ICANN
Transcription
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 31st of May 2017. In the interest of time there'll be no role call as we have quite a few participants, attendance will be taken by the Adobe Connect crew. If you are only on the audio bridge could you please let yourself be known now?

J. Scott Evans: Terri this is J. Scott I'm only on the audio bridge.

Terri Agnew: Thank you J. Scott. Hearing no further 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, Kathy Kleiman. Please begin.

Kathy Kleiman: Terrific Terri thank you very much and thank you for so many people joining the call this is Kathy Kleiman and I'll be chairing today's meeting and I'm very pleased that J. Scott Evans and Phil Corwin -- my other two co-chairs --have joined us for this call. I wanted to welcome back everybody who was at the Intel meeting and let you know that the pictures that you posted made all of

us drool it looked like a beautiful location for the meeting so welcome back and again thank you for joining us so soon after you've gotten back.

And thank you to everyone for continuing to work with these 90 minute calls it's a lot of dedication, it's a lot of time but it is important and hopefully we're all making progress and also thank you for the sub teams who are dedicating additional time every week and some people are participating in multiple sub teams so thank you to everyone for the efforts going on.

First things first do we have any updates to statements of interest? Okay in that case let me give an overview of today's agenda because there is a lot to cover and it's somewhat wide ranging. We're going to be looking at the proposed refined charter questions from the trademark claims sub team and then we're going to be looking at and discussing the proposed private protections questions that had been prepared by the working group co-chairs for review and then for kicking off the private protection sub team.

Which some people have been asking us about and are more than willing to be working on so we're looking forward to kicking off this third of our RPM sub teams. There'll be a presentation -- a brief discussion -- of the proposal that (Greg) Shatan has circulated for smarter non-exact matches. And they'll simply be taking questions and calls for, you know, clarification and questions about that proposal.

Although we'll be (unintelligible) at a greater length probably on another call and then we've got a procedural question number five which is agreeing on next steps for open TMCH questions. Kind of how do we go forward with the proposals that are before us some of which are, you know, equal and approving in some ways and some of which are complementary. So what do we do and how do we work with our membership to review supports? So please be thinking about that and then of course next steps the next meeting.

So returning to number two the trademark claim sub team do we have one of the two co-chairs of the trademark claim sub team to talk about the refined charter questions that they are presenting to us today? And then thank you for your timely presentation of that. Kristine or Michael – Kristine is this something you might be able to present for us? Not getting...

Kristine: Hi I'm sorry I literally just got on the phone what am I presenting I'm sorry?

Kathy Kleiman: Glad you're there Kristine, thank you. It's Kathy and we're up to item number two on the agenda which is a review and discussion of the proposed refined charter questions from the trademark claim sub team.

Kristine: Fantastic thanks yes -- Kristine one of the co-chairs for the trademark claims sub team -- we have finalized our list of charter questions, we have - we're still sort of working on finalizing the order and have compiled a significant list thanks to staffs help of the data that we think we could need. We're in the process of -- on the list -- trying to go back and forth and refine that. We - it would be great if we could be done this Friday although I think in all realistic ness -- I guess I'm (unintelligible) a word there -- to be realistic I think we would probably expect to maybe be done next week at the pace we're going and have a work product for the working group to consider and with our recommendations for the wording in organization of the charter questions and the proposed the data thank you.

Kathy Kleiman: Kristine before you leave this is Kathy again could you talk a little bit about how the data-gathering part of this is going? Just because I think people would be interested in that process and is - and whether there's anything people can do to help you on that.

Kristine: Yes thanks Kathy so our commission is not to actually go out and get data at this point it is just to determine what data of the working group will probably need one (Ed) gets to discussing the charter questions. One of the things we're doing in that is we've taken the liberty of pulling in any data that we

think is currently available such as data in the analysis group report and those sorts of - that out sort of information. So we're in the process of pulling in some of the existing data and then from there we will be - we're also putting together a list of data we do not have at our fingertips but we think we would like to have and from there it will simply be a matter of finding out if that data's accessible and if we'll have the resources to get that data. Does that answer your question?

Kathy Kleiman: Yes so the sub team will continue to be meeting even after it presents the questions to the working group.

Kristine: Well Kathy this is Kristine again I think that's an open question...

Kathy Kleiman: Good point.

Kristine: …my understanding is that the chairs have asked us -- and then maybe you can (unintelligible) -- the chairs have asked us to simply go to the point of getting the questions and putting together a list of the data we've request - we think we could use and maybe even requesting the data.

But it's an outstanding issue as to whether or not the sub teams will continue going along to do additional work I think there was a significant outcry on this list that everybody wanted to be involved in the review of the data and the analysis of the data and the getting of the data. And so I think we were limiting ourselves to just proposing which data we think that the working group could use but, you know, we - happy to take that discussion off on this list whenever that - whenever, you know, there's time for that.

Kathy Kleiman: Terrific Kristine and if anyone has any views on that but I had been unclear about how far the sub teams were going and that makes sense to me getting the questions out and letting the data come back to the working group for review and analysis. Terrific does anyone have any questions for Kristine and

the trademark claims sub teams? Did you want to go through the questions at all Kristine or just let people read them?

Kristine: I - is -- I'm so sorry I just jumped on late so I haven't had a chance to even look at the agenda -- I had not planned to go through the questions but let me see here review and discuss the - okay well if that's on the agenda we absolutely can yes.

Kathy Kleiman: Thank you for your flexibility and I know…

Kristine: Yes.

Kathy Kleiman: …it's very early, you know, it's…

Kristine: No worries…

Kathy Kleiman: …earlier.

Kristine: …it's not I'm fine I just - I was planning just - I, you know, just was going to sit here and do nothing today. So anyway yes so let's just scroll back up to number one so what this working group decided to do - and we had a few maybe I think six or seven main questions that were specifically directed to trademark claims. And then there were a significant number of sort of general questions at the end of the charter questions specific to claims, so we really worked hard to try to kind of assimilate the general questions as much as possible into the specific claims related questions. And we ended up deciding to take a broad to specific sort of tack at this the sort of creating a sort of an outline format where we have sub or main question one and then several sub questions and we pulled all of the main and sub questions from the original charter question.

And that had the effect of really trying to organize are sinking around the questions that were presented so you'll notice that there's really not a one to

one correlation between the original charter questions and the updated charter questions -- or the updated questions. And I think it's going to be really important -- as the working group moves forward -- to be mindful of the original charter questions so that we know sort of what we're going to be answering at the end of the day.

But to this - as we go through the work we think that the updated questions will provide sort of an outline and guidance of framework for the working groups work. So question number one the general question is, is the trademark claims service having its intended effect? So it's a very broad question and then we get into some specific questions. Is that claim service having its intended effect of deterring that phase registrations and providing notice to potential registrants?

