ICANN
Transcription
Review of All Rights Protection Mechanisms (RPMs) PDP Working Group
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Terri Agnew: Good morning, good afternoon, and good evening and welcome to the Review of All Rights Protection Mechanisms RPM and ALL GTLD PDP Working Group call held on the 17th of May 2017.

In the interest of time, there will be no roll call as we have quite few participants. Attendance will be taken by the Adobe Connect room. Other than Brian Beckham and Kathy Kleiman, is there anyone else on the audio bridge only at this time?

Hearing no further no names, I would like to remind all to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I'll turn it back over to our co-chair, J. Scott Evans. Please begin.

J. Scott Evans: Thank you very much, Terri. This is J. Scott Evans here for the record. I am chairing today. I want to thank Phil Corwin for chairing the last two weeks. We

did that so we would have a bit of consistency. It was agreed upon by the co-chairs. Today as we all preparing, many of us, to go to INTA, Phil had graciously allowed me to take over, so you're stuck with me one way or the other.

The first thing I'd like to begin with, and we've agreed upon, is to have an update from the chairs of the two work groups we have. We have one working on TM claims and we also have one working on sunrise. I see that Kristine Dorrain is on the call. Is Michael Graham on the call as well? I don't see - he - I know he's already in Spain so we're going to allow Kristine, if that's all right, if you would give us just a quick report on the call that you had last week.

Kristine Dorrain: Okay great. Thanks. Yes, Kristine Dorrain for the record. Michael will be joining the call in just a few minutes so I will give our update. The claims team is moving along fairly well I think. We revised the charter questions as per our mandate to make them neutral and less suggestive of the answer. We have - we're in the process of one final review on that, and hopefully we'll have the list for the working group shortly.

We are working on - we've put everything in an action item order so that we know order in which the working group would - should probably tackle the questions. And our last order of business is to review and consider what sort of data we might as a working might need as it answers the charter questions.

So staff is a doing a phenomenal job of compiling a whole bunch of resources that we asked them to dig through records for. They're putting together everything in a Google Doc. The members of the sub-team have been asked to also submit their sort of wish list for the types of data that we think that we could, and then we'll kind of go through and see how accessible that data might be and then have that as a proposal for the group as well. So we're

looking at maybe one or two more phone calls before we're completely wrapped, making really good progress, however. Thanks.

J. Scott Evans: Thank you so much, Kristine. And thank you to everyone who is taking an additional hour or so, probably a lot more than that, out of their time to assist us with combing through this to help us pull our work forward. I note the Lori Schulman cannot be on today's call because I presume she's either in flight to Barcelona or already there and busy in setting up a meeting for some 10,262 participants.

So given that we don't have her with us today, I'm going to ask Amr if that would be all right if he could give us a brief update on where the sunrise sub-team is. Amr, are you able to speak to us? Okay. How about Mary? Her hand has gone up. Mary?

Mary Wong: Hi, J. Scott. Yes this is Mary. I think Amr's had some connectivity issues so I can just provide a very quick update. I noticed that there are sunrise sub-team members on the call as well, so please feel free to chime in if I mischaracterize something or leave something out.

But essentially, like the claims sub-team, this sunrise sub-team is making very good progress. They will be having one call this Friday to go over what we hope the final form of the refined charter questions. So after this week, hopefully they will be in good shape to provide a finalized list of questions to the working group by the end of this month and also some context for the some of the proposals regarding the refinements.

One of the things that they still need to complete discussion of is identifying what additional data might be needed. They started on; they haven't completed it. And of course the last piece says to estimate how much time each of the final proposed questions will take for the working group to do the initial review. And that's the report, J. Scott.

J. Scott Evans: Thank you so very much. All right. Great. Hopefully we will be pulling ourselves to the end so that we can then take the information that's been culled by these groups - sub-teams and have more robust discussions on those specifically refined questions in the larger group. Great.

If you'll notice over here on the right rail we have our agenda and we're going to move to the next item. I've seen some discussion on the list over the last four or five days regarding a proposal I think that I don't know if I've seen , I saw one formal proposal I think from Claudio DiGangi, and I believe that Jonathan Agmon said that he was going to pull his proposal on geographic indications in light of Claudio's new proposal. So we'll sort all of that out.

But is Claudio on the phone today so that he can make a presentation to the larger group? I see his name there. Claudio, I'm going to call upon you to present your proposal to the larger group.

Claudio DiGangi: Thanks, J. Scott. So my proposal is based on the charter provision that we raised to geographic indications which is that the group can examine the protection of country names and GIs and generally indications of the source within the RPMs. And so the way I want to go about doing that is to add this issue to the current sub-teams that are looking at sunrise and claims. I'm not on those groups but it sounds like they are charter questions that have been developed to examine certain issues.

So my proposal is to add the consideration of GIs to those groups. And so when those policies get reviewed, the issue of the protections of GIs would be taken into account and whatever recommendations, you know, we have would come out to the fuller group.

And in conjunction with that, I suggested that the review of the clearinghouse, specifically whether the records in the clearinghouse that correspond to GIs, should be in or out, should really depend on that policy review that takes

place in those sub-teams. So that's sort of the nuts and bolts of it and I'm happy to take any questions.

J. Scott Evans: Okay. So I just want to make sure. There's been - there's some chatter going on in the chat box. You are talking about geographic indications only and not country names. Is that correct?

Claudio DiGangi: Yes, that's correct.

J. Scott Evans: Okay. So, George, there's your response. With regards to GIs, I just want to make sure that I'm reflecting back to you what I've heard, is you think that GIs should be considered by each of the groups and any recommendations that are considered then it needs to be also considered whether that should apply to GIs.

Claudio DiGangi: Yes, exactly. And the clearinghouse should be consistent with that because really the clearinghouse is just a tool that's been developed to administer that we support the RPMs and so how GIs are treated in the clearinghouse should be consistent with the RPM policies themselves are being reviewed in those sub-teams.

J. Scott Evans: Okay thanks. I see - this is the time for everyone who has comments, concerns or anything to raise them. I see we have some hands going up. I'm going to call upon Phil Corwin. He's the first hand I see raised. Phil?

Phil Corwin: Yes thanks, J. Scott. And Phil for the record. And let me preface this by saying I have no strong views one way or the other on GIs being in the clearinghouse. My understanding is that if they're trademarked, they already can go in. The question is, are we going to permit the registration of GIs that are registered and protected in certain nations in a separate geographic indicator database that they maintain.

But I have an operational question for Claudio. Let's take - my understanding is that in France Champagne is a protected GI. That's a region in France. Who would have the right - there are many, many champagne producers, who would have the right to register champagne, who would have the right if it was in the database if there wasn't a corresponding trademark to do the sunrise registration and who would get the notice of matching domains if a domain was registered containing the term champagne, you know, the trademark claims notice? So I'm just curious how this would work from an operational viewpoint.

Claudio DiGangi: Sure. That's a great question, Phil, because it touches upon the issue of standing and to have standing to enforce the IP. And I think it's analogous actually in the US GIs are protected as a type of trademark. It's usually a certification mark or a collective mark. And so the same type of issue I think arises there.

