

Michelle DeSmyter:Dear All, Welcome to the New gTLD Subsequent Procedures Sub Team - Track 3 - String Contention, Objections & Disputes call on Tuesday, 13 December 2016 at 20:00 UTC.

Michelle DeSmyter:Meeting page:

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_C6HDAw&d=DgIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=ij4F9FHg2rxP5n00Wp7PfyG0bq8sIbX_waU0eU1wFLU&s=31noSbDUe2ClHP2WwEVdTdLNuFOvS04aPQcVRSVtvjI&e=

Jeff Neuman:Thanks! I am on mute now until call starts

Jeff Neuman:yes

Greg Shatan:I am not walking through Grand Central Terminal, so that

Greg Shatan:is an improvement for me....

Gg Levine (NABP):I think we could get more milage out 90 minute calls than weekly calls.

Jeff Neuman:Just to emphasize the Council of Europe Report, this was brought up again at the IGF session briefly

Jeff Neuman:I believe the GAC is discussing this report and may likely base some advice on that report

Robin Gross:nothing to add. thanks

Jeff Neuman:same

Kurt Pritz:Is a link to the Council of Europe Report readily available?

Steve Chan 2:@Kurt, available here:

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_Wz2AAw&d=DgIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=ij4F9FHg2rxP5n00Wp7PfyG0bq8sIbX_waU0eU1wFLU&s=cZ15b0LNyqmoRx6dFjxpew0s6QuU_5a5sn0b7I9xfLA&e=

Emily Barabas

2:https://urldefense.proofpoint.com/v2/url?u=https-3A_rm.coe.int_CoERMPublicCommonSearchServices_DisplayDCTMContent-3FdocumentId-3D09000016806b5a14&d=DgIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=ij4F9FHg2rxP5n00Wp7PfyG0bq8sIbX_waU0eU1wFLU&s=EZS4aWAyNUI10f_GRTbt_SnEqCd4PM4iKEUEGqSdFMo&e=

3D09000016806b5a14&d=DgIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=ij4F9FHg2rxP5n00Wp7PfyG0bq8sIbX_waU0eU1wFLU&s=EZS4aWAyNUI10f_GRTbt_SnEqCd4PM4iKEUEGqSdFMo&e=

Emily Barabas 2:(sorry steve, i was one step behind you)

Kurt Pritz:thanks, and, thanks

Steve Chan 2:Sorry all, wasn't getting chat in the AC room and had to relaunch.

Emily Barabas 2:correct, karen

Jeff Neuman:My bad....same time next week :) Its the last calls this week for WT 1 and 2 :)

Jon Nevett:Alan, to which ones did ALAC object?

Jeff Neuman:There was only one of them

Jeff Neuman:.health

Kurt Pritz:@ Alan: I think the distinction is that the Independent Objector was automatically granted standing; the ALAC was funded but also had to qualify as having standing as an injured party

Jeff Neuman:ok..then I am in favor of abolishing that right.

Alan Greenberg:Clearly!

Jeff Neuman:The ALAC should have no different objection rights than any other AC (other than the GAC) or SO

Alan Greenberg:We had the same rights. Only the funding was different.

Alan Greenberg:But in any case, I was simply raising the issue to be discussed.

Alan Greenberg:@Kirk, yes that is correct.

Alan Greenberg:Oops - bad fingers - Kurt.

Jeff Neuman:sorry, can you repeat that point

Jeff Neuman:yes

Kurt Pritz:Not sure how to introduce this: It was cleared to me that the objection process was used (gamed) by some applicants to delay other applications. It was thought that the loser pays mechanism would prevent much of this gaming but it turned out not to be so.

Mike Rodenbaugh:Fees can be dealt with on omnibus basis. Seems no reason why they would be structured differently depending on objection type.

Jeff Neuman:Yes, deal with at the end with some general principals applicable to all

Jeff Neuman:principles

Jeff Neuman:sorry

Rubens Kuhl:Kurt, I believe that was a mixture of doing by purpose and doing by not caring whether someone will be impacted, just for the small chance of prevailing.

Jon Nevett:Agree with Kurt and Rubens

Kurt Pritz:If we agree there was gaming and that there was harm that came from it (I am not sure it is true) then we should try to address gaming, not just but pricing, but by other means.

Kurt Pritz:@Jeff having a "right" to object does not mean it is a legitimate use of the process

Rubens Kuhl:The dog agrees that we had gaming.

