Clearinghouse.

If Susan, I mean, if Kathy, if you want to come to us with a suggested grouping and then we can then work on wording those kinds of things or would we prefer to have staff do that? I see Mary's hand is up.

Mary Wong: Hi, J. Scott and everyone. We had a similar question. One of - what staff can do between today and tomorrow is take the look-back to the source questions as far as we can and turn this document into more of a table so that we would replicate these questions potentially in the categories that can be agreed on or that we have here that Paul suggested and next to each one basically have another column that says where this came from a brief comment on the context if we can squeeze that in.

We can also, if you like, make a note that certain questions, because I mean, we don't know if we can get through all the questions today, but we can also note that certain questions might need to be rephrased or moved around. And so if that would be helpful to the group we can get that circulated by

tomorrow and folks can take a look at it and then maybe people can divide up whichever questions require further editing and so forth.

J. Scott Evans: Yes.

Mary Wong: Of course staff can do all that as well, but yes.

((Crosstalk))

J. Scott Evans: Yes, I think that that's true. And I think if everyone is comfortable with that that sounds like a good way forward. Because I think, you know, I definitely want to make sure that we try as best we can to include all the questions that came from the community. Now and I think it's also important that if we alter the question in any way or revise it or change it, that we're very clear on documenting what we did and why we did it.

Because I don't want anything to think that this group didn't take the questions from the community as seriously as we should, and, you know, so I like that approach. Is there anyone that disagrees with that approach? Kurt.

Kurt Pritz: I do not disagree with that approach but that's not why I raised my hand. Maybe we can resolve this sort of controversy in Questions 2 and 4 by making them even simpler. And what we're trying to do is avoid bad results I think in both these things. So...

J. Scott Evans: Absolutely.

Kurt Pritz: ...so this really goes to, you know, in the operation of the Trademark Clearinghouse, through claims and sunrise, are there areas where trademarks are inadequately protected? And in the operation of the Clearinghouse and trademark and claims are there instances where the legitimate rights of others to domain names have - are trampled? And so

should we make, you know, should we make corrections based on a failure of the Clearinghouse operation to the policy?

As either a failed trademark owners or has it failed, you know, individuals in some way? That's...

((Crosstalk))

J. Scott Evans: Or has it succeeded in the purpose for which it was designed, right? And that's the balance because, you know, it was designed, according to Kathy, once it came out of the STI to be - to take advantage of the balance that is in the real world. And so maybe that's the questions that we need to ask.

Kurt Pritz: Right.

J. Scott Evans: But I do think...

((Crosstalk))

Kurt Pritz: It's a lot - I think it's a lot harder to define success than, you know, if you can point out where, you know, a trademark owner had a legitimate right and it wasn't protected because of something and it's - it might be okay to point out, you know, anecdotally, you know, instances where individuals had legitimate rights to names but they couldn't obtain them. So you can do an analysis on that but to ask the, you know, I think, J. Scott, your question is better but I think it's kind of almost impossible to answer the...

J. Scott Evans: Yes, I'm happy to look at anything as long as we can get a consensus that we're seeking the information that was originally solved that all we're doing is improving the question and that we're making sure that we're being as balanced as possible. And that means just - and I am going to demand outside of my chair role as the Adobe role, as the former president of INTA,

and as a drafter of the IRT, that the question remained is balanced too, not just the end result.

So but I'm happy to look at any language anyone wants to put forward and consider it and let us all consider it as a group because this is a consensus process, and we all have to agree that that balance is there and that the wording that we put forward contains that.

I see, Kurt, is your hand still up? And then I have Kathy. Not hearing from Kurt I'm going to call on Kathy.

Kathy Kleiman: Okay. So I think we're moving towards something which is has - I like Kurt's rephrasing of kind of a bigger picture, has the TMCH - the process for lack of a better word - failed registrants? Has it failed trademark owners? That is a good way to put it.