But I think ultimately that's something that would have to be considered as one of the issues that has to be examined when we take kind of deeper look at it. Because, like you said, it might be a country that is listed in the registry but - and it's, you know, usually it's extending protection to a group of producers within, you know, a certain region, and so similar to how the trademark, the collected or certification marks sort of functions in the same way. And so I think that's something that we, you know, we just really have to take a closer look at when we examine it from a policy level.

J. Scott Evans: Okay. I have a question in the chat box from Kristine Dorrain of Amazon Registry Services. "Claudio, if a GI's a registered trademark, it could enter the TMCH. Are you proposing some additional protection for GIs?"

Claudio DiGangi: Thanks, Kristine. So I think it's similar to the response I gave to Phil in the sense where in the US GIs are protected as a type of trademark and in other jurisdictions they are protected under a different regime. They have protection under a generous form of protection, which is based on national law.

And so here we would be kind of considering the issue in, you know, in those countries or jurisdictions where they're not protected as trademarks but usually the GI register is part of the trademark office and the trademark office is maintaining sort of a supplemental register, or maybe I shouldn't use that term, but it's a separate registry system usually within the trademark office. And so, yes, I think ultimately the answer to your question is yes.

J. Scott Evans: Okay. Thanks, Claudio. Greg Shatan?

Greg Shatan: Thanks. Greg Shatan for the record. A couple of things. First, I think the suggestion - I'm interested in the suggestion about protecting GIs. I think it is something that should be considered by this group. I am a little wary of the idea of having it be considered simultaneously in two different groups, sunrise and claims, and not considering it kind of as a holistic concept.

It may be that we want to have a separate group to consider protection for GIs overall because I could see it would be very difficult to coordinate the conversation in two different groups at the same time. So it's either something we would need to discuss in the plenary here or in a group that's designated to deal with the GI concept.

Second, I think we need to separate the idea of protection of GIs as a category of intellectual property, which may be worthy of a rights protection mechanism, and personally I think it is, from the question of what goes into the trademark clearinghouse. As Kristine noted in the chat, I believe it was Kristine, you know, this question really started with the issue of what does marks protected by statute or treaty mean and was that intended to include GIs that are not protected as trademarks.

So really it's a question of the integrity, if you will, of the trademark database. So. And I think that Paul and Kathy's -- Paul McGrady that is -- and Kathy's

proposals both go to that question and not to the larger or different question of protecting GIs as a category of intellectual property.

And the fact that national governments have taken advantage of the existence of a trademark office and has tasked it also with dealing with GIs, I don't think means that GIs and trademarks are any closer than, for instance, trademarks and patents which are in the same office as the United States. So I resist the idea that we can kind of tumble GIs into the trademark clearinghouse rather than create a separate clearinghouse for what is a separate category of intellectual property. Thank you.

J. Scott Evans: Thanks, Greg. Paul McGrady?

Paul McGrady: Thanks. Paul McGrady here. So I wanted to address a couple of things. The first was one that Phil asked a very god question which is who gets the notice from claims, who gets the first bite at registering in sunrise. Claudio said that essentially it's the same issue in the US where GIs are protected under trademark statute, except that's not the case.

In the US, a GI can apply to be protected as a trademark. It usually is a certified - certification mark or a collective membership mark but that doesn't leave the whole world guessing at the end of the day who owns that trademark. There's a place within the claims and there's a place and there's a person or an entity that can apply for that sunrise registration. So the two issues do not exist once a GI is protected through a trademark mechanism.

And so far we've heard no one say that if it's registered as a trademark, it shouldn't be allowed in the trademark clearinghouse. So there's no dispute on that point. But I did want to clear that up. It's not the same in the US. There is clarity and Phil's question, which points out the real problem of okay now what, how do - who gets the claims notice and who gets the sunrise remains a very stark problem with trying to shoehorn geographic indicators that are not trademarks into the trademark clearinghouse.

Secondly, importantly, geographic indicators are not examined by anybody, they're applied to goods or services in the sense that a trademark examiner's looked at them and has determined they're not generic (unintelligible) goods or services, they're not subject to non-use cancellation action, they are the result of an essentially government fiat, which is fine and everybody's allowed to self-direction, but the rights contained in the trademark clearinghouse that are protected in the trademarks are tied to specific goods and services, they are subject to non-use cancellation actions, they are examined on absolute grounds to make sure they function as trademarks. And so that I think is an important distinction.

There's also collision. Everybody (unintelligible) at ICANN but I was just casually looking through the list of GIs that are protected in various regions, you know, I came across Cadillac (unintelligible), so then we, you know, we have the issue there of nobody owns it, nobody knows who should the get claims notice, nobody knows who should apply for sunrise, but would that interfere with a long-standing brand someplace else. And we can't think of a more well-known brand, at least in North America, than Cadillac. So that is an additional wrinkle, collisions.

And lastly, and I hate to say this, but we've been going round and round on this issue on these calls and on the list and other than Claudio and Jonathan and maybe one or two others, I don't really hear anybody saying that GIs that are not registered as trademarks should be included in the trademark clearinghouse. You know, it's not zero - I'll phrase it the other way.

There is in fact zero consensus on including GIs that are not trademarks. There is no consensus on that. And as far as I can tell, there's very little support for the idea. I think having exhausted this topic in these phone calls and on the list, Claudio's proposal I think is a very smart one in the sense that in a situation like this where there is essentially zero consensus to include

these in the trademark clearinghouse, the proposal is a, you know, a -
essentially a step away to fight another day proposal.

But I don' t think that kicking this can down the road further and going through
three or four or five more weeks of this, you know, a month or two or three
months from now is really going to do anybody any service. We've essentially
talked this to death. I think it's time for us to either, you know, conclude that
I'm wrong and there is great consensus to include geographic indicators that
are not registered trademarks in the trademark clearinghouse or we can
conclude the opposite that the issue's been talked about and there was no
consensus and we need to move along now. Okay. Thanks everybody.

J. Scott Evans: Thanks, Paul. I see that Jeremy Malcolm has raised his hand.

Jeremy Malcolm: Hi. Can you hear me?

J. Scott Evans: Yes.

Jeremy Malcolm: Yes. Hello? Great.

J. Scott Evans: Yes we can hear you.

Jeremy Malcolm: So I mostly agree with what Paul and Greg said except that I think I would go
a step further than Greg in saying that not only this not be left to the working
groups - sorry, the subgroups on claims and sunrise and that also it's not
really an appropriate topic for the plenary group either because it's actually so
much broader than even the - this working group considering the review of
RPMs. I think it's an ICANN wide, you know, brand new working group that
has to be established, if at all.

So I also agree with what Paul said that it's not going to go anywhere in
plenary regardless because there's certainly no consensus, and from my
perspective, (VSF) would definitely be very strongly opposed to the

recognition of geographical indicators in the TMCH database. So I think that if this - if Claudio wants to take this further, it would kind of be going back through the GNSO processes and starting up a brand new working group to discuss this. Thank you.

