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ICANN
JURISDICTION SUBGROUP MEETING
09 MAY 2017
1900 UTC

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>> GREG SHATAN: Hi. This is Greg Shatan. Why don't we go ahead and get started. We can get the recording started, please?

>> OPERATOR: This meeting is now being recorded.

>> GREG SHATAN: Hello and welcome to CCWG Accountability Workstream 2, Jurisdiction Subgroup, meeting number 30, May 9, 2017 at 1900 UTC.

Well, let's review the agenda briefly.

>> GREG SHATAN: We'll have our usual administration, minutes, follow up on the status of our follow-up question for ICANN legal. Go over the decisions, requests, and action items from the prior call.

Then the meat of the call is the review of the questionnaire. And various activities relating to that. Then the review of ICANN's litigation. And various issues relating to that.

Then we have AOB and announcement of our next meeting at the wonderful hour of 0500 UTC.

Any questions on the agenda?

(There was no audible response.)

>> GREG SHATAN: Seeing none, we will take it that the agenda is reasonable. If there is anything that people want to bring up at AOB, why don't we mention that at AOB.

So let's move on to administration. Does anybody have a change to their SOI?

(There is no response.)

>> GREG SHATAN: No changes to SOI? Do we have anybody who is only on audio?

>> DAVID McAULEY: Greg, David McAuley here. I'm sitting with a new colleague, Nick Smith who joins us here and will be participating.

>> GREG SHATAN: Thank you, David. Nick, welcome. I hope you find this not stultifying.

>> NICK SMITH: Thank you for the welcome.

>> GREG SHATAN: Nick, have you submitted an SOI yet?

>> NICK SMITH: No, I have not.

>> GREG SHATAN: Okay. If you could do that at your earliest opportunity. I'm sure David can tell you how. If not our esteemed staff such as those on the call today, Brenda Brewer and Bernard Turcotte, will help you.

>> NICK SMITH: Thanks.

>> GREG SHATAN: Next, question for ICANN legal which was submitted to the legal committee last week. The legal committee approved the follow-up question to be sent to ICANN legal. It was sent to ICANN legal on May 2. We do not yet have any sense of when we will have a response or what that response will be. But I will check that prior to our next meeting. Hopefully we will have it prior to our next meeting. So I will check in relatively short order.

I see a hand up from Bernie Turcotte.

>> BERNARD TURCOTTE: Thank you, Greg. On that topic I did speak to Sam last week. She was off on the board workshop late last week and over the weekend. So that definitely impacted her time. She is aware of the question. Looking at that when she comes back today, I believe. Thank you.

>> GREG SHATAN: Thank you, Bernie. Appreciate the update. Now what stands in its way. So let us now go to item 5 on the agenda, review of decisions, requests, and action items from the last call.

We talked about how to handle the evaluation of the questionnaire. We received approximately 20 responses, of which seven definitely require analysis and review. And five were borderline. And the remainder were essentially one-word answers such as "no." which is either a very short sentence, one word, or both.

Given that number of responses, we decided to change our approach. Rather than having the evaluation team kind of

sequester itself and deal with the evaluations and responses separately and then come back, the decision was to essentially deal with the responses on the main list and in the main Subgroup call, such as this one, but to have those who volunteered for the questionnaire response evaluation team take the lead in each analyzing and presenting at least one of the questions that definitely were deemed to need analysis and response on an individual basis.

The team will also need to decide, of the five that were borderline, whether they are yeses or nos. If they are yeses, they will need the same treatment as the seven that are getting individual analysis and response. When we get to the questionnaire discussion we'll show the current state of play on the questionnaire response volunteer setup. Basically, since there are seven members of the review team, excluding myself, and seven responses that definitely needed personal attention, we have requested that each member pick a response and then evaluate it, analyze it, present it to the Subgroup.

I will further caution that for members of the team who also submitted comments or were involved in the preparation that were submitted that they not choose their own comment so that they could be -- so that the person who actually did the analysis and response would be more or less neutral. That would also allow that person submitting the response to talk about it as the responder and not as the analyzer.

So that is where we stand on 5.1.1. Also there is a request that the Subgroup complete the review of past litigations in the coming two weeks. Which would be by next week. We'll talk when we get to item 7 about our progress there. I will say that we do have three cases to discuss this week as opposed to none last week. We have made some modest steps forward but not sufficient ones.

