Julie Bisland:Welcome to the New gTLD Subsequent Procedures Sub Team – Track 2 – Legal/Regulatory Issues on Thursday, 27 April 2017 at 21:00 UTC.

Julie Bisland:Agenda Wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_CrHRAw&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=QlbBwdawy6LX1PMUZTN3vRdLZMoEKxUFoM5yZGQsaVs&s=9oGePU4gxyyDGZXNWvnFiOMcgUqIwWWZpAQr76uZLtg&e=

Terri Agnew:We would like to introduce Julie Bisland as GNSO SO/AC Support coordinator. She has started training with us this week.

Michele Neylon:evening

Alexander Schubert:nicht

Alexander Schubert:*night

Jeff Neuman:Welcome everyone!

Jeff Neuman:We have some phone numbers listed without names....is it possible to match up numbers with names

Michele Neylon:the 353 one is me

Milton Mueller:is that an IPv6 address? ;-)

Cecilia Smith:I'm 858

Michele Neylon:Milton :)

Steve Chan:The recordings, transcripts, and slides from the two geographic names sessions are available here: https://urldefense.proofpoint.com/v2/url?u=https-3A__gnso.icann.org_en_group-2Dactivities_calendar-23apr&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=QlbBwdawy6LX1PMUZTN3vRdLZMoEKxUFoM5yZGQsaVs&s=Ycfa-Up_0CEFNswZUk3eGbbKZhP0Tuj8VKiSs8u2LFc&e=

Kathy Kleiman:NCSG was deeply divided on this issue.

Jeff Neuman:Steve - Can we post a link to the statement that Milton is referring to

Paul McGrady:@Kathy - so was the IPC.   Tricky topic.

Steve Chan:@Jeff, sure. NCSG comment to the Closed Generics public comment here: https://urldefense.proofpoint.com/v2/url?u=https-3A__forum.icann.org_lists_comments-2Dclosed-2Dgeneric-2D05feb13_msg00061.html&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=QlbBwdawy6LX1PMUZTN3vRdLZMoEKxUFoM5yZGQsaVs&s=BguCu0SjH3q38gI4KxfvCsFR1Pl0HUiSs_NtTHsIeo4&e=

Jeff Neuman:@Kathy - thanks for pointing that out. The reason I introduced it as the NCSG comment is because that is how it was filed "Comments of Noncommercial Stakeholder Group members on 'Closed generic' TLD applications"

Kathy Kleiman:@Jeff, it's not an NCSG comment, but a comment signed by certain NCSG members.

Kathy Kleiman:There are a lot of NCSG members who work for the principle (and have for years) that Generic Words are not owned by anyone.

Steve Chan:Apologies Kathy, you're right. This is a comment from members of the NCSG rather than on behalf of the NCSG.

Jeff Neuman:@Kathy - understood. I am not taking sides...just trying to make sure everyone is able to present their positions. If I am coming across another way, I apologize

Robin Gross:There is no such thing as a "generic" word in any non-fuzzy sense.

Michele Neylon:I recall it being a bone of contention at the time

Kathy Kleiman:In the proceeding that the ICANN Board opened for the discussion of this topic, there was an outpouring of concern - from around the world -- booksellers, furniture makers, cloud computing platforms.

Michele Neylon:Well one "cloud" company wanted to have .cloud for themselves

Kathy Kleiman:The other major view in NCSG was that Generic Words belong to everyone, and that Generic Words can't be registered at trademarks for their generic purposes. They are open to everyone in the industry, field or area.

Robin Gross:I don't understand why ICANN should want to regulate business models in this way.

Milton Mueller:remember that any "generic" term regulation has to apply to multiple languages and character sets

Robin Gross:Requiring a specific business models seems anti-innovation and anti-competitive.

Kathy Kleiman:I have never seen such a huge outpouring of concern - including for .BOOK as just mentioned - from around the world (until we got to proxy/privacy)

Kristina Rosette (Amazon Registry):Alexander, let's use .write, please. I have concerns about using one of Amazon's TLDs for your example to avoid misunderstandings later.

Paul McGrady:@Alexander - price gauging isn't unqiue to closed generics. Ask any brand owner that went through certain recent Sunrises...

Rubens Kuhl:Nope, a registry can increase price for one domain.

Susan Payne:I've experineced unilaterally imposed huge price increases in the ccTLD space too. I don't see what this has to do with closed generics - but it's late here and I'm tired

Michele Neylon:I'm confused

Michele Neylon:(which happens a lotO)

Kathy Kleiman:@Michele, right, and the Cloud Industry Forum wrote to the ICANN Comment Forum to bemoan the locking up of a "highly generic phrase that is referred to by the industry as a whole and is not under restriction or ownership by any organizations, but has become in essence an industry classification."

Milton Mueller:sure

Alexander Schubert:Kristina: Have read your comment only now - didn't read the comments during the discussion.