If so, those are two pieces that came out of the original charter questions and then the - is it -- our claim service -- having any unintended consequences such as deterring good phase registrations? So you can see the broad to specific, we went to the intended effect question and then we want to - we think that the original charter questions were really getting at are there any - what are the deterrent effect? And what are any unintended effects? So we wanted to make sure that we captured both of those and then we move along to really following up because a lot of the charter questions in this specific category were very specific as far as suggestions. So they wanted to know well should be make the trademark claims longer? Should we make the trademark claims shorter? Should they be perpetual?

I mean they were a very specific sort of solution oriented questions and so we really needed to just take a step back and propose the problem or suggest the problem that we were trying to look at. So if we find that the claims are not having either relevant deterrent effect, or if they are not putting people on notice, or if they are deterring good phase registrations then we moved the other questions into question two so this is where those proposals ended up.

What about the trademark claim service should be adjusted, added, or eliminated in order for it to have its intended effect? And that's where we itemize out should the claim. To be extended? If so, for how long? Including up to permanently because we know that's been a proposal. Should the claims period be shortened? Should it be mandatory? Should any TLDs be exempt and if so which ones and why?

There's some, you know, conversation about maybe they're a certain purpose -- TLDs that are created for a purpose that for which claims is just not that beneficial -- but maybe not. So we wanted to make sure that the working group considered that and then from there we're talking about does the trademark claims notice meets its intended purpose? Specifically is it intimidating, hard to understand or inadequate? How could it be improved if any of those is true? Does it inform potential registrants of the scope and limitations of trademark holder rights? And if not how can it be improved?

So you'll see we go to the next category of is the trademark claims notice itself doing its job? Not just the trademark claims period. And then how are the translations working out? Are people in various regions getting appropriate notice in languages other than English? And then we have kind of an open-ended question -- question number four. We know that the broader working group is going through a lot of proposals that may really suggest an up (unintelligible) the way the sunrise and the claims processes are working.

And so we left an open-ended placeholder question in here that basically says if we decide to go down the route of non-exact matches, you know, the - how will that affect the claims notice going forward? Either the wording of the notice or the way in which it is - the way it's presented or anything like that so we wanted to make sure there was an open-ended question. And number four is in fact the working group gets to, you know, the non-exact matches, you know, goes with that as a conclusion.

And then finally should the trademark claims period continue to be uniform for all types of GPLDs and subsequent rounds? And so that really ties to the fact that, you know, maybe it should be different for communities versus (junens), versus (prans), versus, you know, special-purpose PLDs that have really, really limited registrations to start with, you know, I'm thinking of Dot Bank. So there's some possibilities there that maybe the use of the TLD might invite a different response.

We believe that these questions and the organization of the questions really get up the underlying character and quality of the charter questions in spite of the fact that the charter questions themselves were -- in some cases -- a list of sort of suggestions for improvement. I think that was generally it if - there for the background and the rationale and it just a quick run through of what we were thinking as we drafted the questions and I hope that wasn't too long and I'm happy to entertain any questions, concerns, thoughts. I know you may be digesting the information we'd be happy to, you know, entertain people's questions via email as well thanks.

Kathy Kleiman: Kristine -- this is Kathy -- that was an excellent overview thank you very much. I notice that your co-chair has come into the call -- Michael I'm sorry you're not feeling well -- do you want to add anything to the presentation that Kristine just did? If so I don't know if you are on line but if so, you know, please feel free to come on. Okay Michael writes that Kristine has covered it well I agree. Does anyone have any questions -- clarifications -- for Kristine and for the trademark claims sub team? Which has really done an outstanding job on these questions.

Okay Kristine it sounds like you explained everything well and the questions are very clear and we look forward to reviewing them as part of the full working group along with the data that you'll be - that you'll be gathering. Thank you very much again pausing just to see if anyone wants to add anything to trademark claims. Okay then Mary it looks like your hand is raised please go ahead.

Mary: Yes it was thanks Kathy and thanks Kristine and everybody on the sub team so we just wanted to clarify from the staff side that while the sub team finalizes its proposals and suggestions for data collection the anticipation is that these refined questions actually won't be changed in the text at all. Some of the order may move around a little bit depending on the data gathering suggestion but essentially the text in the middle column of what you see on screen and that was circulated is the proposed refined questions.

So based on that the staff a suggestion would be for working group members to take a few days to review these questions and assuming that everyone is fine with the proposal than what we can do is work with the co-chairs as well as the sub team to adjust the working group work plan and so that we can have a date to propose for when we start this particular review in light of all the other work going on. Does that make sense Kathy and everyone?

Kathy Kleiman: That does make sense Mary that makes a lot of sense and although many, many people are on the call of course many aren't in the working group so giving everyone another few days with the bullet point that no questions were raised regarding the trademark charter - the trademark claims questions. But if anyone does have additional questions or concerns they should raise it and I would give a deadline sometime before the next meeting. Terrific thank you Mary can we switch slides now and move on to agenda item three?

Which is review and discussion of the proposed private protections question from the working group co-chairs and this is based on -- and I did it with circulated -- that is hard to read. Are other people having difficulty reading that? Mary that might be worth reposting, I'm going to go ahead and keep talking because I printed it out before the call. So hopefully we could get a clear version up there okay so and here let me just read from the first paragraph.

It is a view of the co-chairs that the working group should indicate the notice and understanding of the locking mechanisms and any other additional RPMs that are being authored by registries or the PMCH as additions to the mandatory ICANN RPMs. We believe that market offerings provide additional information about the benefits and limitations of the RPMs and that viewing the market holistically may serve better informed policy discussion within the working group.

Mary can ask if there will be another version going up? So I'll continue the working group (unintelligible) --and here I'm reading again from the preliminary note from the co-chairs -- the working group inquiry may also consider whether and to what extent additional protective services should be consistent with either policy decisions reflected in the shaping of the ICANN required RPMs.

Forward in the recognized scope of trademark law. Overall ICANN mandated RPMs must be considered in combination with additional marketplace offerings to fully understand the RPM ecosystem available to trademark holders. On the one hand the availability of additional protections may provide trademark protections in a more cost-effective manner than the alternative to sunrise registrations and the potential filing of a UDOP or a URS action.

On the other hand trademark owners are presented with an RPM landscape in which additional protections of varying scope and cost are available for some but not all operators. We want to make clear at this time and initiate discussion upon - what we want to make clear at this time and initiate discussion upon is our collective determination that knowledgeably answering the key charter questions related to mandatory RPMs requires some understanding and appraisal of the additional RPMs that have been made available in the marketplace.

And so that's the opening note from the co-chairs and then we go on and I could read all the questions or we could - I'll give an overview and then we could send them on to the new sub team that we're organizing to look at this to revise them this is just a starting point. So we - overall we have questions that come in from our charter question review this is the question number one is a question you've seen before. Kind of asking broadly about TMCH services, post 90 day ongoing notifications, contractual relationships between TMCH providers and private parties.

Other ways that the TMCH shares data and for what purposes but then the co-chairs decided that we should double a little deeper and really kind of ask some more specific questions about some of the practices that we're seeing and see if we can fully understand better the landscape of what's happening with additional RPM type measures.