J. Scott Evans: Okay. Thank you so much, Jeremy. At this point - Paul, is that an old hand?

Paul McGrady: Yes it's an old hand, sorry.

J. Scott Evans: Okay. At this point, I'm going to call for a consensus show by using the green arrow. Those of you who believe that Claudio's proposal should move forward and that the consideration of whether non-registered trademark geographic indications should be included in the trademark clearinghouse should be included in the discussions and in the deliberations of those sub-teams and the bigger group, please indicate with a green arrow. Greg, are you - or is that indication?

Greg Shatan: No, no. My concern is that we kind of - I was agreeing, agreeing, and then disagreeing. So I think we - there's a lot balled up in that question. So I guess I agree with most of it and disagree with part of it and I don't know how to deal with that. Are we going to break that down to be more specific?

J. Scott Evans: Well let me restate that, Greg. How about that?

Greg Shatan: Thank you.

J. Scott Evans: All right. How many people believe that we should continue with Claudio's - Claudio? Claudio, we can't hear you.

Claudio DiGangi: Sorry about that, I was getting off mute. Did you want me to respond to Paul - some of the points that Paul raised?

J. Scott Evans: Sure.

Claudio DiGangi: Okay. So I think, you know, these are really good comments and as I responded to Phil and I think Kristine, I think it would require a closer look, and that's why I'm really proposing that we do that. And I think good points have been raised about the way we should go about doing that. I actually joined this working group late so I apologize. I'm really playing catch up.

I suggested that it takes place in these two subgroups. That sounds like that might not be the best way to proceed if these subgroups are really almost wrapping up their work. I think I had a different idea of what these subgroups were doing. Really the essence of my proposal was just that the issue gets examined somewhere on the side of looking at the TMCH because I'm looking at the TMCH as really an implementation tool that's supporting the RPMs and it should really just be reflective and consistent of those RPM policies.

And so to the extent that I think, as Greg has been suggesting, that he thinks he sees value in moving forward on the TMCH issues now and then having this issue of GIs discussed later, I'm fine with that. I just didn't want the door to be kind of closed until we had the policy review and decide whether GIs should be protected.

If it comes out that they should through claims service or through another mechanism, they might not need to be recorded in the TMCH. It could be an ancillary database that is maintained by Deloitte or whoever operates the TMCH. So there might not be as much of a disagreement as it might appear on the surface, and I hope that kind of clarifies what I'm proposing.

J. Scott Evans: Okay. Any other comments? All right. Based on Claudio's revised - Lori?

Lori Schulman: Yes hi. I wanted to actually just to…

J. Scott Evans: You are very faint. Could you please speak up?

Lori Schulman: I am trying. Can you hear me any better?

J. Scott Evans: A little better but not much.

Lori Schulman: Can you hear me any better? All right. I have the microphone like in my mouth. I'm sorry. Can you hear me enough to understand me?

J. Scott Evans: Yes.

Lori Schulman: Can you hear me enough to understand? Okay. I wanted to answer one of the questions that Phil raised and I want to respond to Claudio's observations because I think that's important. Number one, in terms of if we were to decide hypothetically there was room in the TMCH for GIs that are not trademarks, which by the way my organization, INTA, would not support, that there is a body that could receive a notice.

The way GIs typically work in the world is that once a GI is designated a GI through whatever mechanisms it happens, there is an association or a board that is basically tasked with the stewardship of the GI, and sometimes it's a private profit-type entity, sometimes it's a governmental type entity. That depends country to country. But there is typically a single entity that is responsible for the care to GI, including licensing, quality control, and branding. So there would be a technical way to inform (unintelligible) of the GI. So I want to clear that up.

Secondarily though, I think this issue goes well beyond the TMCH. There's a lot of doors to be opened in terms of a DRP that the GIs may be facing some of the same issues as NGOs and IGOs and INGOs, and we know that's an issue that is being looked at now by a working group that is nearing, you know, ready - I think getting ready to issue a final report.

So I think this issue is well above the remit for this particular group. I think it's an association - I'm sorry, an ICANN wide, I agree with Jeremy on that. And I can say as I'm chairing the sunrise sub-team, and to Claudio's point, this is not a place where I feel the team should be discussing this particular issue. Thank you.

J. Scott Evans: All right. Thank you very much. Any other comments? Kathy?

Kathy Kleiman: Hi, J. Scott. Hi everyone. I think the larger issue here, and it's been mentioned in the chat room by Mary and maybe by others -- sorry, this is Kathy Kleiman -- is that the phrase "marked by statute or treaty," that GIs, IGOs, INGOs, Girl Scouts, Red Cross, other types of words can come in through that large phrase that do not appear to have been intended by those who created the trademark clearinghouse and said the trademark clearinghouse is for trademarks.

So I just wanted to put it in the larger context, J. Scott, that we're looking at both GIs and anything else that might be coming in under statute or treaty. You know, do we want to clarify that marks protected by statute or treaty means trademarks. Thanks.

J. Scott Evans: Okay. Thank you. Anyone else? Okay. So it seems like we have two opposing viewpoints. One is the Kleiman/McGrady variations on a theme, which is that only geographic indications that are trademarks should be included in the trademark clearinghouse. Then we have a proposal by Claudio that says we know that that's true but perhaps they should be included as well and that that's something this group should consider.

So how many people, by indicating with a green arrow, believe that our group, the RPM Working Group, should consider the bigger issue of whether geographic indications should be protected and allowed into the trademark clearinghouse. How many people believe we should not by indicating with a

red X that this group should not continue? So it's either yes we should continue to consider that broader issue or no we shouldn't.

And I'm going to count Jonathan and (Maximo), who I saw on the list, as in support of Claudio's proposal because they had supported his proposal earlier on. Looking at this, it looks like there's no consensus. In fact there's overwhelming consensus that the issue of geographical indications that are not trademarks that issue should not be under the remit of this group and we will no longer consider it.

Mary, just to be fair to those who aren't here, why don't we put out a call for consensus stating that we have determined that we will no longer consider this issue and anyone who disagrees with that should reply to the list so that we don't have everyone who agrees doing a plus one, we only hear from those that may disagree with that decision.

All right. Now, Claudio, you and (Maximo) and Jonathan, if you still believe that this is an important issue, I think my co-chairs, and I don't mean to speak for them, I think we would all agree that, you know, that's something then you should take the GNSO Council and ask for a working group to be established or at least to have some work done on making a proposal to the GNSO working group for a larger group to consider that question. I think that's something that several people have said that they felt like might be appropriate if there's consensus around that.

Kristine Dorrain - Dorrain. Sorry, Kristine.

Kristine Dorrain: I'm sorry. I was just attempting to clear my checkmark which is not working evidently. Sorry.

J. Scott Evans: All right. So given that we've moved through that one, I think the next proposal we had -- and I don't believe Michael is here, has Michael joined us -- was the expansion of the identical match test. Michael Graham is on the

phone and I think that was your proposal. Am I not right? Am I correct, Michael?

