

**Transcription ICANN61 San Juan  
Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Part 1  
Saturday, 10 March 2018 at 15:15 AST**

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Julie Hedlund: Hello and good afternoon, and welcome, everyone. This is Julie Hedlund from ICANN org, and welcome to the Rights Protection Mechanisms PDP Working Group today on March 10 at 1515 local time. And I do welcome working group members to please come and join at the table if you can. We do still have some seats left.

And again this is a public session, so we certainly do encourage audience participation as well. And you'll note that there is a stand-up mic at the back of the room. We'll just ask everybody when you are speaking to please state your name for transcription purposes. And it's helpful if you also could state your affiliation as well.

And with this I would like to go ahead and turn things over to our co-chairs, Kathy Kleiman and Phil Corwin. Please go ahead.

Kathy Kleiman: Good afternoon, everyone. This is Kathy Kleiman, and I'm with co-chair Phil Corwin, and we welcome you to the first of the four sessions that we're having for the Rights Protection Mechanism PDP Working Group.

These are face-to-face meetings that come atop of the hour and a half meetings that we have every week, in addition to the sub-team meetings.

So first a huge thank you to the working group around this table, the working group participating remotely, and those who haven't joined us, are unable to join us now, for just ongoing effort for a very, very long period of time. We appreciate your time, your energy, your involvement.

We do need to share, as you've read, that co-chair Phil Corwin - sorry, co-chair J. Scott Evans will no longer be joining us. He has taken on new responsibilities at Adobe and sends his regrets and his regards, but he is no longer with us. So tomorrow we'll be talking about a new co-chair.

But that's not our agenda for today. After a lot of consideration we've divided the sessions into different, distinct categories to help us stay focused.

In this session, this hour and a half session right now, we'll be talking about the results of the two sub-teams that are working on URS issues -- one working on URS providers, questions we want to gather from the providers of URS services. That's 45 minutes. Then we'll move on to questions that arise from evaluation of the URS documents.

These are two different sub-teams. Tomorrow we'll hear from the URS practitioners sub-team.

So before we start, though, I'd like to ask if my co-chair, Phil Corwin, has some opening words to say. And again, thank you all for joining us, and we encourage people who are remote to participate just as actively as people who are here in person. Thank you.

Phil Corwin: Yeah, thanks, Kathy. And thank you all for being here today and not enjoying the tropical beauty outside.

We acknowledge the contributions of J. Scott Evans, who made great contributions while he was one of the three co-chairs. And as Kathy mentioned, we'll be having a discussion at tomorrow's session about the process for moving forward as rapidly as possible to select a successor, with the participation of the working group.

So with that we're going to - first item of business is the providers sub-team. And basically we divided our URS work at this point into three sub-teams, one looking at practitioners, interfacing with people who have both brought complaints and defended against complaints with the URS documents. It's reviewing all the relevant documents and providers. And I've been working with the providers group.

Show of hands. Who else in the room has been part of that providers group? Okay, so we've got three others. Great.

And what we have done in the providers group so far - we're not completed with our work. We're about halfway done. We reviewed all the rules for the URS, which are set forth in the applicant guidebook for the new TLD program.

Then we reviewed the memorandum of understanding, which is a short two-page contractual agreement between ICANN and all the providers. The terms are the same for all the providers.

And we did this to see what questions would arise, objective questions would arise, about the role of the providers and how they handle their work. And we still have to go through the procedures, which actually implement the rules. And then there's some technical specifications which we're going to review, too.

So we're about halfway through that work. We expect to be completed with one or two more meetings of that sub-team after ICANN 61.

And as you can see on the board - and it's very tiny print, so it's very hard to read unless you fill your screen. These are the initial questions we have derived from our review that I just described. And so you can see that we've - now these may not be the final questions.

We haven't really reviewed them to see if there's any duplication, or if it's necessary to go forward with any one. This is kind of the raw work product from the sub-team's initial review of the procedures and the MOU. And you can see - I mean, the rules and the MOU.

So, Ariel, how do we - how do you suggest we go through here? Should we just review what the proposed questions are? Or what do you think the most efficient way - we'll see how many - we have seven pages here of questions. Well I'll just run through them quickly. I'm not going to read the portion of the rules that the questions arose from, but just quickly through the questions. Maybe we'll stop at the end of each section.

The first section's on communications. And so the questions we've come up with at this stage - and again we may consolidate or refine a bit more. How do providers send notification to the respondent? Have providers received responses from respondents after the deadline? That's the initial - what if it's a 14-day deadline? Then is that deadline long enough? Of course it's supposed to be an expedited proceeding.

Do providers have any notification of delayed communications? That is, do they get notice that there's been some delay in the delivery of the email notice? Do they have any notification of non-delivery of communications?

Going down - and there's supplemental rules. Are there reasonable ways of communicating? And we haven't gotten to review the supplemental rules yet. That's down the road for our URS work. What percentage of communications were done in ways other than electronically via the Internet?

And a lot of these are just going to be proposed to the providers to get their answers. And again you can see they're fairly objective questions. They don't require a lot of subjective judgment to respond to them.

Do providers conform with the communications timeline in accordance with this provision? And that's - you can see the reference there to the portion of the rules.

And if respondents did not receive notifications the first time, how could they report on the bounce-back? So just we want to make sure the respondents do get a notice that a complaint's been brought against them.

So let's stop there. That's on the rules relating to communications. Anybody want to discuss or raise questions about any of those proposed questions? I see John McElwaine raising his hand.

John McElwaine: So John McElwaine for the record. If we can scroll up there, just one question there that I thought was not particularly objective. And it was the one saying like is the deadline long enough. That is a subjective question, and actually presupposes that maybe it's not long enough. I actually wasn't even really sure what people were - the drafters were getting at with that question.

Phil Corwin: Well again, that's a good point, John. And again this is a raw draft of questions we pulled out. We've been going very quickly through the rules in that sub-team. We covered all the rules in about just over two hours.