So thank you to Mary for posting the questions let me give everyone a chance -- you should have individual control of the document -- to take a fast look at it and then I would recommend we pass this on to the sub team which we can organize now. I know we already have some volunteers of course, we're welcome to new volunteers unless there are any objections we could dive into these now. But if there are no objections we'll pass it to the sub team and hear back from them in their presentation in hopefully two or three weeks. Susan go ahead please.

Susan Payne: Yes hi -- it's Susan Payne here -- thanks Kathy I - I'm not sure it's an objection I just - I wonder if you could help me understand what the - what these have been past to the sub team to do. I mean there's here - a number of questions here and obviously the work of the previous sub team -- the other sub teams -- has been to look at preexisting charter questions and to look at, you know, whether they're understandable, whether they need clarification and then to move on and think about data requirements and so on.

Whereas in this case of course these questions mostly don't come from the charter and so I'm a bit unclear of whether we're asking the sub team to then look at these questions and determine whether they agree with them. Or whether we're making a presumption that we all agree with them and that these are the questions if you like. So could you clarify that for me? Because I'm afraid I don't entirely understand the nature of the document.

Kathy Kleiman: I invite Phil and J. Scott as well to speak and in fact let me yield to Phil and then I'll respond as well afterwards thank you for the question Susan, Phil go ahead please.

Phil: Yes hi -- Phil for the record -- you know, my view on this is that the sub team - one this is a document created by the co-chairs with staff assistance so number one the sub team could -- as a representative group -- vet it and see if they believe these questions are worth pursuing and whether we missed anything or they need to be more objective.

I think the main thing would be to try to identify what type of data would be required to answer these questions and what - where such data might lie and then get back to the full working group. So that's - those are my thoughts on the next step for this document and this is the first time the working group is working at it all together and of course it's subject to the review and feedback of the working group as to whether these questions are all the questions, whether they're all relevant and whether they're properly framed and the subgroup can get into that in more detail once it's handed off and also look into the data requirements thank you.

Kathy Kleiman: Thank you Phil this is Kathy to (John Nevitt) I think it was circulated to the group (John) but we'll ask Mary to recirculate it. So to Phil's point and in response to Susan's excellent question like other sub teams these questions should be going to the sub team who are vetting, clarifying, grouping, adding suggesting. And I had written down the same thing that Phil highlighted data-gathering if these are, you know, legitimate questions from the working group

how to be better understand what's going on in the marketplace to inform our decision-making?

And a lot of these questions are really oriented towards understanding what's being offered and how it's being offered and helping them form what it is that we're doing with the other RPMs, so the private RPMs and the ICANN mandated RPMs and how do they work together and reporting back to (junis) council about the collective arrangement of what's happening. The data-gathering would be a big element to the sub team Susan go ahead.

Susan Payne: Thanks then for that clarification so if I'm understanding correctly if I -- or indeed if anyone -- has comments on specific questions and either the terminology of them or the appropriate ness of them, the place to raise that would be in the sub team is what you're saying?

Kathy Kleiman: Yes.

Susan Payne: And I'll (unintelligible) okay all right…

Man 1:   (unintelligible).

Susan Payne: …then that is where I will raise them. Could raise however another option issue which is - I wonder if we could reconsider the use of the term private protections, you know, I'm not going to - I'm not going to fight tooth and nail over this but it seems to me that it has the potential for quite negative connotations. In the sense of the suggestion is something that's kind of secret and I'm sure that's not what the intention is and I wonder whether we could perhaps use a term that doesn't have such negative connotations like registry specific RPMs.

I know it's probably, you know, you may think it's quite a small point but I do think it gives quite a negative impression which I'm sure wasn't the intention.

Kathy Kleiman: Are there some other terms you can throw out Susan? I'll just raise it and we'll go on to (John) registry specific RPMs it would be interesting to kind of have a list of alternatives to private protection since that is kind of the buzz term that's being used and that I think everyone generally understands. But I have no objection to letting the sub team come up with the - with a new term that covers the same scope.

Susan Payne: Well does it - there were a couple of suggestions that people are putting in the chat which, you know, something like volunteer RPMs or additional volunteer RPMs are also being suggested.

Kathy Kleiman: Are they voluntary for registrants or are they voluntary for registries? Who are they voluntary for?

Susan Payne: Well what are they private for? I mean, you know, it's the same issue that they're voluntary for registries I would think just as in the same way as they're private for registries, isn't that the point?

Kathy Kleiman: I don't - interesting well let's - I'm not sure again because I'm not sure voluntary is - they are certainly private because they're not being required to…

J. Scott Evans: This is J. Scott I think…

Kathy Kleiman: J. Scott go ahead.

J. Scott Evans: I think that Kathy you shouldn't be arguing with Susan to begin with yes that's not the role of a chair moving forward. I think Susan I think you've made a suggestion that we should think of a new name. I would invite members to place that at the list and that can be one of the first tasks that this group can come up with to see if there is an alternative term rather than private protections that would equally or better describe what we're trying to describe.

Kathy Kleiman: Thank you J. Scott I think co-chairs often engage in discussion in this working group (John) go ahead please.

(John):   Thanks Kathy the point I wanted to make is I don't think we should refer this to the subgroup until we on the main group have had the opportunity to review these questions and provide comments such as Susan comment. Otherwise we're requiring essentially who serve on every subgroup in order to provide input and so before we get the subgroup going on this one unlike the claims in Sunrise groups we should at least get the comments, spend some time to see if these are the right questions. Are there problems in the questions? Is there problem in the wording? And then send it to the subgroups so I would suggest that we spend, you know, maybe a week or so to get comments and then rationalize the - this document before it goes to the sub team thank you.

Kathy Kleiman: So (John) let me see if I understand your recommendation is that we bring this back on the agenda next week having given people enough time to review for a fuller discussion before it goes to the sub team.

(John):   And that gives everyone the opportunity to provide comments as opposed to just sub team members.

Kathy Kleiman: I certainly don't have any objections and that makes sense before it goes to the sub team we were also of course taking volunteers for the sub team. We do have people who have already volunteered for it but we're hoping more will join. Mary do you know how many people have signed up for the -- and I use the term loosely now -- private protection sub team?

Mary: Hi Kathy on a quick (unintelligible) with the addition of (Clario) who's just volunteered I believe we have 17 members not counting the three co-chairs who are exofacial.

Kathy Kleiman: Seventeen that is a big sub team okay (Greg) Shatan volunteers as well and we will of course put out the call for additional volunteers next week. Great does anyone else want to express a thought at this first review of the draft questions for private protection sub team? (John) your hand is still raised are you still in the queue?

Okay so I think that wraps up item number three which we will return to in an upcoming call. Then we move on to item number four the presentation and brief discussion of the proposal that recirculated earlier this week by (Greg) Shatan. The proposer for smarter non-exact matches, (Greg) would this be a good time to ask you to present the proposal? And would you be receptive to questions clarifications etc.?