Michael Graham: Yes. I'm sort of juggling the computer and the phone right now but I am online. It was my proposal. I haven't seen discussion of it and I welcome that and if there are any questions about the basis for the proposal.

J. Scott Evans: Yes would you do me a favor and just refresh everyone's memory for this since there hasn't been as robust a discussion on this of what your proposal is? And then I'll open discussion.

Michael Graham: Okay. Let me go down the page and find it.

J. Scott Evans: Okay. I apologize, folks, but Michael's on the road and that's what happens when we try to put a team of globetrotters together to consider issues.

Michael Graham: Yes don't feel all bad. I had an involuntary upgrade to business class flying over to Europe.

J. Scott Evans: Yes, yes. We know they're just paying Expedia people off so you'll give them a better rating.

Michael Graham: I wish they were that friendly to us. Anyway the proposal was based on my perception and understanding that in the notice of - the claims notice, which at present is only directed to exact matches, that a number of near matches where the entirety of a trademark is incorporated in a new domain name but it goes beyond the exact match.
It goes through to registration, followed by a challenge of trademark owners that is costing both trademark owners and, more importantly, the applicants time, effort and unhappiness when they have an issue and it is either inadvertent or a bad faith application that incorporates a trademark. And so at least in the notice portion in the trademark claims service, I felt that it would be worthwhile if that were expanded.

The proposal did not originally include but I believe it would be appropriate for the - only to be limited to claims notices during the period and not be included in the sunrise provisions.

J. Scott Evans: Thanks so much, Michael. So you see there Michael believes that there's a public benefit to there being an increased match propensity for domain names to assist innocent registrants from getting tangled or ensnared in a legal dispute with a trademark owner and believes that that would only be done by providing a claims notice and not these - additional matches would not be available for sunrise.

So that's the proposal on the table. If somebody - if there are any comments, concerns, this is the time to bring them forward so we can have a discussion. I see that Rebecca Tushnet has raised her hand. Rebecca?

Rebecca Tushnet: Hello. This is Rebecca Tushnet. Can you hear me?

J. Scott Evans: Yes.

Rebecca Tushnet: Thank you. So I think I've mentioned this on the list but let me just put a couple of key concerns on the table. First, I think we absolutely need more data about the extent to which this is a problem that could be solved. So, you know, who's using the TMCH, who is not, who is still having to bring a bunch of URS claims? We just don't know that. It seems to me a precondition for figuring out whether this is a good idea.

The second is implementation, similar to the question about GIs. What exactly are the criteria for inclusion as a match? So I've given a couple of examples on the list, right? So if you have a perfectly valid registration for Elle for magazines, you will start triggering matches with Cottonelle. LV has a perfectly valid registration that will trigger matches for silver. And I'm given to

understand that there's at least one entry in the TMCH for the letter M, so that's going to trigger a lot of matches.

Unless there is some serious way to limit the matches, what we're talking about is creating a huge glut of false positives. And I think that's actually bad for deterring, you know, either innocent infringers or bad faith registrants because if it becomes something that you just click through because it's the notice that you get every time you put in a name, I think that's going to be bad for the functioning of the system. So at the very least, we would need a much better factual basis to go forward, it seems to me. Thank you.

J. Scott Evans: Thank you, Rebecca. George Kirikos?

George Kirikos: George Kirikos for the transcript. Yes I agree with everything that Rebecca just said and also this concept of plurals would also be dependent on the language, like in some languages the plural isn't just adding an S, it would be adding an ES or other variations or, you know, the plural of some things might be EAUS in French. So we're talking about, you know, a huge number of false positives or a huge expansion of matching claims.

And to some extent, we've already covered the problem through the trademark plus 50 system so there's some overlap between the proposal number - sorry, the proposal by Michael Graham and the existing trademark plus 50 system. Thank you.

J. Scott Evans: Okay. Michael, I'm going to go to Susan Payne first and get everyone's comments about and then let you circle back and follow up, okay?

Michael Graham: Yes that's fine. Thanks.

J. Scott Evans: Okay. Susan?

Susan Payne: Yes. Hi thanks. It's Susan Payne here. Yes obviously I suppose what I'm about to say is a revision to Michael's proposal. I hadn't really appreciated that - I've missed the last call and perhaps this is where it come up. I hadn't appreciated that Michael's proposal was limited to claims status and it seems to me that it's one that would provide a genuine benefit to have increased matching on the sunrise element so that - and I'm thinking in particular of mark plus industry keyword.

It's something that's being talked about in this working group in some of the meetings. You know, it came up in discussion I think in Copenhagen, for example. But, you know, to pick the kind of Apple example as one just, you know, off the top of my head, I mean, you know, Apple plus computer in a TLD.

I mean clearly Apple don't have a trademark registration for Apple computer but there's no - there's not a good reason that I can see why they should be prohibited from securing applecomputer.newgtld in a sunrise phase. And I - so that was my comment, and I'm not clear - I wasn't clear that that wasn't included and so I apologize if I should have brought this up sooner.

J. Scott Evans: So, Susan, I just want to make sure I understand your comment. Are you proposing that this proposal should include, at least for the sunrise portion, a trademark plus generics aspect as something else that should be included?

Susan Payne: Yes.

J. Scott Evans: Okay. All right. Michael, do you want to wait to hear Phil and Kathy or do you want to respond to what you've heard so far and then if Phil and Kathy have things you want to rebut or make comment on come follow after them?

Michael Graham: Why don't we go on? I'll just hold my hand up here for a while.

J. Scott Evans: All right. Okay. Phil?

Phil Corwin: Yes. Thanks, J. Scott. I've got several things I'd like to dig deeper into to understand this. One - I'll just go through them all and then we can - Michael and others can address them as they wish. One, I presume were there be an additional cost for this or would this just be done automatically for if you register Apple then if Scrapple comes up or if, you know, Motts apple juice is registered or something like that, does that trigger it automatically from the original registration of the mark, any plural or any word containing the mark would automatically generate the claims notice?

I understand your proposal is quite clear here on Page 6. If you're just talking about this for claims services, I am concerned about the false positives. In regard to Susan's remark on trademark plus term, I want to hear more discussion of that. I would think if we're going to do that, the plus part should be something that matches - in some way matches, whether exactly or close to the goods and services that the mark is registered for.

And yes, the last thing I want to say, there's another part of your proposal which is that the - yes, the separate proposal on Page7, which is that trademark claims service and trademark registration should be expanded to apply to all legacy TLDs. I have two comments on that. One, sunrise registrations make no sense for legacy TLDs like .com. We're decades past sunrise for them.

But while we haven't discussed the procedural use to address the part of our charter that requires us to make a recommendation as to whether any or all of the new TLD RPMs should become consensus policy and applicable to legacy TLDs, my notion was that we would do that toward the end of this entire process and look at what we've done to the RPMs and then discuss which, if any, should become consensus policy.

So I guess on that one I'm saying I think it's quite premature to talk about doing this for sunrise. I think sunrise - not sunrise, trademark claims at

legacy, I think that's something we should discuss as a package, all the RPMs, at the end. So I'll stop there. That's enough for right now.