As a matter of process, I want to suggest since people have been - people in the working group have been looking at these questions as has staff, for so long, for so many months, maybe a way to do it is to put in - to do the sorting that we're talking about and kind of the umbrella questions that we're talking about and maybe we're already thinking about this - keep the original questions underneath it and that way people can see how we've rephrased it, they can see what the original questions were. We can hear from the working group if they disagree.

But it's a way to kind of gently move people in the direction of, you know, of kind of overarching questions. In terms of registrants, I think we should qualify it as current and future. So kind of, you know, what do we - you know, the future registrants, all the people who will be registering in the future.
Thanks, J. Scott.

J. Scott Evans: Okay, thanks, Kathy. One of the things that we did in a working group I was in before, and I think Mary hit on it is we - let's create a table and the table

would have the original question, the reason we all - if it was revised or not, the reasoning for why we revised it or not and the what the ultimate question is. And that will be a part of our work history that would be publicly available for anyone to see.

Secondly, with regards to Kathy's phrasing of the questions of have we failed? I think that's a bad way to ask information because you're asking a negative. I think the better way to ask the question is has the TMCH succeeded to provide what it was designed for? And you can ask that. Has it succeeded in providing what it was designed for for registrants? Has it - for future and past. Has it succeeded with what it was designed for with regards to trademark owners?

And again, I think the TMCH is the wrong question. It should be the sunrise or claims because the TMCH doesn't offer any kind of protection. Kathy, I see your hand is up again.

Kathy Kleiman: Yes. Then we get into a fight as to what - if we use your phrasing - and I had just copied down Kurt's phrasing. Sorry if it got that wrong. Then we get into a fight of what it was intended for. So has it - how about has it served current and, you know, is it serving current and potential registrants? Is it serving trademark owners? And, you know, that's...

((Crosstalk))

J. Scott Evans: Well, okay I get it. I'm going to let Susan speak and then I'm going to make a chair decision with regards to this. Susan.

Susan Payne: Yes, hi...

((Crosstalk))

J. Scott Evans: There you go.

Susan Payne: I just typed into the chat, the preamble on the TMCH says that the STI recognizes that a Trademark Clearinghouse could serve as a convenient location to store registered trademark information in a centralized location on behalf of trademark holders and could create efficiencies for trademark owners as well as registries who will benefit from having one centralized database from which to interact, etcetera, etcetera. That's the purpose of the TMCH.

J. Scott Evans: Okay. Here's what I suggest we do. I suggest that we allow staff to create the table that I've just suggested and that in doing so they group the questions. And I'm fine if you want to color code them into certain groups. And all - all you all I want you to do now is group them and to list them in a table with regards to what the current questions are. And then as we move forward with our work we can answer the question are we going to revise or not? Then once we decide that we can decide why. And we can put that in our reasoning column. And then we can put the revised question.

And I think that's what - we leave this call with an understanding that that's what we're going to do and then we regroup once that's been done and then we can take the groups of questions one at a time and then we can have a discussion about whether we think there's consensus to revise, and once that consensus decision has been made, then we can have the debates and reach consensus on what it should be revised to. And then the last thing we'll do is come to an understanding and an agreement on why we revised it and how we're going to express that so that it becomes a part of the record.

That would be my suggestion just to keep us orderly because I don't think we should start word-smithing yet today. And I think we need to see questions grouped together so that we can see if things are duplicative, if there's a better way of doing it, those kinds of things.

So that would be my suggestion. And I see Kathy agrees with me. And I want everyone to watch. We do agree on occasion. And then I see that Susan Payne agrees. If we - I just think that's the best way to go forward. If we can do that I think we're going to - it'll organize our work for us and then we can push forward. Is there anyone who disagrees with that? Okay.

Now what I want to tell you - members of this group is that there's a group of questions that you find that you are particularly interested in or you have great concerns about, I will call upon you to be a drafter of the revised questions that you would present to the group. And you can present them along with your rationale for why you've changed them. But that way we give everyone an opportunity to deal with the things that they think are most important and you get to express your viewpoints and you're not covered up because I do have a tendency to step out of my role as chair and be bombastic at times.