Gregory Shatan: Hi this is (Greg) Shatan for the record calling in from Manhattan although (Ryan) can help as a nomadic device for the last (unintelligible). So the - this proposal came up kind of in a - reading the discussion around the proposal that was originally circulated by Michael Graham on the recommendation for question ten for non-exact matches. And the - my intent here was to create a bit of a starting point not a - this is not entirely a great - an engraved in stone or graven in proposal. So certainly expect that this will be developed by the group and there already been a number of helpful comments and questions. So, you know, look at this as I think all the proposals are as not take it or leave it but rather organic evolutionary documents - living documents -- as you will -- just like the US constitution unless you're - yes. Economic person - in any case the list here -- and I did this purposely maybe I should've been more clear -- but the list here really was taken almost - at least for the first eight items from the analysis group report which in turn took them from the GAC 2011 advice to the ICANN board.

As such there may be some tweaks -- to say the least -- that can be made to some of these categories and some of the questions I've pointed out, you know, that some of the categories are either unduly limited or ambiguous and can be clarified so I'm going to look forward to working on all of those

possibilities as we move forward. The idea here was to find a way to get matches that reflected, you know, more realistically the type of non-exact terms that, you know, in the real world or in the wild as people like to say actually get registered or sought to be registered and then are often seen as trademarking infringing or violating of the rights of brand owners. And it also create additional downstream problems on top of being trademark problems. So in this case now the first eight as I say are somewhat mechanistic missing dot typos which all of us have seen if we've ever missed a dot.

And yet there are people who still type things in I'm not one of those so much anymore but I certainly know that there are people. My wife still has a flip phone I must confess so there are people who approach the Internet and all different kinds of ways so fast finger typos care - and I think these are all fairly self-explanatory. And of course while there may be as George Kirikos pointed out a number of - a significant number of additional potential matches I think the actual matches and especially the innocent matches is something that is, you know, won't increase in the same exponential or whatever mathematical manner the - put to potential matches would increase. Because, you know, some of these really only be registered by someone who was, you know, intending to typo squat -- for instance -- some may not and this is of course one of the things we need to refine.

After - so for instance sprung through the list quickly, the first several, I think, are more or less, you know, look self-explanatory. Jump to number six clearly S is not the only way to pluralize and it's not the plural and all languages so there, you know, if you consider adding ES as well as S to this and we can of course look at some of the - and how that would work. Digit addition for some reason the GAC only suggested the number one and one of the things I would -- just as a side note -- the GAC may not be the best or the only place to get real world information on registration of infringing domains or violet of domains. As a matter of fact I think probably brand protection and watching services and others who watch the world of domains that are sold for or, you know, registered for the purpose of seeing what can be done in connection

with a - an existing trademark can probably come up with better refinements than this but again that started with the GAC.

So digits in addition to one should be considered as well, keep and buy again we could other languages libre whatever they might be could be considered as well. Especially, you know, if we can get some sense of actual experience that might be another way to make this smarter. Not that I'm suggesting we get into machine learning or anything fun like that but it certainly could be some way to respond to actual -- or at least long-standing -- trends -- short spiky trends -- like adding (Coax) essay to everything. I think would not be something (unintelligible) put into the claims program. Non-Latin characters substitution or in some cases a penny code is I think another way to look at these but, you know, there are languages like Cyrillic -- I should say alphabetic -- like Cyrillic or Bulgarian that contain a number of letters that either look identical to or very similar to what we call Latin - the Latin alphabet. And so that's - that is a significant concern the VV example I gave was a - or that's - it's actually - that's a number ten which is substitution of other Latin characters.

The VV examples we're placing was a real-world example of what happened to a client of mine who's used in an attempt to have $100,000 transferred to - in a fraudulent manner but, you know, it was based on use of it in a trade market. That was the trade market infringement came first and then the abuse followed almost immediately thereafter. Next good and services industry key words I think develop, you know, reasonably limited pragmatic lists for common industries. We might - would see whether there are existing (unintelligible) as I've noted that these classifications are rather formalistic also too broad, sometimes too narrow but, you know, hardly realistic and I would not recommend using the trademark code classifications as such. You know, last are commonly abused terms whatever, you know, careers, jobs, home or the examples given by the GAC six years ago.

Maybe other things are being abused now so a good look at that this is really in an attempt to zero in on the troublesome types of non-exact registrations or attempted registrations and always the (unintelligible) matches. I'm open to other than smarter matches, targeted matches, directed matches, whatever it might be. But since you're - I called the other ones dumb matches I call these smarter not because anybody here is -- not because I'm smarter. Any case, you know, the rationale as I said was that this is a problem that's been around as long as domain names and it doesn't just exist as a trademark infringement problem in the abstract.

These either can support websites or email addresses or both that are used for everything from selling counterfeiting - counterfeit goods to fraud like the one I just briefly described. Malware description, data breach, data theft, fishing here, fishing identity theft but the intent is not to solve all of those problems. The reason I pointed those out and this kind of answers the question that Phil had and what he sent around. The reason I mention that is that this is kind of indicative it's - we're not just dealing with trademark infringement here we're dealing with trademark infringement plus.

Trademark infringement by itself is enough of a problem but frankly it's the - when things get to plus we - you have to realize the gravity of the situation we're dealing with and it's not just a brand owner or a brand owner slash consumer problem in those lows anymore if it ever was. And finally -- and this is maybe a clarification I should've given at the beginning -- but Michael Grahams initial proposal on number ten was a proposal only as to claims and as to Sunrise and since this is an addendum to that proposal I think we should consider this only as to claims whether any or all of these might be (unintelligible) to Sunrise something to consider. But I think it should be considered separately because otherwise the conversation, I think, will just go down a rabbit hole and all we'll talk about is how bad this is. Some of these might be sunrise etc. etc. and that's not really the point that's not the point of Michaels original submission that's not a point of my commission. So

let's talk about this in the context of claims. Obviously that's where this proposal hangs its hat thanks.

Kathy Kleiman: (Greg) this is Kathy thank you for the - that detailed presentation and for the modification of trademark claims because I was wondering whether this was a change to the trademark clearinghouse database, the change to Sunrise or trade - change to trademark claims and what you're saying is claims. Can I kick off the clarifying questions and then invite others to come in for more clarifying questions? Are you still on the line?

Gregory Shatan: I'm here.

Kathy Kleiman: Okay great could you talk about this again in relation to (Michaels) proposal? Is this a replacement? Is it a - are we still considering both proposals? Has he accepted it? And how does this go in terms of what we're reviewing as a working group?