J. Scott Evans: Okay. Thank you so much, Phil. Kathy?

Kathy Kleiman: Actually, J. Scott -- this is Kathy Kleiman -- I would love to hear Michael's responses to Phil and to others, especially on the Apple-Scrapple, enom-venom types of issues and where those fit, and also the legacy gTLDs. I think that will just help the discussion, and then I'd love to jump in afterwards. But rather than repeating the questions, maybe to hear some of the responses. Thank you.

J. Scott Evans: Okay. Then we'll go to Greg Shatan and then right after Greg I'm going to go to Michael. Greg?

Greg Shatan: Thanks. Greg Shatan for the record. I support - conceptually I support this proposal. What troubled me about it is what troubles other people, which is what I'll call dumb matches, like enom-venom. I think that - I can't remember if it's in the analysis group report or in charter, in one of our underlying documents, and I apologize for not having it in front of me, there was a suggestion of specific types of matches that could trigger sunrise and/or claims but not just this kind of dumb word within a word kind of match.

And I think there was - so I think we need explore how this can be done more surgically because conceptually I think this is a very valid proposal and I think, you know, TM plus 50, you know, kind of, you know, strikes at the same issue but more narrowly. So I think we should - rather than deciding kind of and having an up or down vote on the proposal as it is, I think we need to kind of work with it and tailor it so that we can deal with good matches and exclude bad matches to the greatest extent possible and see what's realistic there.

Because there are certainly, you know, lots of matches that would be laughed at in any kind of adjudication that on a purely mechanical matching system would come up. And even mechanical - by mechanical I just mean the dumbest kind of match possible. I think there's got to be a way, you know, we can exclude the examples that have been brought out as bad matches without throwing the baby out with the bathwater. Thanks.

J. Scott Evans: Thanks, Greg. I'm going to go up to Mary real quick since she's from staff and see if she has a particular comment or concern.

Mary Wong: Thanks, J. Scott. This is Mary from staff. And actually thanks for calling on me because this could be a follow up to Greg's comment. From the staff perspective, we just wanted to remind the working group of two I guess sources of background information for this. One is the analysis group report that the claims sub-team is looking for the data limitations. But to note here that the analysis group in its revised report does talk not just about extending the claims service but also expanding the matching criteria since that was one of the requests they received from the GAC to look at. So it may be helpful for the group to look at what the analysis group has to say about this particular point.

Secondly and similarly, there has been quite a lot of community feedback on the exact match standard throughout the various public comment periods for various parts of these RPM development issues. And one of the things that I wanted to highlight here again is that it may be helpful not just to look at that background information but one particular document is that paper from late 2015 that notes the community feedback that was provided and does say that, you know, there is a possibility for discussing this further.

Finally, I think what we would want to note is that if we're going to continue to discuss this, and I think that there's quite a lot of robust discussion that's starting on this already, then it would be helpful then staff can put together a

list or an extract of those background documents and conclusions and circulate that to the working group. Thanks, J. Scott.

J. Scott Evans: Thank you so very much. I'm going to now go to Michael. George, I'll get to you but I'm going to let Michael sort of respond to where we are at this point and then I'll go to Kathy, who wanted to hear from Michael and then to George. Michael?

Michael Graham: Yes. Did somebody else hang up?

J. Scott Evans: I don't know. Can - there we go. Go ahead.

Michael Graham: Well I think the first thing to say is I think Mary's suggestion and also identifying some information sources would be extremely helpful in this discussion, which I think is worth carrying out and worth carrying out beyond this call. Certainly I'm not nearly as aware of or conversant in some of the earlier documents especially, and I think that might be extremely helpful, especially to answer the question that Rebecca brought up just in understanding the problem and then understanding the direction.

I think at this point, the information I have is largely anecdotal. I can say that in my role on the Internet committee of the INTA one of the things that we're trying to do is to get some assistance so that we can review some of the opinions on one topic that Rebecca has raised in terms of protection of words included in design marks.

Another area would be in an investigation of the number of conflicts for exact match plus that has occurred. I think that's the sort of information you were looking for, Rebecca, afterwards whether or not it was really an issue or not to be addressed. As I say, anecdotally and from my experience in my work, I know that it is an issue but I think, you know, to the extent that we can put together some actual metrics, some support, I think that would be very useful.

In terms of the second point that Rebecca brought up on the implementation issue, and also that Greg was speaking of, I am totally on board with the necessity of looking at how to implement it and what sort of limitations might be appropriate, what sort of approach might be appropriate to handle that so that I think you were calling them bad - dumb matches, so that we avoid dumb matches but useful matches are made.

Let's see, I have - oh George brought up the issue of plurals. I think plurals are one example of an area that screams for notices, and just having gone through the registry wars a bit with .hotel and .hotels, Susan brings up an interesting issue. And I think the problem with that is similar to the problem of dumb matches but maybe a little bit more difficult to deal with.

I agree that if that sort of thing were to be incorporated to go beyond Apple plus to Apple plus element being allowed not only in notice but also in sunrise, the problem would be in going at the generics, which was suggested I think by Phil, of having those be permissible but then who would be making the call as to whether or not it's an appropriate generic. And that would be turning the TMCH into a review and analysis mechanism, which I think was one of the goals was to avoid that.

So I leave that out there. I'm not opposed to the concept but the difficulty of implementing that and also of implementing the proposal I've made I think is something that would have to be addressed. If this is a good idea going forward, then the specific implementation would have to be addressed, having added that to the proposal perhaps that we want to avoid in the implementation notice to any dumb matches, however we define that.

Phil, actually you asked an interesting question whether or not there would be an additional cost for expanding matches. That is not something that I contemplated. There are enough charges as it is, and how it would be determined is - I don't know. However, perhaps it's something that if an additional cost could be identified that that might not be a decent idea. The

plus 50 does not answer the sort of issues that I'm thinking of and has not been a program that's been embraced.

J. Scott Evans: Thank you, Mike. Are you continuing, Michael? Go ahead.

Michael Graham: Hang on. Let me double check. Matches with Susan. Okay that's identified. And legacy trademarks, yes I agree. Having gone back and looked at that, it isn't appropriate to either sunrise, it isn't appropriate to the claims notice. However, the ongoing notice that is part of the claims notice would be something that might be valuable there.

So I guess those are my initial answers. I think if the group wants it, perhaps to go back to have staff collect the documents and information that Mary suggested and if there's a possibility of a review of, for example, UDRP and URS decisions that would be useful, make those and bring them back for consideration. Now I'm done.

J. Scott Evans: Okay. Thank you. Kathy?

Kathy Kleiman: Great. Kathy Kleiman, taking off my co-chair hat and speaking in my personal capacity. I'm hearing a lot of changes that are going through. I think for the sake of everyone in the working group, both those who are on the call and not on the call, we need to see these in writing. It's very hard to analyze in real time things as they change.

But I wanted to share a few things and one is that the exact match agreement - there's an echo so I'm going to pause. The exact match agreement goes back to the very essence of - to the creation of the trademark clearinghouse. There was - the STI spent an inordinate amount of time on this issue and there was very deep concern that going beyond exact matches leads to other words to which other people may be entitled.