But that doesn't mean that I don't appreciate nor that I do not want to hear other perspectives because this is a consensus process. At the end of the day we can't put out any work unless we all agree that that's where we're going to end up. And I am committed to making sure we do that. Okay?

With that I think we can close this call and give ourselves back 15 minutes, less anyone has something else. I see Mary's hand has come up.

Mary Wong: We did have a follow up question, J. Scott, and everybody, which is that we will do our best, as I said in the chat, to create the table with the additional context and extra columns for whatever clarifications and changes we're going to make. And we can send that to you I'm going to say by tomorrow.

Given the time that we have, and given that we are two weeks out from Hyderabad, David and I were wondering if it would be feasible for this subgroup to take the Friday slot that we normally use for the other TMCH sub team so that you can have your next call this Friday seeing that next week is

the week before Hyderabad and I believe, J. Scott, you might be out yourself as well.

J. Scott Evans: I am out Friday as well but Miss Kleiman is on the phone and I'm sure she'd be happy to chair if she has the time. I see her hand is up so I'm going to allow her to speak.

Kathy Kleiman: I would hate to hold the call without you, J. Scott, but I do have that slot reserved for...

J. Scott Evans: Well then I think you should go ahead. I'm on a plane to Rome and I'm going to be in such a good mood you all do what you want and I'll scream about it later.

Kathy Kleiman: Then have lots of drinks and toasts to our success please. I do have two comments to make. Is this a good time? And then it would be great to see people in the chat room whether 11:00 am was the data gathering sub group, Friday at 11:00 am Eastern time was the data gathering sub group's time slot and that group is wrapping up its work and won't be meeting this week. So the question is whether people can make that call time? I think Susan can, which is great.

Okay so in terms of verification and validation and sorry if I can't see it in the agenda notes in the tiny print, but I think we have an action item of adding some of the design mark questions that have come in under verification and qualification and verification.

J. Scott Evans: Yes, I don't have a problem with adding anything that we think - just get it all into the table, Kathy, if you have suggestions send it to Mary and we'll get it in the table and we can have the debate of whether it should or shouldn't be...

((Crosstalk))

J. Scott Evans: ...as we go through the grouping of questions.

Kathy Kleiman: And the other thing in terms of the Trademark Clearinghouse database, and I just thought I'd mention it and then we can give people back 10 minutes of their time is there are private purposes, this database in addition to sunrise and trademark claims is also being use for private purposes so something in the Trademark Clearinghouse database can be blocked in 200 top level domains and we're seeing it.

So I think we always have to include private purposes too and, you know, I think Paul Keating's comment that what this was intended for and what this is being used for may be different. So just an overall comment. Thank you.

J. Scott Evans: And that's something that we definitely need to explore.

Kathy Kleiman: Great. And, J. Scott, I want to wish you a great vacation.

J. Scott Evans: Okay, Susan. Is your hand down now? Okay. So with that I'm going to give everyone the time back. I think we know what we're going to do. We'll get these things circulated tomorrow for a call at 11 o'clock Eastern Daylight time, and that's 8:00 Pacific Daylight time and I think it's 10:00 Central Daylight time.

And I'm afraid I can't calculate for Europe so if there's anybody - Susan, I think you're eight hours ahead of me so that would put it around 4:00 or 5:00 in the afternoon for you. But let's just go ahead and do that and you all go and hold this call without me and I'll just monitor by email.

All right, thank you, Kathy, for agreeing to take over that call on Friday. Thank you, Mary, for all your help. And let's continue to push forward. I think we're headed in the right direction. Ciao.

Susan Payne: Thanks.

Mary Wong: Thank you, everybody.

((Crosstalk))

Michelle DeSmyter: Thank you so much. The meeting has been adjourned. Operator, please stop the recordings and disconnect all remaining lines. Have a great day, everyone.

END