Gregory Shatan: Well as an initial matter I'm not certain that we're operating under the idea that anybody owns a proposal once they've made it. I haven't submitted this to Michael for his acceptance I don't think this - we're just not the GNSO council where we have friendly and unfriendly amendments. As a general matter my view of such things -- and I leave it to the chairs to decide how to do it in this group -- as a general matter I think it's better to view group proposals as being somewhat disentangled from those who have presented them. Although obviously you want to avoid like false adoption the I want to support this proposal so I can drown it in the bathtub type of additional sponsorship but so the short answer to your question is no. I don't know what Michael thinks of it I hope he likes it and as far as how we would consider them I'm not sure what the value is of the type of match that was suggested by (Mike).

And again I don't say that in the sense that he owns that suggestion -- for better or worse -- because there are false positives that come up there. If we

want to look at that again more surgically and try to think about ways that that might identify some real problems without so many false positives or just, you know, silly positives. Because venom also gets denim but with an "O" and (unintelligible) and other - a bunch of things that mean nothing so I would look at this more as a replacement than as an addition. But if there are reasons to have the mark contained more generally beyond these I think the - for instance the key word concept here is probably the most direct or replacement for the mark contained concept. And it avoids the (enom) venom issue or (Rebecca) seems to think that some of these rules might catch (enom) venom but I don't see one that does, we've not - that captures that particular one. And again, you know, these are - this is meant to be tweaked it's hard to imagine that a, you know, three - two-and-a-half-page proposal is going to be the same as any final implementation we've just - we've seen how much it takes to get to implementation. Not to mention how long the actual rules get once they're, you know, cobbled together for the PNCH…

Kathy Kleiman: Yes right.

Gregory Shatan: …to actually work for them thanks.

Kathy Kleiman: Thank you (Greg) and I'll note that Michael Graham has - an echo. I think it's been solved Michael Graham has written that he does have comments on the proposal and he appears to have - he has a proposed amendment to his own proposal so it would be great to have one set of proposals but I just throw that out there as something that could help with the efficiency of the working group. If Michael and (Greg) want to work together on the next round as - there are a number of comments in the chat room (Greg) about Sunrise and trademark claims and that clarification and maybe having another round of this but thank you for the response and let me call on Phil.

Phil: Yes thank you -- Phil for the record -- first of all (Greg) I want to thank you for putting this proposal forward because regardless of where we come out on it, it kind of - it's very comprehensive it really sets out basically every potential

type of typo and non-exact mats that might arise in a cybersquatting situation so I think it crystalizes the debate. I have two threshold questions and I don't know if we have an answer yet I think we're going to need an answer before we get to the final decision on any of this and we're certainly going to need to look at each of the separate categories. But the threshold question I think is - we have experience with new TLDs and that's where the RPMs apply right now, we haven't decided yet whether any of them should be consensus policy.

I'm wondering -- and I think staff will have to help us look into this -- whether we have any data regarding whether there's any significant use of any of these types of variations of marks that have led to the filing of UDRP or URS cases in the new TLDs. What I - I guess what I'm saying is, is there a significant problem here that would justify this very considerable expansion of the generation of claims notices? Because obviously there would be a large increase right now with a -- for example -- with a six-letter domain name just on number two the fat finger typos. Right now there's only one potential match for that that would generate a claims notice depending on whether the letter of the alphabet - each of the six letters is in the top or bottom row in which there's four adjacent keys that could lead to a fat finger mistake. Or the middle row where it's just surrounded by six letters it would - the possibility is that to generate additional 24 to 36 claims notices just based on a mistake in any one of those letters for a six-letter domain.

So we haven't done the math yet but I think we need to quantify whether there's a problem that we've experienced that would justify consideration of this. And the other question -- at the back end -- would be cost and then practicality. That implementation I know your document states that -- let me just scroll down -- that you state many of these variations one to eight can be developed mechanically but I think we're going to - and remembering that we're dealing not just with letter substitutions but addition of words which requires a decision on how many different languages those words are going to be in. If we're just talking about the UN languages, if we're talking about

IDM scripts which apply to some other language whether - what it would cost to develop the software that could automatically match all these potential variations to a registered mark and accurately come up with a match.

And then for the last four -- particularly goods and services and industry -- industry key words and commonly abused terms where again there's also going to be a discretionary decision about what terms are permissible. There's going to have to be some verification at 11 to see that a submitted industry key word actually matches in some way the good and services associated with the mark etc. And we're going to have to look at both feasibility for one to eight of developing the software and cost because there will be a - one effect of this would be by placing additional requirements on the clearinghouse it could actually raise the cost of clearinghouse registrations. To pay for the additional software development and the additional human intervention that will be required if any or all of these were adopted and recommended by the working group.

So I'll stop there - again I think it's a good crystallizer -- the discussion -- and that we should focus on whether there's sufficient data with actual problems to justify going down this road and then the feasibility of implementing this and the cost of doing so and how that might affect the cost of clearinghouse registrations and I'll stop there and step back and let others weigh in thank you.

Kathy Kleiman: Thank you Phil you raised some important points and (Greg) you're next in the queue probably to respond thank you.

Gregory Shatan: Thanks (Greg) Shatan again for the record. Georges Nahitchevansky made a point in the chat that I think is critical and I think answers one of Phil's questions or at least points out that the question that's being asked is not the question that should be asked. Georges says yes there is a significant problem it is not just the UDRP and URS issue but it involves countless demand (unintelligible), takedowns, monitoring and follow up.

I would suggest that better than 90% of brand owners should experience these types of issues and there was actually something published just today I think it was in the world trademark review that at least for North American and Western Europe PN brand owners peg that number at 94% a number that we've used in other contexts. So this is not a small problem. I would also add to George's list that private resolutions -- outside of UDRP and URS cases -- are also, you know, a part of the problem.

So the UDRP - RS focus is somewhere between the tip of an iceberg and a red herring approach to asking where the - whether there is a problem. I have some clients and I'm sure other people who do brand protection can say the same who pretty much getting - I wouldn't say given up but use UDRP and URS for a small percentage of the overall number of domain name problems that they find. Others may use them on a bigger percentage but the focus on UDRP and URS as a barometer of the issues here is entirely misplaced so I think there is - there are other ways we can approach this but UDRP URS should be viewed only as indicating a slice of the problem. So I think -- as I said -- there is some data that just came out Mary I think it's in the WTL log today or yesterday, it was a worldwide study that was broken down by region. Interestingly it found that Asia had the lowest incidents of claims -- of problems -- their view though is that there aren't - isn't a lower amount of problems but rather less monitoring and therefore less knowledge of the problems that are out there.

So Phil went through a whole litany of things and frankly I wasn't taking notes on each of them they're obviously tweaks and issues here and I assume -- given they didn't indicate any upside for any of these -- that he was talking in his personal capacity. But in any case I think we can look at this in - as a group and I think that I don't know whether this would increase cost, decrease cost as somebody indicated perhaps out of concern that this would increase the number of entries into the trademark clearinghouse. Well if the trademark clearinghouse became more desirable for brand owners -- more

useful -- that would decrease overall costs because then you'd spread some costs over more revenue and you could also - and then you could add additional features not out of desperation to try to get customers. But because you have - actually now have better cashflow so I'm not looking to make TMCH more desirable per se but if it's more useful and does a better job of what we want it to do then it should be more (unintelligible) thanks.