So we may edit down these questions, and that's a good point, that this is not - that's more of a policy question for the group rather than a question to be posed to the providers, unless they think there's - if they've gotten feedback on that. But we'll take that under consideration. Yes?

Ariel Liang: This is Ariel from staff. There is a remote question from George Kirikos. Perhaps an additional question might be, how will your notices be affected by GDPR, if access to Whois is limited?

Phil Corwin: Thank you, Ariel. That's an interesting question, about the topic that's going to be the predominant topic at this ICANN meeting. Can you...

Kathy Kleiman: This is Kathy Kleiman. There had been a discussion about whether we should actually talk about the GDPR and the URS here at this meeting. And we really hadn't - by the time that suggestion came up, we really didn't have the time to do the research, and it wasn't the work that was right in front of us, so we decided to go forward with the work right in front of us.

But we should be putting together a list of questions regarding the GDPR, regarding how that disclosure of the registered data is done. Also, what protection of the trademark owner is necessary? This is now a process we need to think about.

So kind of let's queue it up, and we'll put it in probably towards the end -- not of this meeting, but the end of this URS process, because we will need to think about it. And especially those people who are the data protection experts in the room, we would love your expertise on this. Thanks.

Phil Corwin: Okay, so let's go on to the next one, which is the questions regarding the complaint.

Kathy Kleiman: If I may, Kathy again. So George has said in the chat room, these are questions for the providers, so we need to get information from them if we're going to make any changes before May. I think that's a very good point.

So and in fact, preview of coming attractions, on Thursday morning - right? Thursday morning? We will have the providers with us both in person and remotely. So we will be asking them, I believe, a subset of these questions,

although Phil can clarify that, as well as other questions that we want to ask, including GDPR.

So, George, let's - I will queue that up for them, but also hopefully you'll be with us on Thursday morning as well. And let's start asking some of these questions. You're right. The providers should be thinking about this in light of some of their other activities.

Phil Corwin: Yeah, and we'll figure out how - of course nobody knows the model yet, the interim or the final model for GDPR, and how that would interact with the URS and the UDRP, where we want the providers to get access.

And I just lost connectivity, and now it's back. That's good that it's back. Let me scroll down again.

Kathy Kleiman: David, please.

David McAuley: Kathy, thanks. David McAuley for the record. So I'm happy the providers will be here Thursday. Does that mean all three providers will be present?

Kathy Kleiman: I am going to ask Ariel, who's been in contact with them.

Ariel Liang: And this is Ariel from staff. Two of the providers will participate remotely, and one provider is FORUM, that will attend in person.

David McAuley: Thank you.

Kathy Kleiman: And that's very exciting, and they've kind of turned their schedules upside down to respond to our request that they join us as kind of high-level information.

Phil Corwin: Okay, moving on to the complaint. Do providers accept complaints that don't contain all the required elements? Do they ask for any additional information beyond what's required in the rules?

And moving down - excuse me one second. Okay. Has any provider used rules related to abusive complaints at all? There are rules regarding abusive complaints in the URS.

And I don't know what's going on with my screen. It keeps jumping around and changing size without my touching my laptop, which is odd. It makes it extremely difficult to read it. Maybe you could ask a question, Kathy, while I try to figure this out. Because if you could see my screen, it's literally going in and out, and jumping up and down. And...

Kathy Kleiman: Okay. So as Phil just read, has any provider used rules related to abusive complaint at all? And then I'm reading that again because the follow-up is, has any penalty been set forward?

Next question, how are providers complying with their MOU Paragraph (2B8) with regard to establishing and maintaining a process to monitor URS abuse?

And I should just add these are fairly new sections that were added with the URS. And so we're very interested - I mean, it makes sense. I'm not in the providers sub-team, but it makes sense that they're asking questions about kind of how this - these are fairly new when the GNSO adopted these rules. So I think it's interesting to ask questions about whether it's been used, and how it's being used. But I can't tell you what MOU Paragraph (2B8) says.

Phil, should we keep going? Or do you want to comment on this?

Phil Corwin: Yeah, well no. My screen's behaving for the moment. Yeah, there's stuff in the MOU about the providers establishing and maintaining a process for the monitoring of URS abuse, and keeping a database on that.



And we have questions about whether they're doing that, and are they communicating with each other. And of course we don't know yet how many, if any, instances of complainant abuse they've identified.

Okay, next question - yes?

Woman: Greg's...

Greg Shatan: Thanks. Greg Shatan for the record. In that question, has any penalty been set forward, it seems - if you look at the rule, it just says that the complaints will be not be accepted if the complainant has exceeded its quota. So that seems to be the penalty.

So why - are we asking if they've instituted, on their own initiative, an additional penalty not called for in the rules or procedures?

Phil Corwin: No, Greg. I think that's just an inartful way of asking whether any of them have actually barred a complainant because they've hit their quota of abusive complaints. Again, these are raw questions. We haven't refined them yet.

Greg Shatan: Maybe the problem is they're not in standard written English because, you know, it's just hard obviously. I can't write in any other language other than English, so I admire people that can even get somewhere, you know. But I don't know. If that's inartful, we're going to need to make these questions into kind of, you know, communicative English questions.

Phil Corwin: Yeah...

Greg Shatan: Apologies to whoever wrote it.

Phil Corwin: That is the plan. Again we're - and this is part of the plan, to review them and see where they need to be clarified. They're not in final form yet to go to the providers.

Kathy Kleiman: And we'll just share that every sub-team - for people who are watching who haven't participated, every sub-team only had two weeks. So we're just getting started.

But I have to share that in the practitioners sub-team, Greg rewrote the questions...

Phil Corwin: Yeah, we are going through...

Kathy Kleiman: ...so they are very articulate.

Phil Corwin: ...complaints. Yeah, I'm going to - unless there's a burning - for both remote questions and in the room, I think it might be better if we just went through each section, like finish on the complaints and then review any questions or points to be made about that section that we've been reviewing, rather than jumping in and out with questions. Is that okay with the folks in the room?

Okay, so the next questions relate to provision of the rules, which say that a complaint can't be filed against a domain name that's part of an open and active URS or UDRP.