Action items. First was for staff to distribute the questionnaire evaluation tool. Basically the huge spreadsheet, the excerpts of the answers and where the absences were short such as "no" the entire answer was placed in the tool. It allows for comparing and contrasting. However, if you loaded every word from each response into the tool, it would become unwieldy. So I found that when dealing with these tools it's best to look back at the underlying document if you really want to get a deeper understanding of what exactly is being stated. Sometimes the nuances are hard to capture. So while this is an excellent tool for comparing and contrasting and aggregating, it should not be viewed as a substitute for the questionnaire responses themselves.

That has been distributed to the list and posted on the wiki. I think the latest version was distributed today by

Bernie. Thank you very much for that. And then the next issue we discussed last week was Chinese response that was basically from more or less the transcript of a portion of a meeting which, while it related to the subject of the questionnaire, it was not in the same format and was not all directly responsive to the questionnaire. Staff was asked to put the Chinese questionnaire into a -- response into a format consistent with the questionnaire and then to add that to the review tool. Staff has just completed that with some back and forth. I reviewed a prior draft and made some changes. So that is now done. It is not in the review tool. It will be added to it very shortly.

Third action item was to create a sign newspaper sheet for the questionnaire analysis so that we could carry out what we discussed under 5.1.1 and upload that as a Google Doc. That has been done. There is the link. The last time I checked, several members of the response team had already signed up. That seems to be going reasonably well.

I see from the chat that about Bernie Notes that the Chinese questionnaire response is now in the latest version of the review tool.

Any questions on item 5? Kavouss, please go ahead.

>> KAVOUSS ARASTEH: Hello, Greg?

>> GREG SHATAN: Yes, I hear you, Kavouss, go ahead.

>> KAVOUSS ARASTEH: Hello, good evening, good morning, good afternoon. I have one procedural question. That is the explanation you have given about the answers that five of them are one word, which I don't think would be very easy to interpret and black and white, yes or no. I don't know how many remains, 15, 13, 20, but suppose that there are 15 remaining. My view would be this number of answers are not representative to make any conclusion on either side. I do not understand the reason why there was so little. They actually nevertheless, 15 or less than 15 in my view is not representative. That does not mean that we should not analyze them. We do, and we must do that. But to conclude on the reply on either side on any question irrespective that some of the answers have not yet, or may not be easy to have a clear understanding. So if in the view of myself they are not representative, I would say the answer is a quorum, an artificial quorum has not been met. So whatever conclusion will be made of that may be very, very light conclusion. I don't know if it is an opposite conclusion but it is a very light conclusion. Thank you.

>> GREG SHATAN: Thank you, carious. Does anybody else want to comment on Kavouss' points?

(There is no response.)

>> GREG SHATAN: Seeing no one, I will make a couple of brief remarks. First, it is probably best to make a decision about how to utilize the responses overall after we have gone through and analyzed them and heard about them in our meetings. Second I think we should recall that the intention for these questions was to receive factual inputs. So there was no overall aggregation necessarily or quorum of any type that was intended. Rather, we would take each on its merits. And furthermore, the responses are to be taken as an input to the group's work along with the contributions of the members themselves. Always a key part of any working group. Maybe the key part.

Also the analysis of the litigation, which is underway. Also the responses from ICANN legal to the questions we had for them, and any other questions we may have for them as well.

So this is just an input into our overall work. But I think what we should do is to look at the question just to go over the census, if you will. There are seven questions that were identified as definitely needing a response. Five which had something over a one-word response but not a significant response. Those are the five that are borderline. The remaining eight had yes or no responses, which I think are -- I believe they were all "no" responses, actually. So I think they are fairly easy to interpret, but if we decide as a group that we want to interpret it, that is up to the group.

Any comments on this overall before we move to to a discussion of the questionnaire?

Tatiana, go ahead.

>> TATIANA TROPINA: Hello. While I do agree that there is certain rationale behind saying yes, like 15 or whatever, ten is not representative, but it is not about representation. It is about documenting certain problems or certain cases which we have to analyze and in this sense I believe that these are seven, ten, or 15, this is invaluable input in the context of the work of the whole group.