Kathy Kleiman: Thanks (Greg) Mary's on the chat room asking about a link and whether it's to the article that you were talking about online or offline maybe you could work with Mary and Mary could you circulate -- as an action item -- could you circulate the article that (Greg) just referenced to the whole working group? So that everyone has a chance to read it, it sounds like an important study. George you're next in the queue thank you.

George Kirikos: George Kirikos for this transcript yes like Paul Keating I would be against this proposal it represents a massive expansion in the number of terms that would be added to the TMCH. I sent an email to the mailing list regarding some of the mathematics behind this and it's even more startling in terms of, you know, terms that would be five characters or less in terms of the trademark because -- as most people might be aware -- every single letter - sorry two letter, three letter, four letter dot com is registered. So you can imagine for a dot com offering U - GTLDs that want to be like dot com those terms are desirable and would generate any - an enormous number of false positives and we're talking about, you know, at least 100-fold increase in the number of matching terms at least. And that doesn't even consider the fact that more trademarks would probably be added to the TMCH to take advantage of this kind of selecting of free speech and the chilling effect it would have on registrations I think registrars and registry operators who care about the volume of marks.

Sorry the volume of domain names registered and I would want to be opposed to this proposal but especially if it was applied to dot com it would be, you know, disastrous in terms of user flow - sorry consumer user

interfaces where you'd have, you know, dozens of matches coming up for just a single domain name registration (unintelligible) for shorter time. Phil also raise the question - raised the idea of looking at UDRP data to try to guide things one have - would have to be very, very careful in doing that because there's something called sample selection bias whereby you're only looking at a subset of the data and not looking at the data that's not in that data set. Let me give you an example let's say there was a character removal typo squat of say Microsoft so it would be - say somebody dropped the O so it would be Micro-S-F-T and so that triggered a UDRP for example.

You'd have to look at that same role for all the domain names that did not trigger a UDRP so there would have been character removals of things like the term IBM where you have IB.com and BM.com and IM.com that didn't trigger a UDRP so you'd have to consider that, you know, that character slot might only have - (unintelligible) cybersquatting in, you know, one ten thousandth of cases and so all those other cases that didn't trigger UDRP would need to be factored in. And now I would be more, you know, obviously in favor of Jeremys proposal from EFF of, you know, limiting the TMCH for the claims notices and overall limiting the TMCH entirely and the tradeoff being there would be more UDRPs but it would still be manageable and be available at a lower cost looking at it holistically thanks.

Kathy Kleiman: Thank you George and you just referenced Jeremy Malcolm who was next in the queue Jeremy go ahead please. Jeremy I don't know if you're on mute or not - it looks like you just came off thank you.

Jeremey Malcolm: Sorry about that yes I don't have much to add to what George said and I do agree with his comments. If it would be against this proposal, ICANN, it's mission, is not to be solely in the service of trademark holders to be brand new protections on their wish list and really it has to be a balancing act too. So, you know, what are the additional costs to the board of (unintelligible) for each new layer of protections that is demanded and I think here we're going to see as George pointed out, you know, (unintelligible) false positives, a lot

of complexity and cost introduced. I mean out of all of the suggestions in (Greg)'s proposal I think the only category that I would be even halfway comfortable with is the missing dot typos.

But all of the others you can imagine so many illegitimate domains would be caught and so I think if it's - opening a huge can of worms and really is disproportionate to the problem that's being tried - that's being attempted to be addressed here. So yes without having to (unintelligible) the point I think there is some real problems with this and I'd be opposed to it thanks.

Kathy Kleiman: Thank you Jeremy and Jeremy before you go did you raise a question in the chat about - I'm going to call it timing of that maybe -- I'd like you to phrase it - - but maybe that this should be considered at a later time rather than the current time along with other trademark claims? Let me go back to…

Jeremy Malcolm: By what I meant I'd known - I don't know if that's the same thing to bounce this discussion to the claims subgroup just because it is being proposed as a mechanism for claims (unintelligible) maybe could be reintroduced here at a later date. But it's just a procedural suggestion which doesn't virgate from my federal opposition to the proposal as presented.

Kathy Kleiman: Terrific thank you John go ahead please.

John C. McElwaine: Thanks hi -- John McElwaine for the record -- you know, we've heard some of this - the issues with chilling or the disastrous sort of effects but one thing -- and without speaking for (Greg) as we have not discussed this -- I think that there could be different levels of claims notices that go out depending upon which one of these sub rules was being triggered to issue that claims notice. So yes before we just throw this out completely - as George did say we need to look at it holistically and perhaps there are modifications that could be made to the notice that is sent that is more in line with the rule that is triggering that notices. So that's the only thing I want to

mention that's this - I think a good idea but we would need to look at it holistically.

Kathy Kleiman: Thank you John, Jeremy your hand is still raised so let me know if you're still in the queue. (Greg) before we go on let me just raise a - an agenda item which is that we do need to launch into our discussion of how we go about resolving these questions. So note that this is really about the presentation and a brief discussion clarifying questions which is raised I think there's a lot of material now on the proposal that you have so kindly given us. And also the procedural question is this the right time to be doing this or should this be going to the trademark claims before they completely close all their questions? So (Greg) let me call on you and then let's consider moving on to the next agenda item thank you.

Gregory Shatan: Thanks -- (Greg) Shatan here for the record -- you know, certainly this is only the first discussion so I understand we need to move on. And just briefly I agree completely with John McElwaine that smarter claims notices is another feature we need to consider regardless and that's something that is, you know, appropriately explanatory, you know, identify where the problem comes in which frankly would be fine with dumb matches too.

I think somebody seeking to register venom for their heavy metal band seeing that it was matched to (enom) because of the addition of the letter V and - would move along seeing that (enom) is registered - not registered for heavy metal but for, you know, registry - registrar services rather. So there's an element of -- I think -- of applicant education and but also making it a more useful notice neither too scary or something that -- as I think (Rebecca) pointed out -- that is just tossed aside as being useless. Yet another hurdle just to be jumped over without even seeing what it is you're jumping over.

I see questions here - I don't know if you want to answer them. No TMCH current entries are - need to be removed they're already conflicting marks.

There are at least two registrations for Essex for instance in the trademark clearinghouse…

Kathy Kleiman: For which word?

((Crosstalk))

Gregory Shatan: (unintelligible) as they do.

Kathy Kleiman: For which word?

Gregory Shatan: So and I'm hardened in the sense by the fact that the usual suspects have raised the usual problems and rather than raising new ones and including one of my classic bug bearers that, you know, captured by the IP constituency I laugh at the idea. So I - and I'm somewhat offended by that -- in any case -- but I say that - I don't want to get sidetracked on that as much of that was the intent of that the shunt of probably do so. So I think that we need to - where we look at this and how we look at this I mean it real - relates more to claims than to the trademark clearinghouse itself but that again is the issue of our whole interrelated nature of how we - you look at things.