So the questions relating to that are, has a provider conducted a check on whether a domain case is already subject to an open and active URS or UDRP? If so, how did they find out? It's not clear how you'd know that. Do providers rely on the information provided by the complaint?

Does anyone check for court cases in the event a respondent doesn't respond? And there's also a provision there about open court cases. And

how do providers view their responsibility under the (3G) -- that is the responsibility to make inquiry; how far do they have to go?

So that's everything about the complaints. So any further questions or proposed clarifications for any of those questions? Yes?

Ariel Liang: Yes, it's Ariel from staff. There's a remote comment from George Kirikos about this section. An additional question might be, are providers coordinating abusive complaints across providers, since there would be abuses at multiple providers that cumulatively break the limit, but not individually, since there is no central database of all URS decisions?

Phil Corwin: Okay, we'll note that for the record as we further refine these questions. And, Ariel, I'm going to rely on you for any remote questions or comments, because I'm in full-screen mode and can't see any raised hands or chat, so I can read these questions.

Next short section, notice of complaint and locking of domain. The rules say that the complaint should be transmitted in English, or translated by the provider into the predominant language used in the registrant's country or territory.

And the questions. Are providers checking Whois information -- there's Whois again, and GDPR relates to that -- in order to determine the language to be used to transmit the notice of complaint? And then the other question is, are providers following this provision of the rules? That's the provision requiring that the electronic copy of the notice of complaint may be provided via email or an email to link to an online platform.

So those are the two questions on the notice of complaint and domain locking portion of the URS rules. Questions? Comments?

Okay, next section is on the response, for when the respondent provides a response.

First question is, have providers gotten responses alleging any abusive complaint? And how did they act if they've received those allegations from the respondent?

Then there's a statement required to be in the response. And the question relating to it, is the statement included in the provider's forms that are provided to the respondent?

Okay, next...

Greg Shatan: Before we get out of this section, I think as I understand it, the allegation of an abusive complaint is made in the URS proceeding itself, and that the examiner makes the ruling as to whether it was abusive or not. And so this question seems to be kind of mis-aimed, or needs to be recast to take into account the actual process.

Phil Corwin: Which question are you referring to, Greg?

Greg Shatan: The one that has providers - the respondent may request a finding that the complaint was brought in abuse of the proceedings, per URS procedure paragraph et cetera.

And the question we intend to ask is, have providers gotten responses alleging any abusive complaint? And if so, how did providers act in these cases? The procedure is not that the provider receives it.

Phil Corwin: Right.

Greg Shatan: It's in the response.

Phil Corwin: It's the examiner, of course.

Greg Shatan: And the examiner gets it, not the provider. And then the examiner rules on it. We could ask how, you know - how does the examiner, you know, inform the provider that he's ruled one way or the other on that?

And from having reviewed a bunch of these decisions and, you know, working on our practitioners questions, I can say that quite a lot of - when there have been responses, quite a lot of the respondents have alleged abusive complaints.

We can also ask, you know, what the percentage, success percentage, is on those complaints, because I saw a lot of allegations, and I don't believe I saw a single ruling that a complaint was in fact abusive.

So it would be good to know, you know, how many they received, and how many - you know, each were received by the examiners, and how many made a ruling that in fact it was abusive.

Phil Corwin: Okay, those are all good suggestions. I assume staff's taking notes as we get these...

Woman: I actually missed that bit.

Woman: (Unintelligible).

Phil Corwin: Okay, okay. Thank you, Greg. You're correct, of course. It'd be the examiner who would consider whether or not the complaint had been abusive, whether the allegation was correct or incorrect.

The next questions relate to the provision of the rules which allow the respondent to, in exceptional cases, request an extension of the time period for filing the response.

So the questions are, how often has the respondent asked for an extension?  
And how often has the complainant asked for an extension?

Greg Shatan: Is there any way in which...

Phil Corwin: I'm not sure...

Greg Shatan: ...the complainant can ask for an extension?

Phil Corwin: Yeah, as I read that, that question probably needs to be struck. It doesn't make sense. And what do providers consider exceptional cases? Again, these are raw questions and they need to be fleshed out a bit and clarified.

Okay, and the next question relates to the rule that says no affirmative claims for relief by the respondent are permitted, other than an allegation the complainant has filed an abusive complaint.

And the question is, has the provider ever received affirmative claims for relief for reasons beyond - we wouldn't expect them to do anything about that, because the rules are quite clear that...

Greg Shatan: I mean, I assume - this is Greg again.

((Crosstalk))

Phil Corwin: ...the only one that's permitted.

Greg Shatan: I assume that if there was a complaint that had to be thrown out because it's out of scope - but I guess raises a broader question for the providers which is, do they review the complaints? Or how do they review the complaints? And what do they do to make sure that they're compliant?

Because, you know, to answer this question yes or no, assuming somebody was kind of aggressive enough to put in an additional claim for relief, or silly enough, that would only be found out if the examiner - if the providers, you know, reviewed the complaints, you know, substantively in some fashion. So I don't know if we've asked how they - what their intake process is.

Phil Corwin: You know, Greg, I think the way these questions are phrased - and this is the first time we're actually reviewing these questions in their raw form, because the two meetings we had before ICANN 61 were to go through the rules and the MOU.

I think when we see provider, it's really the provider is a forum - is providing a forum in which they have panels - you know, they have examiners. And truly the examiner - I think in a lot of these questions provider presumes that the examiner is making the determination. So we can...

Greg Shatan: We should confirm that, if they're literally just, you know, funneling, you know, filings to examiners, and the examiners have to, you know, see if they comply with the standards. It's a good question. I have no idea.

Kathy Kleiman: This is Kathy. I believe there is some initial review of complaints to see if they meet kind of the threshold of having what they need.

In this case, though, I think we're - I think, to follow along your line of reasoning, Greg, are they reviewing - are the providers reviewing the responses? Since we're on response. And that's an interesting question.

Greg Shatan: Right. That's a separate question. They may see the complaint; they may never see the responses.