I don't think this is an issue of representation or not. As you said, Greg, we are not going to base our work and conclusions solely on those answers and submissions. They just have to be analyzed in the context and if there are two big cases of problems which can be identified from seven answers, for me it is already enough of a big deal. Thanks. So basically the conclusion from what I'm saying is that I don't believe that any one is taking this as the end of itself. We spread the discretionary to identify the problems. If we can identify them from the answers, yes, good. If we can not, we can test other tools. Thanks.

>> GREG SHATAN: Thank you, Tatiana. I think that's a good point, that each survey response is valuable in and of itself, whether it is surrounded by 19 other responses, or 19,000 other responses. So we will take each one as it comes.

David McAuley, please go ahead.

>> DAVID McAULEY: Thanks, Greg. I think I agree with you and Tatiana and Kavouss but with a shade of difference. To the extent that these responses state facts, I'm completely on board. That's input we should certainly consider.

To the extent they state an opinion, I think we should consider that too. I do think there is an element of weight that Kavouss was mentioning that would come to bear on something like that. So I would say that the lightness of the response would be perhaps an element to consider in giving weight to opinions.

So it is just a slight difference, but I thought I would mention it. Thank you.

>> GREG SHATAN: Thank you, David. I think that's actually a very good point. I think I agree with you on that as well. Of course, we didn't really ask for opinions, but rather for facts. But generally agreed that we would look at whatever we received and deal with it, figure out how to deal with it as we went along.

David points to that part of the evaluation task before us. I think it tees it up quite well. Steve DelBianco.

>> STEVE DelBIANCO: I agreed earlier with Greg and Tatiana that the notion of quorum. Then I heard David McAuley mention that opinions while unsolicited might be considered if offered. There, however, we might give weight to a handful of opinions as being somehow descriptive of what others think. But we did not solicit opinions. And we are not tallying up opinions the way you might tally votes, in which case representation and quorum are appropriate.

So I don't agree with David that unsolicited opinions given are of any weight. They are of interest, to be sure. They might actually suggest questions we pose to the group at some point in the future, and seek representative and quorum-based answers. But just randomly submitted unsolicited opinions, I don't think we can give them any weight in our current work. Thank you.

>> GREG SHATAN: Thank you, Steve. I don't think you are that far off from David in the sense that I think he wanted to caution us against taking the view that any opinion somehow represented, was kind of a representative sample of all opinions; and that, therefore, we had some sort of -- I think in that case, the point about there being a lack of quorum makes sense. And whether we give the opinion interventions weight or

interest, they are simply, I think, over the transom submissions, essentially. So I don't think there's that much of a gap between what everyone is saying. If we have a particular submission and someone wants to advance the idea that something so deserves a certain amount of weight, we will revisit. But overall, we seem to be in nuanced agreement.

So why don't we move on to the questionnaires themselves. We'll see if anything further on this important point, dealing with the stack of questionnaires.

So let's move to item 6.1, to note that Jorge Cancio raised questions about the translation which he was engaged in the issuing of and submitted. The issues were nuances. And so I'm not sure so much that they were inaccurate rather than they didn't quite capture what Jorge meant to capture when he wrote it or when it was written in French. So that has been withdrawn and is being reviewed so that it can be as good a representation as possible of the author's intent. So Bernie, do you have a sense of the status of that?

Bernie says related to the French translation, he is oh he working on getting a date. I hope you get a date.

So we will look forward to hearing an update on that on our list.

Next, Taiwan requested that its response be withdrawn. I am not aware of the reason, or if one was not stated. In any case, it was withdrawn.

If we could put the sign newspaper sheet up, we'll move to 6.3. Was there any comments on 6.1 or 6.2? We get the sign newspaper sheet up into Adobe Connect? I saw it at the very beginning.

We are waiting for it to go up on the screen.

Here we are, very colorful, color coded. Green are the seven that were definitely to be individually analyzed, reviewed and presented to the group. Actually the five in yellow are those where we need to decide whether there is sufficient meat or nuance that they should be analyzed and presented to the group. And those in red did not need individual analysis. I believe their responses were essentially no to all the questions or unable to respond. We will go over that quickly, just so we have an understanding of those.