Annebeth Lange, ccNSO:Sorry that I am late - I was delayed in another call

Jeff Neuman::

Kurt Pritz:The penalty for losing (say 30,000) is so small compared to the value of the TLD (\$x million) that it is a small gamble to file an objection

Jeff Neuman:Neuman Rule #2

Rubens Kuhl:Perhaps such penalties belong with competition authorities and courts ?

Jeff Neuman:I agree with Paul.....I am not a believer that we have proven it is broken

Paul McGrady:+1 - agree that we should ask for factual evidence before fixing it

Cheryl Langdon-Orr (CLO):yes good for CC2

Rubens Kuhl:LRO standing for IGOs/INGOs is something peculiar.

Rubens Kuhl:But removing it might cause issues with GAC of where they would go.

Rubens Kuhl:It was not used, although could have been used by ECO.

Paul McGrady:Just to confirm @Rubens. This is a hot topic right now in GNSOLand.

Rubens Kuhl:ECO later sent a letter to ICANN questioning that application, but that was too late and out of process.

Mike Rodenbaugh:adobe connect is not working for my audio...

Mike Rodenbaugh:apparently still no audio. ugh

Mike Rodenbaugh:don't worry about it. I'll take it to the email list because it is detailed. Involves my client .GCC.

Rubens Kuhl:We can just acknowledge that as an useful quirk and keep it on. It's weird but not too weird.

Greg Shatan:That would be helpful.

Rubens Kuhl:I have an issue with SCO standing, but we are talking LROs. Just to put a marker down.

Kurt Pritz:The legal rights objection was lightly, if at all, used. It is cheap insurance for the gTLD program. I think we should leave it as is.

Paul McGrady:+1 Kurt. I see no reason to wade into the mess if we don't have to.

Cheryl Langdon-Orr (CLO):agreed Jeff

Rubens Kuhl:"If ain't broke, don't fix it"

Mike Rodenbaugh:The LRO was used in several instances, which bear reviewing and considering whether changes are appropriate.

Mike Rodenbaugh:.Merck. .DelMonte. .GCC

Rubens Kuhl:Merck is Kramer x Kramer, corporate world version. No happy ending possible.

Kurt Pritz:@ Mike - those were the legitimate uses of the process and it worked fairly well

Paul McGrady:@Mike, were the examples you gave related to standing? or just the LRO generally?

Mike Rodenbaugh:LRO generally. Though GCC has a standing issue.

Mike Rodenbaugh:Specifically, GCC was not on the WIPO trademark list until after the applications were revealed.

Kurt Pritz:Side issue: initial evidence of gaming: Just checking: out of about 275 objections, the objector prevailed about 30 times, about 11%. In an evenly constructed process, I would think objectors would prevail 50% or more of the time. In loser pays, I would think objectors would prevail much greater than 50% of the time.

Emily Barabas 2:Objections section of the wiki:
https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_display_NGSPP_4.4.3-2BObjections&d=DgIFaQ&c=FmY1u3PJp6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwwehFBfjrsjWv9&m=ij4F9FHg2rxP5n00Wp7PfjG0bq8sIbX_waU0eU1wflU&s=76uag_iA1LumERMIOqGTK-j2NDD9ULTBDsG0FGN_5tI&e=

Rubens Kuhl:It could be close to UDRP prevail rates, I believe.

Mike Rodenbaugh:GCC did not work well at all. In fact the Board stopped the LRO from being heard, even though it was fully briefed by the parties. Because of intervening GAC Advice.

Jeff Neuman:Paul has just volunteered to submit his comments to the list :)

Paul McGrady:@Jeff - you bet I did.

Jeff Neuman:Does Paul want to form a little subgroup to work on that?

Paul McGrady:I was +1'ing Kurt only on the standing issue

Paul McGrady:@Kurt, I think it just didn't get the attention it needed at the time. Wasn't meant to be critical of the hard work of the staff at the time. I think we can improve it.

Paul McGrady:Attention from the community (not staff)

Alan Greenberg:Dead air!

Paul McGrady:I can't hear anything.

Cheryl Langdon-Orr (CLO):audio

Paul McGrady:hear

Jeff Neuman:This is a tough objection, because we do not really ask registries what they are going to do with the TLD and hold them to that. If we did, a legal rights objection may be easier because you can judge it based on the proposed use

Paul McGrady:happy to

Jeff Neuman:But that would raise a whole other set of issues in enforcement and how to change your purpose of your TLD, etc.

Jeff Neuman:Great discussion on the call!

Cheryl Langdon-Orr (CLO):thanks. Bye for now