Kathy Kleiman: Except to funnel them through, exactly. So maybe that's a follow-up. Are the providers seeing the responses?

Phil Corwin: Okay, next section of the rules that says the providers' compliance check for response shall at least consist of, and then it's the proper language, and payment of the fee.

So the question is whether providers conduct any compliance check beyond those two items, since it's not exclusive. It says at least consist of. So we want to know if any of the providers are checking for anything else when they review the response at the initial stage.

If the response is determined to be non-compliant after the non-payment - for reasons other than non-payment, the examiner's permitted to make reasonable inferences for any inadequacy of the response.

So the questions relating to that, how many responses were determined to be non-compliant? How many were filed with - but fees weren't paid? And can providers identify any cases in which they determine the response was non-compliant for reasons other than the non-payment of the fee?

So that relates to that section. And that's all the questions regarding the response portion of the URS. So Greg's hand's up.

Greg Shatan: Phil, Greg Shatan again. We should also ask who determines whether a response is non-compliant, whether that's the provider or the examiner.

Phil Corwin: Sure. And you see in the reference to the rules it says the examiner's permitted to make reasonable inferences from the inadequacy of the response. So...

Greg Shatan: Right. I see they get to make the inference.

Phil Corwin: Right.



Greg Shatan: That means in terms of, you know, once they have this inadequate response, they can make inferences from it. But the question is, who makes that determination in the first place? Are they sent down from the provider saying here's an inadequate response, make your inferences?

Or they just said here's a response, you know, we haven't looked at it other than to send it off to you, and you have to make a determination whether it's inadequate, and then make any inferences you wish to make from that determination?

Phil Corwin: Okay. Other comments on the response portion of the rules? How are we doing on time here? Okay. What do we have? Another 12 minutes? Okay.

Kathy Kleiman: Philip, I might - this is Kathy.

Phil Corwin: Yes, Kathy.

Kathy Kleiman: Just noting that the response fee that we're talking about, since I happen to be carrying my secret URS rules, is for 15 or more. If you file - if the complainant files - well complaints listing 15 or more disputed domain names registered by the same registrant will be subject to a response fee that will be refundable to the prevailing party. So I just wanted to let you know that this is one area that the URS is different from the UDRP.

Phil Corwin: Okay. I'm trying to figure out how to proceed here, because we've got 12 minutes left for this section of this working group session, and we're on Page 3 of 7 of these list of raw questions. So we're clearly not going to make it through all 7 pages in the 45 minutes.

We have - I guess we can just go as far as we can, and pick up where we left off at the next meeting of the sub-team, which anyone is welcome to join. I can't think of a better way to proceed, unless someone else has a suggestion.

Kathy Kleiman: I have a suggestion. Can we ask who's doing the presentation for the documents section?

Woman: John McElwaine.

Kathy Kleiman: Okay. Do you think that you'll be taking 45 minutes? Or do you think it would be faster? Like can we steal some of your time for providers?

John McElwaine: (Unintelligible).

Kathy Kleiman: Okay, ten minutes? Thanks.

Phil Corwin: All right, so let's go about another 20 minutes till about 10 after the hour, and then we'll turn it over to John to...

((Crosstalk))

Phil Corwin: Okay, the next portion of the rules regards the examiner.

Woman: Sorry. We have a question...

Michael Karanicolas: Oh, (unintelligible) on the next section...

Phil Corwin: Okay, okay. It's an offside. That's a policy offside, if you ask questions before we've reviewed the section. You're penalized 10 yards.

Okay, this is about the examiner. Each provider's supposed to maintain and publish a publicly available list of examiners and their qualifications. And then the examiner's are required to be impartial and independent, and disclose to the provider any circumstance giving rise to justifiable doubt as to their impartiality or independence.

And if at any stage during a proceeding new circumstances arise that could give rise to justifiable doubt about that, the examiner's supposed to promptly disclose. It's just basically about conflict of interest and impartiality.

The questions are - now the providers are generally doing a real good job of publishing their list of examiners and their qualifications. But we did notice some shortfalls, particularly of one of the providers. So the question is, why were qualifications of some examiners not published, particularly by the Asian Dispute Resolution Center?

And then the questions. Did the providers make the examiners aware of their need to be impartial and independent? Has there been any circumstances that gave rise to justifiable doubt regarding independence or impartiality of an examiner? And was this disclosed before or during the case proceeding? And what happened?

Does the respondent have the ability to point out that the conflict of interest bias from the examiner - if the - that'd be if the respondent had such knowledge clearly. Can they do this in their response? It's not clear from the rules.

Is there a situation that a respondent was aware of the conflict of interest? Is there a situation that the respondent - this is kind of duplicative of the previous question. We're going to have to consolidate these clearly.

And is there any possibility for examiner-shopping? I guess that's the - we want to know a little bit about the process for how the providers pick and examiner for a particular complaint.

So these all need some refinement. But any questions about the questions? Or comments? You're now qualified...

Michael Karanicolas: Now I'm onsite.

Phil Corwin: You're onside?

Michael Karanicolas: Michael - sorry. Michael Karanicolas for the record. So I'm looking at our email from February 21, after that day's call, evening's call, day's call. And I see a few questions about examiners that I can't find in the list here, that I can't find in this document.

And that specifically is how examiners are selected; what background they have; what training they have; and how they determine the standard of proof in URS cases. I can't find those in the list.

Were they - I'd appreciate - am I looking at the wrong place? Or would this be where they are? Or are they not there?

Phil Corwin: I'm going to refer that question to staff, because staff is the group that put this initial list of questions together. And if there was any oversight, we have time to add questions.

Ariel Liang: This is Ariel from staff. I will cross-check after this meeting, and make sure all the questions are included in the consolidated document.

Michael Karanicolas: Thanks. Oh, just a note. It's in the document - if you're referring back to the email on the 21st, it's early on under Notes, as opposed to in the - under (Picks). Thanks.

Phil Corwin: Zak Muskovitch, go ahead.