As you can see, we have sign newspapers going along the way. Thank you to Erich, David, Tatiana and Parminder for signing up. Hopefully the three remaining members of the team will sign up in short order for the remainder. I have held myself in reserve as the substitute, if anybody can jump in. Tatiana, I see that you are willing to take on a second one. Let's see if we have each one taking one first and then I will

use you as the substitute to come in and allow you to take one more.

I'm sure someone will take on, it's just luck of the draw, I'm sure.

Let us go back. Any questions on this? I will not name names of the remaining three, but they hopefully know who they are and they will hopefully sign up very shortly.

But we probably won't be able to go over all of these at once on the call anyway. I will probably set, hopefully those who signed up now can present on the next call. Although noting that Parminder may be delayed because the dot Swiss evaluation response is actually not available for the reasons that were discussed. I see Tatiana knows that she took the Russian response. She can take a look at the original text and not merely the translation. That is a great point. Very glad that we can do that, have the skills to do so.

Any questions on this? If not, let's move back. I think we -- Kavouss, please go ahead.

>> KAVOUSS ARASTEH: I have a question. Is it possible that I right? Can you hear me?

>> GREG SHATAN: Please, go ahead.

>> KAVOUSS ARASTEH: I see eight contributions. We that mentioned no, cannot be analyzed. Another five can be analyzed and there is a smaller -- sorry, question mark. Who has decided to be analyzed, not to be analyzed, and categorized as not clear whether to be analyzed or not? I don't clearly understand this. One, who decides this? Two, when we say not to analyze, does that mean that we ignore that? And those that we have question marks that we don't know whether or not it should be analyzed? Who decides or how is it decided it should be definitively not analyzed or definitively analyzed? Just a question for clarification. Maybe I'm not familiar with the way that this table has been established and who has established this table. Presumably the chair and the others? Thank you.

>> GREG SHATAN: Thank you, Kavouss. The decision about whether there should be individual analysis was initially made by myself in consultation with staff. These determinations can be changed. If any particular member of our subgroup and particularly the questionnaire response team wishes to do so. In particular we will be looking to the members of the questionnaire response team which are the four people who have signed up in the third column plus myself plus three other volunteers.

I would look to that group to look at the five that are in yellow and to make a determination as to whether they should be individually reviewed or not.

As to the status, none of these will be ignored. Each of them will be taken as input into our group's work. The question about whether they should be analyzed was not whether necessity should be taken into an account but merely whether a member of our Subgroup should take it as an assignment that they analyze them so what I will do, especially since Tatiana has volunteered to take on a second one, if not all seven people volunteer, I will look at and deal with the red ones, the should not be individually analyzed. I will analyze them as a group and present them to the Subgroup so we have due consideration being given to every response as it should be.

So then for yellow, Tatiana says we can analyze that after we analyze the green, or look at them and decide whether some of them should in fact be red. In either case, everything will be duly considered and taken care of by the team. Then by the Subgroup as a whole.

Why don't we move on then to back to the agenda.

So we can take a brief look at the review tool. But given that it's 25 minutes left I don't know that we need to do that. I think you can all take a look at it individually. It is basically a very large spreadsheet at least in terms of surface area, with columns and rows. One set for each response and the other access for the individual question where staff has excepted primarily and summarized to some extent, but primarily relied on the original text excerpted into the tool. So again, good for comparing, contrasting, seeing if there are themes. Looking for connections, if you will. But for the individual responses those who volunteered to evaluate them should rely on the original text and not on the tool. When we have presentations, we will look at the text and its evaluation and not at the tool.

6.5 was put on here with some irrational exuberance. Wanted to see if there was a presentation of any of the responses by any members of the evaluation team who already evaluated their response that they had signed up for. I will ask if anyone has somehow managed to do this with such rapidity that they are ready to present today.

(There is no response.)

>> GREG SHATAN: Given that we are nearly super human and not even more than that, no one is ready to do so. But I expect that we will have probably at least three ready to go for next week, I'm hopeful. And it depends when the French translation comes in. So that Parminder has adequate time between then and next week's meeting to engage in his volunteer assignment.

So let's move on to Question seven. We are just about on time, if you will, for the review of ICANN litigation. Let us

turn to David McAuley and turn to Yeager versus Go Daddy, et al. David? Can you go ahead?