Exact matches are hard enough. There are enough overlapping uses of trademarks and names and dictionary words. But then when you get into situations like Apple and Scrapple, like Google and goggle, and goggle was trademarked long before Google, enom and venom, it was rejected. It was absolutely rejected. Exact matches goes to the heart of the balance that was negotiated and what the trademark clearinghouse would be created for and how it would be used in the rights protection mechanisms. So I think we're going to hear from other communities if we go past exact matches.

That said, J. Scott and others created the trademark plus 50 so that if you did have something like Yahoo Sports and it had gone through a UDRP and it had won, you could protect it in the TMCH and through the TMCH processes. That's what trademark plus 50 was created for, and no one has said it doesn't - or proven that it doesn't work for that capacity. And that's exactly what we're talking about here, right, a trademark plus the explanatory term or general area in which it's being used like Apple computer.

So that is protected by trademark plus 50 without some of the other downsides that we're talking about. And the downsides are given to us by the analysis group. Here I'm just reading. Phil Corwin at one point said - I probably memorized the analysis group report, I haven't but I like to read it because they looked at what we talked about, and.

And so on Page 28 of the revised report it says we find no clear evidence that expanding the matching criteria will outweigh the potential costs of doing so. And then under the costs, they talk about expanding the matching criteria may also be associated with increased costs for other stakeholder groups to develop and support systems to handle expanded matching criteria. And later they talk about some of the costs to registrants, or maybe earlier in the report. So I think this proposal is going to face a lot of opposition, both inside the working group and outside. Thank you.

J. Scott Evans: Thank you, Kathy. George and then Phil.

George Kirikos: George Kirikos for the transcript. I have four points to make. First, well I agree -- this doesn't count -- I agree with what Kathy just said. And my first point is that from an operational point of view, if there are - if we have this expansion, then there could actually be multiple matches for each domain name instead of one match.

So for example, if you have a domain name like gentlemen.com, you might have a match for the G-E in gentlemen from General Electric, you might have an expansion - a match for N-T-L for some company like (Dartel) or whatever, you could have like five or six different matches for one single domain names, in other words.

So a registrant would have to check, you know, five, ten, whatever the number of matching claims to register one domain name, which could obviously - and it gets longer for longer domains. Like if you have a 20 character domain name, you might get 30 matches, so that would be kind of like a crazy situation.

The second point I wanted to make was that if there's expansion to legacy TLDs, as I pointed out in the chat room, this implies perpetual notices since they all launched like 30 years ago, which would be something I would obviously be against.

The third point I wanted to make is that for those who do want this kind of expanded notice, I'm not clear why they're not in favor of opening up the trademark claim - sorry, the trademark clearinghouse to be a public database so that good-faith registrants can go out and look to see, you know, here's the list of all marks in trademark clearinghouse, here's the marks I want to avoid.

So if the trademark clearinghouse was completely public, people would be able to say, "Okay, this is plural of Microsoft, I want to avoid that." So, you

know, it kind of calls for the TMCH to be entirely public database if people want this expanded notice to registrants so they can avoid the terms that, you know, that are strong. And perhaps companies like Expedia that want to have that expanded notice might want to say, you know, "We want to have our trademark clearinghouse registration to actually be public instead of kept secret."

And the last point I wanted to make we should have statistical data on this. Like I don't know if it's the trademark - sorry, in the analysis group's report but what percentage of the time is there a match being generated at the present within the first 90 days. Like is the trademark claims notice happening, say, 30% of the time, 25% of the time.

And then what one could do is say, okay, given this expanded criteria, say, plurals or whatever the expanded criteria is, you run simulations on all of the previously registered domain names and say instead of only matching 30% of the time under an identical rule, you know, the matching rule would cause, you know, the claims notices to happen 70% of the time or 80% of the time so we could actually run a simulation like that and see how many claim notices would take place, and that would actually allow us to see, you know, what percentage are kind of, you know, false or positives and so on.

So I would suggest that if we went this route, we would want to run a simulation, you know, based on all the statistical data that we have - or, sorry, historical domain name registrations, run that against the various rule sets. And if the criteria - sorry, if the claims notice only went up, say, from 30 to 31%, you know, a marginal increase, that might be acceptable but if it went up to, 30% to 90% of the time, that would obviously be unacceptable. So simulation data would be very important. Thank you.

J. Scott Evans: Thank you, George. We're going to move now to Phil.

Phil Corwin: Yes thanks. Phil again. You know, I'm still looking at this, looking at the base of the original question, which is should the TMCH matching rules be retained, modified, expanded to include plurals, marks contained mark with keyword and/or common typos. Okay, so typos are not in Michael's proposal. Plurals are. I can understand the argument for plurals. It's adding just one letter or possibly two letters at the end of the trademark.

But I see, you know, at least mark plus keyword -- I'm not advocating it, that's a separate discussion -- at least if that was - if Apple plus computer or Apple plus phone was registered in the TMCH, at least the match would be to something in the database. Mark contained generates claims notices to nothing that's in the database.

I mean it - the domain attempting to be registered is not most times going to be in the database, it's just going to be a word that contains something. And at least mark plus keyword, the keyword would relate to the goods or services for which the trademark was registered. So they're part of the scope of the trademark protection.

So as far as data, I think we could get some very good data on this very easily. I don't know if ICANN staff is capable of doing this but since we're not just talking about words that are trademarked but acronyms, HP, GM, LV, UA for United Airlines, IBM, GE.

We could take, you know, say, a dozen well known two and three-letter marks that are trademarked and known around the world and run them through ASCII, major ASCII language dictionaries, English, French, German, Spanish, you know, the major languages that use ASCII characters and I suspect we would get a list of hundreds if not thousands of potential matches to those short two and three-letter trademark abbreviations, most of which would have absolutely no relationship to the goods and services for which the mark was registered and thus would be extremely unlikely to represent a cybersquatting attempt.

So I just think there's - the marks contained just would generate so many I don't know if you call them dumb matches or crazy matches, it's just generating notices for attempted registrations of words that have no corresponding entry in the database. I think it's getting way too far afield. Thank you.

J. Scott Evans: Thank you, Phil. I think Greg Shatan is next.

Greg Shatan: Thanks. This is Greg Shatan for the record. I think it's interesting to listen. I think the continued reliance on using the dumb matches as a reason for not considering any matches I think is very illustrative that that's where the trouble lies and not with expanding beyond exact match per se. You know, mark plus keyword is, you know, a fairly simple way to develop a match. Amr indicated some of the other more kind of, if you will, semantic or situational problems that trip up exact match.

So, you know, I for one am not advocating for the dumb matches but I also cannot believe that some smart matches cannot be developed and applied reasonably easily. I recognize that there will be corner cases and, you know, to be fair, I would expect the corner cases to be out and not in. But I don't think that all the cases are corner cases. If not - if they were, we'd just be in the corner all the time and that's ridiculous.