Zak Muskovitch: Thank you. Zak Muskovitch. The second listed question -- has there been any circumstances that give rise to justifiable doubt of the independence/impartiality of an examiner, has there been any circumstances -- I'd like to suggest rewording that to a related issue, what are such circumstances that give rise to a justifiable doubt about impartiality.

I think that question is somewhat discussed in the comments section in the column to the right of the question. But I think it's a fundamental question, what gives rise to questions about impartiality, rather than have there been any such findings, which is a secondary question. Thank you.

Phil Corwin: Ariel?

Ariel Liang: This is Ariel from staff. There's a remote comment from George Kirikos. Do we know what the minimum qualifications are? If not, why not? For example, why publish the qualifications if we aren't able to judge whether minimum qualifications are surpassed?

Phil Corwin: Okay, we're noting all these suggestions, and we'll review them as we further refine the list of questions. Yes, sir. Go ahead.

George Nahitchevansky: George Nahitchevansky for the record. On the point about respondents' ability to point out the conflict of interest, it should be extended to complainants as well. I don't know how a complainant under the URS points it out but - without, you know, just calling up the provider and saying, we believe there's a conflict of interest for this examiner having been appointed, because these do come up. They've come up in the UDRP context.

Phil Corwin: Good point. Clearly both parties should have an ability to say, hey, that examiner shouldn't be hearing this case. They have - there's some factor that would lead one to believe that they may not be impartial, or may have a bias to you, or just have a previous relationship with one of the parties, whatever it is. Okay. Yes, Kathy?

Kathy Kleiman: Kathy. Just asking a question as well. Is there - do we even know whether the complainant and the respondents know who the examiner is before the decision is made? Given the speed that this is all taking place, is it only the

provider that sits with that knowledge? I mean, we're thinking kind of traditional arbitrations where both sides would know ahead of time. But I'm not sure if that's the case here.

So that might be a question, is do complainants and respondents have an opportunity to know who the examiner is before the decision, and object if there's a conflict of interest or issue arising under the existing rules. Offered as a suggestion.

Phil Corwin: Okay, I see Greg's hand up, and then Susan Payne's. So Greg first and then Susan.

Greg Shatan: Sure. It seems to me the questions don't align with the process that's described in the left-hand box.

It says that the examiner will disclose to the provider - or, you know, if there is any circumstance giving rise to justifiable doubt, the way - what happens is that the examiner discloses it to the provider. And if at any stage during the proceeding new circumstances arise, then the examiner will promptly disclose those circumstances.

It makes it - so the question isn't really, have there been any circumstances that give rise to justifiable doubt? The question is, have there been any disclosures to the provider of circumstances, a disclosure by an examiner; and, you know, how those were dealt with, and whether there have been any subsequent disclosures of the type in the second sentence, you know, if something happens during a proceeding.

If the examiner doesn't - you know, I don't know if the second question doesn't really make sense either. If so, did the examiner disclose this before and/or during the case proceeding? If not, what happened?

I mean, if not, how would they know? Because it's only by disclosure that we know about these things, unless there's a charge. And that's a whole different question about whether there's a route. And then if there is a question about that, whether there's a route to challenge an examiner's independence, regardless of whether they've made a disclosure or not.

Phil Corwin: Okay. Thanks, Greg. Susan?

Susan Payne: Yeah, thanks. Susan Payne for the record. I might have misheard you, Kathy, but I thought you were suggesting that there could be a question about do the complainants and the respondents know who the examiner will be in advance of the case. Is that what you were asking?

Kathy Kleiman: There's a question here that says, does the respondent have the ability to point out the conflict of interest bias from the examiner, which would assume a prior question of, does the respondent -- and the complainant presumably -- know who the examiner is before the decision is made.

Susan Payne: Yes, fine. That might well be a good question. I'm not sure that it's a reasonable question to ask in relation to the complainant, because you don't have a case until the complainant has submitted that complaint. So of course they don't know who the examiner is.

And I just wonder if we're getting too much in the weeds. And isn't it really - all we're really asking is, to the providers, what process, if any, is there for a complainant and/or a respondent to raise a concern about conflict of interest? And, you know, do you have a process for that? That's really all we want to know, isn't it?

Kathy Kleiman: I will defer to the acting (unintelligible) chair, and the noise in the background.

Phil Corwin: The co-chair's having technical difficulty. Susan, I think what we're trying to get at here is that this is a very rapid process.

Whoops. Oh, we still have some power. That's good.

The complaint is filed. There's a very short time period for response. We may have - and we're not sure. We may have a situation where neither party knows who's been appointed as an examiner until the decision actually comes out.

And if that's the case, and if one of them says, you know, hey, they found against me and I have good reason to believe that they should have disclosed some lack of impartiality but didn't, is there a way to raise that? Whether it's the complainant or the respondent, that they may not know which examiner's been assigned to a case until the decision comes out, because of the rapidity of the process.

Woman: And then Michael.

Susan Payne: That sounds fine but, I mean, isn't what I just suggested as a question, isn't that still the question? I mean, you know, it doesn't matter - you know, we're still not saying, what if any process is there for raising a concern about conflict of interest? Full stop.

Phil Corwin: We will add that to the list. Get to you right away. I just want to repeat again what the process was that led to these questions in this form.

The sub-team went very rapidly through the many, many pages of rules and then the short MOU, and verbally said let's suggest this question. We didn't spend a lot of time refining the question. We just said let's suggest a question about this, question about that.

Staff took notes. Staff compiled the questions based on what they thought they had heard during those discussions. The last call of that sub-team was



a week and a half ago, and this document got to us in its current form, I believe, less than a week ago, sometime in the past week.

So this is really the first time we're reviewing these. So these should not be regarded as being in final form, but being in very raw form. Go ahead.

Michael Karanicolas: Hi. Michael Karanicolas for the record. Yeah, I think that that question should be included, because it does speak to the two other ones that you mentioned. We're asking, does the respondent have the ability to point to a conflict of interest? Are there situations where the respondents have pointed to a conflict of interest?