>> DAVID MCAULEY: Yes, thanks, Greg. I can handle this probably fairly quickly. This is a case listed on the ICANN litigation page. Yeager versus Go Daddy and other defendants. ICANN was a named defendant as was a gentleman in Canada. But the international aspect of the case really had no bearing on it. Yeager was a woman who copyrighted a name and was complaining that that name was later used in a domain name after she had registered, but the registration had lapsed.

She was not represented by counsel, but she brought a case in the state of Ohio against ICANN for claims dealing with copyright infringement. She called it copyright theft. But things like that. Tort. The case began in the early 2011 in the month of April. It was done and dusted six months later in October. And what happened in the case is ICANN moved, with respect to it, to dismiss. Go Daddy did as well. The Canadian gentleman never appeared.

After some delays, the case was dismissed based on the fact that the plaintiff had not made her complaint more specific as the Court had ordered her to, and had given her a time extension to.

If you go in and read these documents it may appear that the cases, as Milton said on the list, it's a little bit flaky, but I would sort of say hats off to the woman forgetting as far as she did without counsel. What is informative in this case for our purposes at least is that ICANN submitted a motion to dismiss the case based on lack of personal jurisdiction. There was no general jurisdiction in this case based on a party's presence in the State. ICANN argued it had no office, it had no personnel, it had no assets, nothing basically in the State of Ohio. So those were the arguments that it said there was no personal jurisdiction over it. That also showed there was no general jurisdiction either.

This motion was never decided. The case was dismissed on other grounds, lack of a more specific complaint. But the motion is informative for our group in that ICANN brought forth the arguments it would make when it believes that jurisdiction doesn't exist over it in a place where it has these few contacts.

The idea of digital activity bringing forth jurisdiction was really not argued, not that I could find anyway. So I would sum up the case as saying it is interesting. It provides an interesting insight into ICANN's thoughts on personal jurisdiction as of the year 2011 and it is a worthwhile read in that respect. Other than that, it is not really germane to -- I mean, it is not dispositive to what we are doing. And I

mentioned that, one of the questions we have in our form is what impact would the case have if it were decided for the other party. I don't think it is really major. If it was decided for the other party it would show that a judge in Ohio felt different about personal jurisdiction, but the case may have been appealed. It's too speculative to get into that.

So interesting case. It has some information for us. That's the way I'll sum it up and say I don't think it is very dispositive or otherwise meaningful to us. Thank you.

>> GREG SHATAN: Thank you, David. A couple of questions and I'll see if anybody else has questions. You stated that she says it was copyright theft. Was there any question about whether this was in fact a trademark case even though she called it a copyright case?

>> DAVID MCAULEY: Thanks, Greg. It never got to that point. One of the arguments of Go Daddy was that the complaint, talking about copyright theft and the torts were sort of strangely stated, but the copyright theft both ICANN and Go Daddy said we don't know what we are defending against. We don't know what this is. Implicitly they maybe getting at trademark, but notices arguments were not developed.

The Court ordered the complainants to come up with a more definitive statement of what she was seeking and what her complaint consisted of and she never complied. She was given a time limit in which to do that and it never came in. It was dismissed on that basis.

>> GREG SHATAN: I see Kavouss has his hand up. Go ahead, Kavouss, please.

>> DAVID MCAULEY: Kavouss, if you're speaking, I can't hear you.

>> KAVOUSS ARASTEH: Thank you, David, for all this. Apart from what you said that there are several deficiencies, problems. You requested four -- you mentioned four times personal jurisdiction as one of the main reasons for dismissal of the case. Did I understand this correctly? Among others, that personal jurisdiction was one of the elements of the dismissal? Or I misunderstood that? Thank you.

>> DAVID MCAULEY: Thank you, Kavouss. I didn't mean to say that. Personal jurisdiction was cite -- I'm sorry, the lack of personal jurisdiction was argued by ICANN as being a reason that the case might be dismissed, but the Court never made that kind of a dismissal. It dismissed the case because the plaintiff in the case didn't follow the Court's order to more specifically state what she was seeking. So it was dismissed under Ohio procedural rules for not stating something more definitively. ICANN's argument on jurisdiction was really never addressed, not addressed formally by the Court.

>> KAVOUSS ARASTEH: Yes. But my question is what was the basis from ICANN to refer to that personal jurisdiction? And requesting or requiring the dismissal of the case? What are the arguments, the basis for ICANN to submit or invoke that lack of personal jurisdiction? That is my question.