Rubens Kuhl:One way is to tell GAC that governments are the ones with anti-trust authority and better equipped to handle possible issues.

Paul McGrady:@Rubens, much of these things were tried in the last round. But when your objections are not based in law, they are impervious to good arguments

Kathy Kleiman:I would like to raise my hand, but having trouble with browser

Alexander Schubert:Question to all: How could you raise the price for a single SLD WITHOUT raising the price for others AFTER a domain was registered? To my understanding that is not possible right now with gTLDs!

Robin Gross:All of the examples provided by those who want to kill closed generics are by competitors of the applicant not wanting their competitor to have the name. This is clearly a gaming system.

Alexander Schubert:And regarding "Market Domination": If Amazon registers .book - and doesn't use it; that creates a leverage for Amazon because there will be less options for online sales and distribution for books!

Rubens Kuhl:Alexander, it's possible. The registry only needs to send a notice of increase 6 months ahead to registrars, and that notice can specify specificlabel.TLD as the only that have increased.

Milton Mueller:Kathy, domain names are not trademarks

Robin Gross:Registration is about providing EXCLUSIVE use. Not saying someone can't use a word. That point is missing from this argument.

Alexander Schubert:And when we are at it: Why do we laws garnting public access to beaches ? Why not selling all beaches to the rich - and the poor can't go to the beach anymore?

Milton Mueller:right Robin whether a TLD is open or closed, it is exclusively controlled by the registry

Robin Gross:It is a conflation of concepts of right to exclusive use with right to use at all. Big difference legally.

Susan Payne:@Alexander, even if you increase the prices across the TLD as a whole, it has an impact on the individual registrant. If that is the domain you have built your online presence on it is not a cheap or simple matter to switch so your choices are limited

Alexander Schubert:Rubens: You can raise prices ACCROSS the board - but not for a SINGLE domain, right?

Milton Mueller:Alexander: there are lots of private beaches. They co-exist with public beaches. I think we can have both

Rubens Kuhl:Note that this per-label pricing had more occurences of lowering prices than raising prices. Most premium domains have seen not much market demand and the price was reduced.

Kathy Kleiman:Tx Jeff

Kathy Kleiman:Could you post the chart you are talking about again?

Rubens Kuhl:Alexander, wrong. It's per label pricing on 2012-round gTLDs.

Alexander Schubert:Rubens: Please define "per label"?

Michele Neylon:Rubens - correct

Michele Neylon:Alex - per domain thing.tld

Michele Neylon:label - domain

Alexander Schubert:OK

Michele Neylon:same thing

Alexander Schubert:Didn't knew that.....

Rubens Kuhl:alexander.gay can cost differently from iam.gay

Michele Neylon:you can raise or lower prices on your premium lists

Michele Neylon:move them between tiers etc etc

Alexander Schubert:Why would then somebody be so stupid to invest Millions into a domain.newgTLD - if it could be taken away at any given time by raising the price to a Billion USD?

Milton Mueller:indeed, Alexander why?

Michele Neylon:*some* registries have increased prices for existing registrations

Michele Neylon:others have frozen the price

Alexander Schubert:I think you just made me a BIG .com fan - again.....

Rubens Kuhl:Alexander, because they don't know that ? ;-)

Milton Mueller:long-term contracts offer protection against hold-up pricing

Kathy Kleiman:I think they did comment ...

Jeff Neuman:Milton - did I misquote you when saying that something cant be anti-comptitive in advance ?

Michele Neylon:I've commented on this topic at length in the past

Michele Neylon:not sure if anyone wants me to rehash what I said previously

Michele Neylon:4 years later :)

Rubens Kuhl:The only way a registry can guarantee it wouldn't happen is filing a PIC saying so. That would make that committment enforceable by registrants.

Jeff Neuman:Michele - If you want to discuss your comments you filed, please do

Michele Neylon:Jeff - happy to if people want me to

Michael Flemming:Michele, would you like me to call on you next?

Michael Flemming:Your feedback is very important.

Michele Neylon:I don't mind :)

Michele Neylon:https://www.internetnews.me/2013/02/23/5-reasons-why-closed-generic-new-gtlds-should-be-opposed/

Robin Gross:I haven't seen a single free speech group come out for banning closed generics. It is a business gaming issue, not a free speech issue.

Jeff Neuman:@Michele - you bring a registrar perspective as well. Its rare we get registrars offering their perspective here ;)

Michael Flemming:Alright, I will call on you right after Alexander.

Michele Neylon:Jeff - lol

Michele Neylon:Jeff - you are a registrar officially :)

Jeff Neuman:I dont voice my opinion as chair

Michele Neylon::)

Alexander Schubert:can I respond?

Rubens Kuhl:Same happens with community TLDs...

Milton Mueller:yes

Milton Mueller:you are just choosing to call it a community TLD instead of a closed generic.