In order to inform the results that we get back from those questions, we should also know the ability of respondents to know if there's a conflict of interest in advance. Because if they're not figuring any of this - if they're not getting that information until after the thing is decided, then obviously they're not going to be in a position to be pointing out conflicts of interest. So a negative to those two wouldn't - would indicate something different.

Phil Corwin: Okay, thank you. Next section, communication between parties and examiner. No questions arose, as you can see from the notes. The sub-team's going to revisit that after we look at supplemental rules. The next section is on general powers of the examiner. And...

Greg Shatan: Phil, if I could interrupt just a second.

Phil Corwin: Yeah.

Greg Shatan: Sorry. Back on the previous question, I think we should also ask how the provider - or how the examiner discloses or affirms that they are independent and impartial.

Phil Corwin: Thanks, Greg. Back to general power of the examiner.

There's some questions relating to the provision of the rules that says if one or more domain names are registered with a privacy proxy service, or the nominal registering changes after the complaint is filed, it's going to be the sole discretion of the examiner to determine if the respondent is sufficiently related, and to dismiss the complaint with respect to any unrelated domain names.

The examiner may rely on information submitted by the complainant and/or the respondent in making its finding.

And the questions, the raw questions, arising from that are, does the provider know any situation that the normal registrant, nominal registrant, changed post filing of the complaint? If so, how did the provider handle it? And of course when we say provider, we're really referring to the examiner appointed by the provider.

And how many complaints have been dismissed on the basis of the wrong respondent being named, where the domain was registered with a privacy proxy service?

So these are just trying to get any objective data. We don't know that this has ever arisen with a URS provider, but we're trying to find out if it has, and if so, how it was handled. I see Greg's hand up.

Greg Shatan: Does that last question make sense? If there is a privacy proxy service, I think you initiate the complaint against the privacy proxy service as the nominal registrant. And then they, I guess, you know, can reveal the actual registrant. But how could it be the wrong respondent? Am I missing something procedurally?

Phil Corwin: I don't think you are, and maybe this is a case where we might want to go back and clarify the rule itself.

George Nahitchevansky: George Nahitchevansky for the record. You can have situations where, let's say, your name was John Smith, right? And then you end up bringing an entire complaint...

Phil Corwin: ...now. I hope this section of this session has given you a feel for what we've been doing in our review in the provider sub-team, of reviewing the key documents that govern the conduct of the providers, and how they administer the URS.

We're going to continue when that sub-team meets again, which will be the week after next, to continue to review the supplemental rules and then the technical - there's some technical specifications for the providers, see if there's any questions arising from that, and then do a very thorough review of the questions and make them more objective and clear before we're ready to get them to providers.

We imagine we can get all that done in another two or three sessions, and wrap up with that part and get questions out to the providers. And we'll take under consideration, given the rapidly moving implementation date or enforcement date of GDPR, whether there's any questions we need to get to the providers even sooner, regarding anything related to their use of Whois data in the URS process.

And with that I'm going to step back and turn over the next portion of the program to John McElwaine. Thank you.

John McElwaine: Thanks, Phil. John McElwaine for the record. So while they get this pulled up, I basically just also want to take a moment to thank J. Scott for his leadership on this sub-team. It was actually a really positive experience. Everybody was getting along, I thought, very well on the calls. And we made very good progress working through what we needed to work through in this sub-group.

In addition, I thought, while people were going over this topic, there was a lot of data for us in documents to look at. So if we've missed anything, please raise your hand, call it out. If you're in the chat room, please type it in. Because one of the things that we did is we really tried to rack our brains -- where can we find some data, some documents that help answer some of these questions?

In addition, we also - when you got the materials for today's meeting, you probably saw that we had actually three documents. I think we're probably just going to have time to go over this first one. Two of them are suggestions of questions or areas for the practitioners group and the providers group to look at.

So I think without any further ado, we can go ahead and start going over our document. And I'd like to scroll to when we start doing the red lines of the different topics. I don't think I have control to do that, do I? Yeah, so you can scroll up a couple pages. Keep going. Keep going.

All right, so here we start coming into the data sources that we identified -- let me catch up with you -- first being we looked at the suggested topic of what kind of data can we find to help answer some of the questions, the suggested questions, in that third column.

And the ideas that we have were three data sources we could come up with to look at issues with respect to the complaint. Let's see here. Use my PDF. Those documents were to ask providers about sort of a pass/fail on the administrative review of the complaint when it comes in, or the response when it comes in.

We talked to practitioners about their qualitative experiences with the complaint or with putting it together, and what they were seeing in terms of issues with grounds, filing, et cetera.

And then there was some talk about looking at Rebecca's research concerning what types of marks are the subject of complaints.

I'll pause there. Does anybody have any areas we think - they would suggest to look at with respect to complaint data and documents?

Let me also, at this point, too - also, the suggestions from our group - this is for staff. Have those been sent off to the various sub-teams? No. Okay, so that's something, in your next couple meetings, you can take a look at what we suggested. Obviously take it or leave it. And but they were just areas that we wanted to pass along to those various sub-teams.

Moving on to the notice, we had come up with two items to look at with respect to the notice. The first - and again, these are two areas that we referred off to the working groups.

From providers, looking at information about what their process was in sending the notice, and what procedures they have in place for non-deliverable notices. And from practitioners, again asking their qualitative experiences about dealing with notice issues with respect to the complaint.

Anybody have anything they would like to suggest? Any other documents or data sources with respect to that topic? Go ahead.

Ariel Liang: This is Ariel from staff. There's a remote comment from George Kirikos. Are we looking at patterns of abusive spam and/or phishing domains here from the large anti-abuse organizations, for example, block lists?

John McElwaine: Not exactly sure how that's fitting in with these two topics. I mean, George can add it into the chat room, and our group is definitely glad to look at that and see where it can kind of fit into the data and the documents section.

Okay, so I'm going to move on to the response. Here we did have some data that we thought we could collect. So we thought that the documents sub-team - again, these are all sort of preliminary.

We could look at some of the cases from a high level, and look at where the response occurred to determine whether it was likely that, let's see, there were more than 15 or more domains contained. And then - excuse me. And then also look to see whether - like sort of the rate of defaults.