>> DAVID McAULEY: Right. That's the interesting part of the case. I misunderstood your question.

ICANN's argument in that respect was it had no ties to the state of Ohio, which is where this case was being brought, in Ohio state courts. ICANN ordered we have no contact with Ohio. We don't have an office in Ohio. We don't have employees in Ohio. We don't have assets in Ohio. We don't have any real activity in Ohio at all. Zero. So they said on that basis this Court really has no jurisdiction over us.

>> KAVOUSS ARASTEH: Well, thank you. Thank you very much.

>> DAVID McAULEY: You're welcome.

>> GREG SHATAN: Thank you, David. A couple of quick Notes. My thought first is that since the defendant was representing herself going pro se, as it is called, the judge was probably more tolerant of the deficiencies of the initial Complaint and gave her, encouraged her to amend her Complaint to be sufficiently specific to actually state a claim. That is not unavailable to plaintiffs who are represented by counsel, but general rule is that pro se plaintiffs are in U.S. courts usually given a little extra help to try to get over the hump on basic cases, whether they have a claim or not.

And I would also note that the choice of Franklin county, Ohio, from the point of view of trying to sue ICANN or Go Daddy for that matter seems pretty random. What was the reason that that venue was chosen?

>> DAVID McAULEY: Sorry, the plaintiff lived in Columbus, Ohio, and brought the case in a court of common pleas, it's called in that area.

>> GREG SHATAN: That would be trial level state court, I believe.

>> DAVID McAULEY: Yes, it is.

>> GREG SHATAN: Thank you. David, you said that large parts of the case were not germane. Were any of those Michael, Marilyn, Tito, Jackie --

(Laughter.)

>> DAVID McAULEY: I will demurrer on that question.

>> GREG SHATAN: Michael or Janet? Okay. We'll leave that for another time, another century, perhaps. We can turn to a case that may be more interesting in its own way, the Carl Auerbach case and Avri Doria. I just finished this last night.

Very appreciative of her getting this done in time to look at it on today's agenda. Avri, please go ahead.

>> AVRI DORIA: Hi, this is Avri thank you. And thank you for the thank yous. I thought the end of last month was my deadline. So I appreciate the thank you, even though I'm late.

Anyhow, this one was very California-centric. It basically was about the responsibilities of a California corporation vis-a-vis its Directors' access to corporate documentation. And basically the case, it centered on how to define those and whether inspection within an ICANN office was indeed satisfactory as a reveal of the documents such as policies, travel logs, policy with respect to employees, et cetera, were concerned.

And so it was very much centered to what California corporate law says is due to a Director versus the ICANN interpretation of those.

Now, I must say that I did not find, and maybe it was a lack of mine, but I did not find the Court's decision. What I found was several ICANN reportings of that decision and its statements on them. I didn't find anything saying it wasn't the case. So maybe I overlooked the ruling, but I'm working from a second party explanation of the ruling. And basically, it looks like one of those positions that was a tie, in which case it basically said that yes, ICANN does have to give the Director access to all the documents related to corporate governance, but yet also it has the right to determine its own rules about confidentiality and such as that, but the things that did not fit within that, you know, couldn't be distributed. And you could see there was a fair amount of bitterness in the way ICANN received both the litigation and the ruling, but as far as I could tell there was no appeal of it. Some documents were made available only by inspection and many were actually forwarded and are included as part of the decision. In fact, I found some of them -- this is an as side -- quite fascinating to see the employee handbook for that period of time. It was a very interesting read given some of the work I'm doing in staff accountability.

Anyway, so in terms of the degree to which it is relevant to our discussions, it certainly shows that our internal governance procedures are indeed subject to the law of California. You know, obviously nothing I did shows that those might have come out different in another jurisdiction, but of course they might have been, given that each U.S. state let alone each national state has different views.

Had our structure been something other than the corporate structure that we essentially have, like some of those places

that have host country agreements, et cetera, then things go differently.

But as long as it's a corporate structure which is essential to the way everything is being defined, is indeed the case, that there seems this is the only outcome one could have. I don't know where to take it beyond that. I saw that there were some comments on the list that went beyond what I saw in terms of its relevance for our discussion. Thanks.