And as we're kind of moving directly from trademark clearinghouse to claims where we deal with it is kind of less important than that we deal with it. You know, this is, you know, initial of trying to find a balanced approach to help consumers, to help trust in the internet and to help brand owners as well. And at the same time to allow for legitimate third-party uses to move forward and for an innovation as well only really through information on the trademark claims notice will just be carried out properly thanks.

Kathy Kleiman: Great (Greg) thanks for some of those clarifications that the timing is not as important that it be addressed and the other issue and again I join other people in thanking you for bringing forward a possible solution to questions that were being raised on matches versus smart matches. Phil and (Brian)

I'm going to urge you to speak briefly so that we can move on to the next agenda item if we might but I know this is an important issue Phil go ahead please.

Philip Corwin: Yes Kathy I'll be quite brief yes again we'll be coming back for this proposal I understand and discussing that much greater detail in contemplation of that more detailed discussion I'm presuming here that we're not talking about all these potential variations being circular really registered in the clearinghouse. I - that trademark holders wouldn't want to pay the cost of registering every type of graphical variation of their word, all these different possibilities. And that we're - also I would personally be opposed to that as I think it's important to keep the clearinghouse criteria fixed on, you know, high-quality trademarks and then whatever happens to them afterwards after registration is a different question. The thing I'd like to ask trademark folks here to consider when you have this vast expansion of potential claims situations we need to think about the receptivity ultimately of counsel to whatever we come out with and there's not a great deal of contracted party participation in this working group not compared to the subsequent procedures working group.

But something that would generate claims notices to a lot of folks with no intent to infringe that might deter registrations, could be a problem and John Nevitt made a comment in the chat room what if this so just was for the purpose of providing notification of the mark holder where it wouldn't go to the registrant at the time of registration? And frankly the bad actors probably aren't going to be deterred by that anyway they've already decided they're going to cybersquatting and do whatever they're going to do and then get out. But if it just went to the mark holder where they could then look at the domain and decide whether anything untoward was going on with it that required a letter or some escalation of actions that would be of less concern in terms of deterring non-infringing registration. So I look forward to getting back to the subject and I'll stop now and we can hear from Mister Beckham from (Wypo).

Kathy Kleiman: Thank you Phil

Brian Beckham: Thank you Kathy -- Brian Beckham for the record -- I just wanted to offer - I must confess that along the course of this working group I at least personally have lost sight a little of where we're and what we're doing. And there's been a lot of cultured data and I wanted to just offer one data point and it really dovetails on some comments that were made by Georges Nahitchevansky and others in the chat.

Which is that the UDRP is the tip of the enforcement iceberg and of course there's - their cease-and-desist layers private purchases, all sorts of other ways that the trademark owners monitor and enforce their rights to protect consumers. Just at (Wypo) in new GTLDs we've had almost 1200 UDRP cases filed. Just the filing fees for those cases alone it reaches almost $1.8 million so of course that's only one piece of the puzzle and I guess the point I'm trying to make is that when we're looking at the broad question in front of the working group is are the RPMs created for new GTLDs fulfilling their intended purposes?

I would submit with that level of UDRP claims, I'm not sure the URS numbers, the numbers of cease-and-desist letters, defensive registrations, Sunrise registrations, DMPML registrations etc. that there is room to improve the claims notices. And I fully agree with the comments that have been made Kathy value, by Jeremy that it's in no one's interest to make these overbroad from a brand owner perspective if you have too many dumb matches then it sort of waters the impact and brand owners are just flooded with too many notices to meaningfully watch.

And of course on the other side we want to minimize the potential chilling effect on potential good-faith registrants but all that to say, you know, when we see a request for data there's one I think very relevant data point and when we see requests to scrap the TMCH or scrap claims notices I don't think that's a fair suggestion. I think they could be improved for everybody involved things.

Kathy Kleiman: Thank you Brian before you get off the phone I understand that a paper was circulated at the Intel meeting and I was wondering if you could tell us just very, very briefly about it and maybe circulate it for the whole working group or circulate the link.

Brian Beckham: Happy to thanks Kathy the paper that I think you are referring to is the version 3.0 of the (Wypo) jurisprudential overview of UDRP cases. I can provide a link to that and some context for the working group by email.

Kathy Kleiman: Perfect thank you Brian and thank you for your comments we're closing this element of the agenda thanks to (Greg) for kicking us off on this discussion and we note to staff of course we continue this in our next agenda. I wish we had more time I really wish we're starting this at the top of the hour but item number five is first to agree or I would say really discuss the next steps for handling open TMCH questions. These are the design mark questions that we're looking at, the GIs, we've obviously even talked about the identical match system standard.

We've got several situations one is where there are, you know, counterproposals -- have GIs, don't have GIs -- but the - we also have a situation now increasingly today where we have variations of proposals and then counterproposals. So first how do we clarify where we're and come to, you know, if possible appoint on what the proposals are? But then also how do we go to our working group members to understand the level of support for various proposals that have been put forward? One mechanism is an online survey, there may be other mechanisms as well, the quickest of this portion of our agenda is to talk about your knowledge because you've done this many times in different groups. Different ways to survey a multi-stakeholder group to come to some consensus on moving forward George go ahead please.

George Kirikos: George Kirikos -- sorry George Kirikos for the transcript -- yes I think it's a
                    little bit premature to do things like online surveys to pull support when we
                    haven't received the data to come to conclusions on whether we should
                    support various proposals so it's kind of putting the cart before the horse. You
                    know, we need to be caught finding - sorry we need to be find - following the
                    scientific method of, you know, making a hypothesis, doing experiments or
                    tests - or say note verse data to test those hypotheses. And then arriving at
                    conclusions through those observations and logical deductions so and
                    furthermore I want to reiterate the idea of capture that we have a very high
                    proportion of members that are from the IP constituency. So just doing a
                    popularity contest of, you know, proposals could lead to very bad decisions
                    and bad outcomes for the groups that aren't as well represented on this PDP.

                    For example (unintelligible) passed out in the chat room right now about
                    (unintelligible) hundred million dollars surplus from ICANN to cover the TMCH
                    proposal. So you could say make us a proposal of - should the TMCH be
                    entirely free? And I could see every IP consistency member voting yes for
                    that because it's in their best interest and that might not necessarily reflect
                    what's the best interest for all multi-stakeholders. So just using a popularity
                    contest is the wrong approach, we should have strong conclusions based on
                    data and, you know, having a popular position that isn't supported by data
                    and is unsupported by any rational reasoning should be rejected even if it's
                    very popular thanks.

Kathy Kleiman: George before you get off let me ask so you would continue the discussion of
                    the working group and with more data? Is that…

George Kirikos: Yes I've been asking -- George Kirikos again -- I've been asking for that
                    analysis group top 500 key words the last two months I, you know, I didn't
                    ask for it today but I'll ask for it again. You know, where is it? You know,
                    we've been asking for data for a long time and where is it? You know, we're
                    kind of spinning our wheels here waiting for it.