So I think we need to focus on the types of matches that could be reasonably easily accomplished that would not require subjective judgment in the sense that the true TMCH would need to exercise, you know, a kind of a vetting process per se. Obviously we're engaging in subjective judgment all the time in this working group, and that's where we should focus. And using the dumb matches to say there should be no matches beyond exact matches, I think, you know, just blurs the issue and avoids a useful response to Michael's proposal. Thank you.

J. Scott Evans: Thank you very much, Greg. I appreciate that. I think we have Mike - I'm sorry, yes, Michael next.

Michael Graham: Thanks, Scott. Michael Graham. Yes, just address a couple things in passing. I think this a discussion that's worth having and worth looking at. You know, the trademark plus 50 only works if you have a number of UDRP decisions and such and frankly that's an additional expense. But be that as it may, I think the point of pointing out some of the examples I think are troublesome that we might run into, but at the same time, things like Google-goggle, let's not get too far afield because that's not exact match plus.

In the analysis group, it's an interesting report; however, I think two things are important to note. One, the analysis group itself says that their findings and their analysis are not an appropriate basis for determining policy. So I think more interesting part of their study is to look at the actual statistics and information that they have gathered.

And, you know, this statement that they saw no clear evidence that expanding would outlay the cost of expansion, the problem there is that they were also citing that there did not seem to be a lot of interest among trademark owners in going after not exact matches, which actually I don't know where they figured that out and I'm interested in seeing what evidence they used to support that statement because I know among the trademark community, that's not the case. Most of what we go after are not exact matches but exact match plus.

I think the problem of dumb matches and such is something that would have to be faced. I don't think it's something necessarily that we should be limited to because I think there are others who would have a better way of analyzing whether and how it could be done if we gave the guidelines. For example, I just jotted this down and it's sort of going after the mark plus keyword idea of Susan, that it would be exact mark plus a word so that you would not have

the mark when it's impaled as part of another word. Just an idea but something someone else would have to look for.

Two other things I had here. Let me see if I've got that. Right, the multiple matches of - that George was discussing of taking out letters and portions of the TMCH recorded mark, that isn't what I'm proposing. You would have to incorporate the exact mark as registered with the TMCH. So I don't want to get away from that.

And then finally in terms of getting a lot of notices, in reference to my employer, for whom I'm not speaking, Expedia, there are a lot of reasons why I would not like to open up and expand the notices, not the least of which is the fact that I don't enjoy paying outside counsel for reporting the notices that we do receive. So this is not necessarily that is beneficial all the way around. There are costs to everyone involved.

The thing that I'm concerned about and why I brought up this proposal was looking at applicants who face going through the process, expenditures, and planning a website only to learn that there's an issue later that they really did not want to - did not intend or want to be engaged in. So. But I think the discussion - I'm very heartened by the fact that we are discussing this.

I think the more important part would be whether or not this is something that is supported by what has actually happened by the actual experience and not by what was presumed in the early days of putting together the TMCH. My understanding of our role is to take a look at what was planned, what was carried out, how that has progressed, and how can we make that better, what has worked, what hasn't worked, what we can do to make it better going forward. Thanks.

J. Scott Evans: Thank you very much, Michael. Let's see here. We have next I see Paul McGrady. Paul, we cannot hear you.

Paul McGrady: Oh, sorry about that. Yes my phone cut out.

J. Scott Evans: Okay there you are.

Paul McGrady: Thank you. Paul McGrady for the record. Sorry about that, J. Scott. So I have kind of a technical question just so that I understand the scope of what we're talking about in terms of this proposal. When we talked about exact match plus keyword, are we talking about keywords that come specifically from the description of goods and services for a registration?

So for example, iPhone installation, iPhone maintenance, iPhone repair, things like that? Or will they come from - I know that there was the UDRP that was sourced. Everybody - I think several people -- not everybody -- I think several people had mentioned that that's an additional expense to chase down a bunch of UDRPs just for the joy of getting them into the clearinghouse. Or would it be a wish list that was vetted by some (unintelligible)? I'm just trying to understand if we go down the path of exact match plus keyword, where would the keywords come from.

There seems to - from my point of view, there seems to be some logic to having those keywords come from the description of goods and services within a registered trademark because all we're doing there is enhancing the notice to the potential registrant of what that mark is registered to cover. And so that doesn't seem to be an expansion of anything that's not already, you know, in existence. But I also would love to hear from other people on that. Thanks.

J. Scott Evans: Okay. Thank you, Paul. Appreciate that. I think next we have Jeremy Malcolm.

((Crosstalk))

Jeremy Malcolm: Oh, sorry, Kathy, do you want to go first?

Kathy Kleiman: Sure. I've been in the queue for a while, J. Scott, okay?

J. Scott Evans: Fine.

Kathy Kleiman: Okay great. I have to say I'm losing of track of what the proposal is now and Mary asked in the chat whether it was (unintelligible) plurals, typos, marks plus keyword, marks contained. Again, the issue that Rebecca brought up earlier, Elle, E-L-L-E, is mark plus keyword Ellenville, which is where my grandfather lives, or Ellen. Are we talking about anything that would go after a mark?

Again, I don't think one discredits the balances that were made to bring the trademark clearinghouse into existence. The harm of overbroad sunrise periods for trademark claims is that legitimate users of - is that future trademark owners that organizations that want to be registrants will be driven away from domain names to which they have every right to register.

The other thing I wanted to remind us is that we did not want discretion, we didn't want outside groups - we don't want the discretion of is a mark plus keyword. Are we going to create another body to review that? One of the key criteria of the trademark clearinghouse was that Deloitte itself did not judge what the trademark was, so we needed to register trademarks, register it in a national or regional office somewhere in the world, or a common law mark, but a common law mark as determined by and validated by a court, or a trademark plus 50 where a mark plus a descriptive word or term was validated with - overseen by panelists in the UDRP.

Always, always there's been an outside criteria, an outside source so that Deloitte could take it and put it into the trademark clearinghouse and then use that exact match for the sunrise and for the trademark claims. We're changing the whole balance of this. And, again, I think you're going to hear from the community on this if we go forward. Thank you.

J. Scott Evans: Thank you so much, Kathy. Jeremy, you're next and then Susan, and then we're going to wrap it up.

Jeremy Malcolm: Yes. I agree with what Kathy said. I guess it's not possible to entrust Deloitte with exercising additional discretion based on how they've handled their responsibilities, the number of dubious sort of design marks from GIs and so on that they have accepted that has kind of gone outside their original remit. It's clear that it's absolutely outside their competence to exercise any more discretion about, you know, partial matches and, you know, whether it's - even if you have exact match plus, there are many legitimate reasons why an exact match plus could be registered by someone else.

And especially because words are often mashed together into a domain name without any kind of separator anyway, so how are you going to distinguish what's an exact match plus from, you know, a word that contains, you know, GE in the middle of it? You know, there's no way of programmatically distinguishing between what's an exact match plus and what's just a mash up of letters that happens to trigger a match. And I don't trust Deloitte to be able to exercise their discretion to sort those two out.