We also suggested to send it over to providers to get their qualitative experience on any issues or communications about getting a domain name locked within 24 hours.

And then looks like there was a question for registries, their experiences about how, after they've received notices from providers, did they have any issues; did they contain the correct information; things like that. Yeah?

Berry Cobb: Thank you, John. Berry Cobb for the record. Just to expand on the first and the second bullets just a little bit, there is a bracket there about - in regards to Rebecca Tushnet's research.

So in that coding structure that staff had presented, I don't know, probably a month ago or so as a proposed way forward, when they're going to - when they're doing the actual coding, there's three different columns within that spreadsheet, that of those complaints that did receive a response, when was it received -- before 14 days, after 14 days, or within the six-month window, and if there was an extension. So that rolled up may provide some insight into this.

And then secondarily, of the 250 cases where there was a response, then it's kind of being suggested here that there could be a deeper dive around, you know, what was contained in that response as well. Thank you.

John McElwaine: Okay. With respect to the next section - so we're on the standards of proof section. We did identify that there were sources that could be looked at -- again another referral to the practitioners concerning their qualitative experiences -- but also to review some of the cases where the respondent prevailed, and in particular in relationship to the grounds or defenses mentioned in Sections 5.7 and 5.8, which is the - if it was a bad faith filing.

So we did, in that sort of limited section, think that we could get some use out of reviewing, again, a small subset of cases.

Then there was also a suggestion that we brought up in that the standard of proof issue, we think, is primarily making sure that everybody understands it. So again, it's a theme we've heard today before, but a suggestion of developing an examination guide for examiners to understand the distinction between such cases, almost like doing a WIPO overview for the URS cases. Yeah, Kathy?

Kathy Kleiman: John, that's interesting because you're right. We're hearing a theme on that. Is that something that would be going to the providers to develop the examination guide, the way WIPO develops it now? Or just kind of wondering where that suggestion will be directed.

John McElwaine: We didn't get into that level of detail as to where it would be directed. But if you take the WIPO model, that would be a good, you know, place for it to come out of, would be the providers, you know, ensuring that there is more uniformity in their decisions, I think, is always going to be, you know, beneficial to the URS as a whole.

Nat Cohen: This is Nat Cohen. Just to follow up on your comment, are you suggesting that the providers provide that guidance individually? Or that it be an overall guidance for all providers?

John McElwaine: Well again, the group didn't really get into assigning that one to a particular sub-group to look at. You know, I think that's really for this group as a whole to decide, you know, is this a recommendation that we would include in the report, that there ought to be some sort of overview-like guidance.

And I think it would be a nice thing to discuss with the providers. I think that's tomorrow's meeting.

Okay, I'm going to move on then to defenses.

Kathy Kleiman: Sorry, John. This is Kathy. The providers will be on Thursday. Thursday morning.

John McElwaine: Oh, sorry. Yeah, don't want to confuse people. I just knew it was coming up.

Okay, so I see with defenses - or is that see notes under Section D. Berry, do you know what that's referencing?

Berry Cobb: So when the working group was reviewing these, they were kind of collapsed together in a single discussion. And so, you know, probably the second sub-bullet about reviewing the 58 cases and the defenses is where that kind of is applicable. But they all kind of fit together, so just collapsed together.

John McElwaine: Okay, so I'm going to move on then to the remedies section. So here we're looking at some of the remedies, such as the perpetual block, et cetera, some ideas that came out of that.

Again we referred some of the data collection or issues to the providers group, again looking at qualitative experiences with respect to the scope and duration of the current remedies.

We did find that a document source we thought would be useful here is taking a look at the IRT and STI reports to kind of get a feel for the origins of the



remedies that were placed into the URS. Talked about needing to review the domain name life cycle after suspension, to better understand that and its impact via the URS process.

And I can already hear George Kirikos typing into the chat room now, but also to look at the INTA study, and to see what sort of data can be gleaned from that that might be useful to looking at some of the issues being raised in this remedies section.

And so that was essentially what we had come up with on the looking at remedies and data sources for that. Anybody have anything they think we missed with respect to that?

Okay, we'll move on to the appeals section. In the appeals process, we had come up with two data sources there to - and this is again where we felt it would be reasonable to look at cases where there was a small enough, you know, subset of cases, and where you could really take a look at them for an objective review.

So the team was okay with reviewing the 14 cases in which there was an appeal, to kind of look at what had gone on with those, and to review any cases -- and I'm not sure there are -- where a de novo review had occurred. But those were the two areas we thought we'd review. And Berry has a comment.

Berry Cobb: Thank you, John. This is Berry. So the second bullet, again, is kind of just keying off of Rebecca's research, as I mentioned, with the responses that they'll be tagging. Those responses were - there wasn't a response in the first 14 days, but there was within that six-month window, as I understand the de novo review in fact.

And so once those get tagged, then we'll be able to filter those out. It's hard to say how many of those, of the 250 or the de novo review. But probably, if I

were to guess maybe, you know, probably no more than 50 or so. But just a guess for now.

John McElwaine: Thanks. Moving on to the next topic, which was the potential overlap in process, so there's a potential overlap in process concerning the duration the respondent has to appeal.

And again, we thought that looking at the appeals cases was really the only data source that you would have here, so that's why there's a reference up to, again, Rebecca's research in the cases we had talked about, and the appeals process above. And again that would also be looking at timing with respect to those cases primarily.

Moving on to the cost section, the purpose there was to look at cost allocation for the URS was the purpose of that section. And we identified three data sources here. Again we referred some out to the practitioners and to the providers.

And that was basically taking a look at getting a feel from practitioners what does this cost, what are you charging -- at least try to get some sort of anecdotal evidence on that. Providers would be looking at what fees do they charge.

Again, the INTA study has a little bit of that information in there, and we could look at that data. So that was identified as well. Yeah?