Kathy Kleiman: So let me pose the whole working group -- this is Kathy of course -- how do
                  we come? We do have a schedule and we're being pushed by the GNS of
                  council who can also report back because it - in timing with the new GTLD
                  process in the next round. So how do we come to closure on the proposals
                  and then how do we survey our membership or find other ways to get the
                  pulse of the working group for the level of support for various proposals and
                  how we might move forward? And if you're typing answers in the chat room I
                  would urge you to come on to the call. Does anybody have experience with
                  kind of working with very desperate groups? Are there tools that will - might
                  be using? SurveyMonkey is one of them are there other types of tools that we
                  might use that are online for this type of discussion? Jeremy go ahead
                  please.

Jeremy Malcolm: I'm pretty new to ICANN working groups so I've done a lot more at the
                  internet governance forum where we have stake holder groups coming
                  together who have very desperate views but the difference there is that IGS
                  is generally not making policy directly it's just sort of discussing. So the
                  mechanism that I've used at the IGS may not be something that could be
                  transplanted to perform but I've used idea of raging sheets - I can send more
                  information of these perhaps. There's another mechanism called deliberative
                  pollen that has been trialed at the IGS, there's another one called liquid
                  feedback. I'm kind of hesitant to kind of sort of propose the - because I don't
                  know if maybe I - other ICANN working groups have already got some
                  established mechanisms in place.

                  But I do think something a little bit more capable of balancing the different
                  stakeholders' views without one group dominating the other is important and I
                  think that polling -- as in SurveyMonkey -- accomplishes that because it did
                  and then just become a numbers game rather than a real balancing act. And
                  anyway that's not really a useful response because I don't have a concrete
                  suggestion to make but just maybe something worthy of further discussion
                  rather than defaulting to the use of polling.

J. Scott Evans: This is J. Scott I'd like to get a queue please.

Kathy Kleiman: Okay J. Scott Mary has had her hand up for some time…

J. Scott Evans: Okay.

Kathy Kleiman: So I'll let you make the call. Do you want to speak or should we call on Mary?

J. Scott Evans: No let Mary go ahead.

Kathy Kleiman: Okay great so Mary, J. Scot, (Greg) thanks.

Mary: Thanks Kathy this is Mary from staff so I just wanted to interject with some I guess information especially for members who may not have participated broadly at ICANN or in the GNSO. First it is to clarify that whether we use polls or surveys or any other mechanism at this stage it is not the same as the consensus call that some of you may be familiar with. Which is normally reserved for a more final stage of deliberations of the working group. So whatever mechanism we're using now the idea is to really gauge a couple of things. One is the level of support that specific proposals -- and we received a few of those -- receive amongst the four-working group membership. That's been quite useful in a number of other working groups including the registration directory services group which, like, ours has over 100 members and it's clear that not everyone can follow or participate on every week's call.

                   What I wanted to say on that is that it's not intended just to be a numbers game, like, I said it's intended to gauge the level of support but that can be done alongside a number of other things. For example the working group also has the ability under the GNSOs guidelines of reaching out to the rest of the community. So for example we could take the results of the poll -- suggestions made by folks on the poll -- and do a couple of things. There's coaches working perhaps with the proponents of each (g) could talk through the feedback that we get from the poll and we can use that either as the basis

for outreach to other supporting organizations, the broader community, or even as the new GTLD subsequent procedures group does develop a community commons document that you then publish for public comment. So I wanted to make it really clear that even if you use a poll or any other mechanism it is not to close up discussions or add any sort of final stage but it's really to allow us to just get a sense of where we're and to see whether and how we can move ahead. Both with what's being discussed in the proposals and with all the other tasks that we have, hopefully that's helpful thanks Kathy.

Kathy Kleiman: Thank you very much Mary for kind of expanding our sense of - our knowledge of the tools that might be available to us. J. Scott go ahead please.

J. Scott Evans: Mary answered all my questions thanks.

Kathy Kleiman: Terrific thank you J. Scott, (Greg) go ahead please and just a note that we have four more minutes thanks.

Gregory Shatan: Thanks Gregory Shatan I think the first thing to keep in mind is -- parallel to what Mary was saying -- polls are I think to get a sense of the room, a sense of trends that are not consensus counting tools, interviews, you know, for the - that purpose. I also think the focus on what constituency or stakeholder group one might be and I think is well-placed. I count 11 members of the IPC on this call among the 48 people listed under participants so I don't think that - doesn't somewhat capture it's may be well represented but that's only to be expected. And I'm glad that we, you know, are an active constituency but I think that we have -- at least among those 11 -- I think there are a couple that participate in other stakeholder groups and some that don't agree with other people in the constituency so -- on various things.

So there's no block roading going on here and I think that, you know, if we were to count other groups - again I think - but I don't want to get into group

counting I think that is - it's silly. I think another thing to consider -- and this would be my last statement -- is that all have to stop fighting from our corners and to start trying to walk a mile in each other's shoes to try to find solutions that work for the common goal that has brought us here. Maybe some people are here entirely out of self-interest or because that's their job, for me it's neither I believe in our shared goal and value system here. And I think that the surest way to avoid so-called capture is to create a collaborative atmosphere rather than one where everyone is fighting for their piece of the pie thank you.

Kathy Kleiman: (Greg) thank you so a number of different views expressed some with concerns about struggle, some with support for them. Something really -- getting to closure -- We'd really appreciate everyone's thoughts on this how we move towards closure on these questions that we have been talking about for so long. And I would urge kind of a crystallization of the proposal especially to the extent that there are variations out there that would make it easier to understand exactly what's been proposed and for people to understand. Of course people should be going back to their communities to get input and maybe Jeremy can share some more ideas about some of the tools that are out there. And thank you to (Greg) for his comments but this is tough and this is really - we could talk about these issues forever - the GNSO council is waiting for us. I did want to respond to (Claudia)'s question, can the coaches reach out to the contractor party's house to encourage their participation?

We could reach out to both the registry stakeholder group and the registrar stakeholder group how we do have participants here and John never did speak. But the note with three policy development process working groups going on in parallel we told the (unintelligible) and we told the dean of council long time ago that everyone would be stretched to the max and that may be why we're seeing slimmer participation in some of the working groups from some of the stakeholder groups.

Thank you for today's discussion Mary or Terri before we sign off could you tell us when our next meeting is and what time. Terri writes in the chat that our next meeting is Wednesday June 7th at - oh this is the late-night meeting for a 90-minute duration this is the Asia timed meeting. I believe it starts at 11 o clock Eastern although we should check that and I hope you can join us on next week's discussion. Thank you everyone for this detailed conversation please add additional thoughts to the working group both to continue the discussion and to inform those who weren't able to participate with us today. Thank you again and have a good rest of your day. Bye-bye.

Terri Agnew: And once again the meeting has been adjourned.

END