Milton Mueller:The community TLD is closed in the same sense that a closed generic is closed

Kathy Kleiman:Good point

Michele Neylon:a regulated TLD can be as well

Kathy Kleiman:to the speaker...

Alexander Schubert:Milton: If you need restrictions: Just file a ton of pics - and you are done. Like in a community TLD (obviously you do not need to identify as community priority). I just don't see why you need to completely "close" a TLD.

Milton Mueller:how is that different from a closed generic Michele?

Alexander Schubert:In a closed generic gTLD sooner or later ALL "rights" to registrants will vanish - and the domains will NOT be "registered" but "leased" - and the terms will be shady and intransparent. Kind of the "payday loan" of the DNS.

Rubens Kuhl:The deterrence for single registrant is not the registrar equal access clause, since the policy could prescribe that only one registrant is allowed no matter the registrar... what prevents it today is one of the PICs, 3c and 3d:

Rubens Kuhl:c.   Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies. d.   Registry Operator of a "Generic String" TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person's or entity's "Affiliates" (as defined in Section 2.9(c) of the Registry Agreement). "Generic String" means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others.

Paul McGrady:@Milton - thanks for joining the call today. Very interesting stuff. Lots to think about,

Robin Gross:The argument for banning closed generics does seem to be very anti-choice.

Alexander Schubert:Milton: Choices are fine. But there is only ONE ".music" and ONE ".gay" - and we shouldn't toy around with those strings....

Alexander Schubert:Thanks Milton!

Paul McGrady:@Robin - yes. It was a way for less creative competitors to make sure that a competitor that had the foresight to apply did not get the commercial advantage that it paid for as an early adopter.

Susan Payne:@Alexander - it's a closed TLD. There aren't registrants in the traditional sense. So it's not a question registrants losing rights and being at the mercy of the RO

Alexander Schubert:Susan: The Centralnic thrid level domains (based on ll.com) are sold as "normal registrations" at registrars - and the consumer doesn't notice what happens in the background...

Alexander Schubert:The same will happen with "closed generics": Domains will b sold at registars!

Jeff Neuman:So you were ok with The Food Network getting .food?

Jeff Neuman:And using it in connection with the Food Network

avri doria:Susan, they are basically just platform users?

Kathy Kleiman:.FOOD was the only closed generic to stay as a closed generics.

Jeff Neuman:Yes Michele thanks

Kathy Kleiman:Dozens opened up to their competitors.

Robin Gross:Dictacting how people should use words like this is complete micro-management that kills innovation.

Susan Payne:@Avri - Perhaps, but it depends on circumstances. What I was trying to say was that we shouldn't be assuming that the only use for a TLD is a retail "pile em high" model

Kristina Rosette (Amazon Registry):Preventing an RO from limiting registrations to itself and its affiliates prevents the RO from experimenting with using the DNS in innovative ways. It's effectively impossible to innovate if 3Ps already have registered domains in the TLD.

Alexander Schubert:Robin: Can you give an example how innovation would be killed? Doesn't minimum wage then also "kills innovation"?

Paul McGrady:I still think the Pros/Cons documents needs a "GAC Management" Section. Otherwise, we are just driving ourselves off the same old cliff.

Kristina Rosette (Amazon Registry):You can't try something new if you have to take 3P interests in their domains into account. If the experiment doesn't work and the TLD is "closed", only the RO is harmed.

Kristina Rosette (Amazon Registry):And

Kristina Rosette (Amazon Registry):I'm using "harm" very loosely.

Alexander Schubert:And closed TLDs are maybe fine if they are NOT generic cathegory keyword strings.

Susan Payne:which case?

Cheryl Langdon-Orr (CLO):be good tonpost the details

Cheryl Langdon-Orr (CLO):to post

Kristina Rosette (Amazon Registry):And, of course, numerous objection proceedings had exactly the opposite outcome.

Rubens Kuhl:I don't think the penalty box is forever. I think this PDP determines the fate of those applications.

Kathy Kleiman:It was an independent review by an international panel

Alexander Schubert:It would also really be nice to have a link to a source whoch decribes potential "innovations" which would ONLY work in a "closed generic"......

Jeff Neuman:Sounds like Michael has a crowd

Rubens Kuhl:Alexander, I have one closed generic idea I won't disclose since it's a trade secret...

Paul McGrady:This has been a fabulous call. I think it was really thoughtful. I know I walked away with a bunch to think about.

Alexander Schubert:Thannks!

Alexander Schubert:1:00 am here

Rubens Kuhl:... and other people might have other ideas like that.

avri doria:bye and thanks all for the discusssion

Michele Neylon:11pm here

Cheryl Langdon-Orr (CLO):thx everyone bye for now

Robert Burlingame:Bye

Rubens Kuhl:Bye all!

Kathy Kleiman:Bye All