>> GREG SHATAN: Thank you, Avri. That's very helpful and interesting. Any questions? The case had, at least at the time and this is really before my time, it was interesting for what it argued and for the issues it raised but not necessarily jurisdictional issues. Was there anything you felt was particularly germane to our, what we can take away from this and apply to the questions before the group?

>> AVRI DORIA: You're asking me?

>> GREG SHATAN: Yes, Avri. You first.

>> AVRI DORIA: As I said when I was speaking before, I think that the fact that this was about, you know, the right of Directors, the corporate structure that they were operating within, it is very pertinent. I didn't use the word germane because I didn't want to give you that answer, but it was very pertinent to some of the discussions in terms of it is a constraint on what we can do as an organization. And, of course, I don't know how that would be different in other national states or other U.S. states. It would obviously be different and it would obviously be different if we had a different structure like a host country agreement as opposed to our corporate structure anchored in some jurisdiction. Yes, it would be very different if it was elsewhere, but there is no predicting that difference at this point.

The notion would still be the same, that you have to deal with your local environments, as you do, vis-a-vis Directors.

>> GREG SHATAN: Thank you, Avri. Does anybody else have any questions for Avri about this case? Or comments about what they've heard?

(There was no response.)

>> GREG SHATAN: I am seeing none. I'm seeing also that it is five minutes before the hour. Rather than try to wedge my case in, let's put up the sign newspaper sheet for litigation. I think that was attached to the email with the agenda.

If we can go down to the bottom, you should all have scroll control. Here is our census as of today. We've made some progress since last week. But not enough, to be honest. We had one more case claimed. So we are down to 19 unclaimed cases. And we had three cases that were analyzed. So we now have five cases that are in the being analyzed category and 11

cases that have been analyzed. That means that over half the cases haven't even been claimed. That's clearly, it would be very difficult for us to finish next week, but we do need to finish this quite soon or else it will be very difficult to apply all of these cases to our deliverables. It will delay our overall work.

So I really have to ask everyone -- I know that to some extent I'm preaching to the choir. People who show up for these calls are more likely to be doing work as well, but I will ask if everyone on this call picked -- you have 17 participants. If everyone picked a case and did their best to summarize, that would basically get all the work that is throughout done. I recognize that not everyone feels comfortable doing that work, but if even half did, that would be great. I'm sure that those who are lawyers in the group will be more than happy to help anybody who has taken on a case but is finding any part of it tough going. Some cases are very hard to interpret for the nonlawyer. Others, maybe less so. But I really do need -- we need people to step forward and analyze these remaining cases. So hopefully we will have at least three or four cases to discuss next week. The five that are being analyzed plus the image online design case which is in the draft for comments category already.

So I note that there were a couple of questions in the chat from Thiago Jardin. First, Thiago, I note that you are listed as an observer for this group. Do you wish to be elevated, so to speak, to being a member of the group? Under the rules of engagement, calls are limited to members and we will be more than happy for you to be a member. We will treat you as one now. So maybe we can have someone look at the -- David, I think the questions that were asked related to the case that you presented. So Thiago, you should be a member to participate just as you are participating. Without giving encouragement to those who are listed as members and do not do much, you've already done more than some. Don't be shy with regard to taking on the role of a member. So I see from Bernie that you are now listed as a participant. I checked the wiki during the call. So apparently that is not an issue.

In any case, welcome. And I won't attempt to speak Brazilian, Portuguese, but welcome.

Any other business? We reached the top of our hour. If there is any pressing business, we can raise it now. I think I raised the most pressing business which is to take that number 19 and turn it to the number zero for unclaimed cases.

With that, I will note that our next call is one week from today, which is the 16th of May. At 0500 hours. As we rotate through the different times available to Subgroups of CCWG.

0500 hours will be ungodly for some people, but we need to allow our APEC, Asia-Pacific members to participate in daylight from time to time.

I note that we have now completed the call. So I will look forward to seeing you all at what will be 1:00 a.m. my time next week and I hope we will have many more cases and we will have some questionnaire responses as well to go over. Maybe if we're lucky, response from ICANN legal as well. And any other work that we have. So let us hopefully pick up momentum.

I will ask that we adjourn the meeting and turn off the recording and I say goodbye to all. Thank you.

(The meeting concluded at 3:02 p.m. CDT.)

(CART provider signing off.)

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