It would require a UDRP adjudicated process, and heaven help us if we to create another such adjudicated process. That's just biting off way more than we can chew, opening up a huge can of worms. It's just way outside the scope of what this was ever intended to be. So, look, I mean I just want to echo what Kathy said and reiterate our strong opposition to this idea. Thank you.

J. Scott Evans: Thank you so much, Jeremy. Susan? We can't hear you. There you go.

Susan Payne: Yes. Hi. Thanks (unintelligible). Yes I was just going to respond to - just agree with what Paul was saying, I think, in case I think I probably didn't make it clear when I was speaking before. I could envisage all sorts of terms that you

might add as the keyword but an obvious would be that something that's within the scope of their trademark registration. And the trademark - you know, the registration is issued, it's not just issued for (unintelligible), you know, the goods and services covered by the trademark registration are identified. So I don't think that there is a sort of element of Deloitte discretion here.

There might be - I mean we might take a view that there are so many goods and services covered by a single registration in some cases that we might want to put some restrictions on scope, you know, around number of (unintelligible) whatever and perhaps leave it to the trademark owner to identify which of the terms in their registration are the ones that they would like to associate with the record.

But I don't think we're asking Deloitte to exercise any discretion, we're simply asking them to validate that the registration has the terms in it. I don't see that that's requiring a sort of unwarranted discretion from them. I think it's something that could be done relatively easily.

J. Scott Evans: Thank you so very much, Susan. And then I see we have a few more people that have joined the queue since I said was going to cut things off. So we're going to let Phil go, then Greg, and then I'm going to draw us to a close.

Brian Beckham: J. Scott, it's Brian. I'm on the phone only. Can I make a brief comment?

J. Scott Evans: Yes. Yes, of course.

Brian Beckham: Thank you. Brian Beckham for the record. I just wanted to say in terms of limiting the marks plus to the goods and services listing in the registration, we see a lot of cases where it could be something like Adobe jobs or Expedia jobs or something like that and there's a scam going on on that domain name. So just one consideration in terms of potential limitations to the mark plus.

J. Scott Evans: Thank you, Brian. Now I think it was Phil that was next.

Phil Corwin: Yes thank you. And I'll be brief here. Phil for the record. One, I want to remind - Michael's - although we've been talking about mark plus, Michael's actual proposal was for marks contained and plural. So speaking of marks contained, two points I want to make. I made them in the chat room but wanted to get them out for everyone to hear.

One, if you take GM, the acronym for General Motors, I'm sure it's registered, if that was in the clearinghouse and somebody registered frogman.tld, that - as I understand the way this would work Deloitte would somehow detect that GM was contained in frogman and generate a claims notice.

It would be an automated process and the only way to prevent what I'll now call an irrelevant match would be to have fairly sophisticated software developed that looked at each trademark and the matching goods and services and somehow eliminated any word and a domain that was attempted to be registered that didn't relate to those goods and services. I'm not sure if that can be developed but that's the only way you could limit or at least reduce the irrelevant matches.

And the other thing is that I think we need to keep - view these preventative RPMs as part of a continuum. You know, if someone registered GM vehicles, I can see a UDRP being filed if they have nothing to do with GM and if their webpage is about vehicles of any type or transportation. But if they registered frogman, I can't imagine GM assuming somehow there was something about transportation on the website getting past one of the UDRP or URS hurdles that frogman was confusingly similar to GM.

So I think we should be careful about making sure that these preventative RPMs if they don't prevent the domain registration would actually lead to available use of a curative rights mechanism after the registration, and I don't

see it happening in many - you know, a great majority of cases with this marks contained approach. Thank you.

J. Scott Evans: Thank you very, very much, Phil. And lastly we are going to be closing with Mr. Shatan.

Greg Shatan: Thank you, J. Scott. Greg Shatan for the record. I think to follow on what Phil said, I think the example of GM vehicles as an appropriate subject for a UDRP is a perfect example of why we need smart matches to be included in this and also an example of why - of how matches should be built. What - so that if gmvehicles.com is a (unintelligible) domain, it should also show up in the claims process and should also be available as a potential registration in the sunrise. I would argue for both and then we can split those into two separate complaints, recognizing that one is a little more, let's call it, interesting than the other.

One essential flaw though in the way that I think Phil posited is the idea that we would take the universe of all potential matches and then use rules to somehow subtract matches. That's really not what I'm thinking of at all. I'm thinking of something additive. So this is not an issue of creating a software that just says hotdog and not hotdog, it's really a question creating a rule that only creates a match if certain things are satisfied.

So GM plus vehicles, Ford plus vehicles, good. Ford plus sandwich, not good. Ford plus or, you know, GM nested in frogman, not good. It would not even come up. So it's not a question of taking every match and saying every match is not good or not hotdog, it's a matter of only identifying the hotdogs and defining a limited universe of hotdogs so that we don't get PD Bank coming up when hotdog is the string in question but we do get PD Bank or PD Bank withdrawals.whatever coming up. This is not rocket science.

And just finally, what Brian says is worth -- Beckham -- is worth noting, which is that if we rely on the goods and services descriptions from the trademark

offices, that can raise some issues. I think goes beyond the time left in this call, which is none, but, you know, those terms are often formulistic and legalistic and a little bit antiquated. But, you know, some limited version of reality that may still be under-inclusive is at least where we should go with all of this. Thanks.

J. Scott Evans: Thank you, Greg. So here's where we end our discussion for today with regards to this. I would ask that Michael that you take some of the comments that you said and if you feel like you - I think I've heard some refinements to the proposal come through over, you know, as we've had some discussions. So if you would post to the list a refined proposal for consideration.

I would also ask that perhaps Rebecca repost or somehow reiterate to the list her comments about the type of information that she thinks we may need to better understand that and then we can find out whether that's in the analysis report or if we need to seek further information for considering this. So we - are we having a call next week, Mary?

Mary Wong: Hi, J. Scott and everyone. No, I believe that we are not doing our working group call next week. So the next call will be in two weeks' time on the 31st of May.

J. Scott Evans: Okay. All right. And then I see that Greg Shatan has asked to have a redline version of Claudio's proposal. I'm not sure why because we've agreed that we're not going forward with that. If there's a separate group that would like to approach and discuss this offline and go forward to the GNSO Council, that's okay, but we are not - I as chair am going to say that I don't think we should clog up our mailing list, given some of the complaints we've received, with any additional work on something that we have agreed today that we're not moving forward.

So, Greg, if you and Claudio and (Maximo) and Jonathan want to take that offline and discuss it, but I don't think it's appropriate for that to be going on in this list given that decisions that we made today. Okay?

All right. With that, I'm going to thank everyone for their time. We will back on a call two weeks from today. In the meantime, everyone safe travels to INTA for all of those who are going across the waters. And for everyone else, I hope your daily lives lead you great joy over the next few days and we'll talk to you in a couple of weeks. (Unintelligible)

Terri Agnew: Thank you. Once again this meeting has been adjourned. Operator (Bob), if you could please stop all recordings.

<div align="center">END</div>