Kathy Kleiman: With my practitioners sub-team had on the - I'm not the chair. I'm just a member. So the question is asking practitioners how much they're charging to prepare URS. Is that - it almost sounds like sensitive data in some ways, competitive data. Can you give some more rationale so that we can write it, you know, as we're preparing these questions for the practitioner? Kind of why we're asking those questions.

John McElwaine: So the reason was to find out what they were charging. Perhaps we could anonymize that if they felt it was giving away any sort of trade secret.

I think - I don't know if (Lori)'s here still. But I think the INTA study may have had some questions as to what people - what in-house counsel felt like their budget was, things to that effect. So it really is trying to get at what does the average URS cost a party.

And I completely agree with your point, Kathy, is that we would need - if we're asking that question, we would need to do it in a manner that does not cause an issue concerning competitive issues.

I can - for one thing, maybe I should have mentioned it here, although I don't think it's covered by the AIPLA survey. I mean, they were able to undertake a survey of average costs of litigation, including UDRP proceedings, so that people will respond to those types of surveys, if done in the right way.

Okay, nobody else has anything on the cost? Continuing to move along.

And the next section was on language. The issue there was, you know, what issues - any problems experienced with the use of an English-only requirement relating to the URS.

And the URS document team came up with - again pretty much looking - references out one to the providers, requesting them to provide any information on their experiences.

Any feedback that they received regarding the language used in notices, response and examinations. And whether there was the - any experience they had with translations of the notices. And also to talk to practitioners to get their experience, whether they had noticed any issues with respect to the complaint being in only English.

I think we did note that the forum does provide reports to ICANN concerning the language. And we were wondering if the providers of the URS were doing that as well, so making sure that all of the providers, if they were providing a report back to ICANN that would be a source of data concerning the language of the proceedings.

Anybody else have any other - yeah. Go ahead first.

Maxim Alzoba: Maxim Alzoba for the record. Have we identified the full-on team as an issue? The first letter to registry did come in English. The second letter to registrar come in English and in the language of the (commendation). Is it possible to send the same set of documents to both registry and registrar, given that the difference is just this?

John McElwaine: That's a great point. I mean, I think we should note that. That's something to put into this document. Thank you.

Kathy Kleiman: Maxim, could you just repeat that so we capture it?

Maxim Alzoba: Maxim Alzoba for the record. The first letter on the URS rules, the registry has to follow certain steps written in - yeah, three documents relevant to URS. Rules, technical - yeah. Whatsoever. Three of them on the URS page of ICANN.

And the first letter with notification, which goes to registry, it's only, the document, English. The second letter goes to registrar with copy to registry. And it has - in our case it was Russian and English. And given the small period of time between those two, it would be nice to have the first letter containing two documents - so we basically found no reason for not having it.

John McElwaine: Yeah, and also so that might be a good question to ask of the providers, to see if there's a reason why they do it that way tomorrow - or, excuse me, Thursday.

Ariel Liang: This is Ariel from staff. There's a remote comment from George Kirikos. We should be able to get this data based on distribution of first, country of respondent; second, country of registrar, for all complainants. And he continued, particularly data from default cases, if one assumes there is correlation between default and lack of understanding of the complaint due to language issues.

John McElwaine: George?

George Nahitchevansky: George Nahitchevansky for the record. On the language issue, I mean, one of the issues that comes up is that you have people who might be in a country, a particular country, but who have complete fluency in the language.

And so if you just do it based on - you know, you can gather that data on countries and all, but it's not going to really let you know whether your situations are dealing with people who are fluent or at least, you know, have Web sites that are in English or doing something in English, on the complaint.

So maybe a question of providers, as part of this, as part of their experiences, is, you know, how many instances have they had situations where it was demonstrated that a respondent had the capability of speaking English and understanding English.

John McElwaine: Okay. I'm going to move on from the language if nobody else has any comments on it.

So the next topic that we were looking at was abuse of process. And this was - again the issue to examine there was what sanctions should be allowed for misuse of the URS by a trademark owner.

And the team said that we didn't think there were any data would be likely needed, because there is an abuse case database. So we have already heard about that earlier on when we were going over the providers section.

So we think that there is, according to the URS again, a requirement that all abusive cases be documented. And there is a database set up, so we thought that would be sort of the answer to that data collection process. Any comments?

All right. Education and training is the next topic. And again the issue here was whether ICANN was properly doing its job in training registrants in rights and defenses of the URS, and whether providers were training complainants and respondents.

Our sub-team came up with two potential sources. The first was to review provider, registrar and ICANN Web sites to see what information is currently being provided, what is out there. And then from providers, to seek information about what type of training they are currently providing to their panelists.

Okay, I'm going to go ahead and move on to the URS providers section. And that was to look at whether processes were being adopted by providers of URS services that were fair and reasonable.

Our sub-team came up with two potential sources for data collection here. The first was to review provider, registrar and ICANN Web sites again to see what type of information is provided today to folks. And then to seek feedback from the providers as to whether they evaluate their own processes and presumably whether ICANN does any - or any sort of related third-party does any processes to review those URS providers.

Okay, let's see. And then lastly - so it's going all the way down to the alternative processes. And when we hit this one, so this was to look at any

possible alternatives to the URS. And we just said that we didn't think that there was really any data or documents to be reviewed here. It was more of a policy question.

So again the sub-team worked really well together. We went through all these in two meetings. We've got a nice list, I think, of documents and data we suggested that the other sub-teams take a look at, and I presume they'll do so over the next few meetings that they have.

I would say just as, you know, personally, again if anybody comes up with any data sources that they believe to be important, or any documents that could be added to any of these topics, please feel free to, you know, send it out to the list. Let us know.

As everybody knows, we've been really given the charge to do as much data-driven analysis as we can of this process. And so the more, you know, ideas that we have and places to search, the better.

We have a question? Another one? Thanks.

Ariel Liang: This is Ariel from staff. There's a remote question from George Kirikos. Should look at success metrics of alternate procedures. For example, look at academic research for the last question. Presumably, academics have studied various ADR mechanisms for different types of disputes.

John McElwaine: So I probably need a little bit more detail on that, and maybe George can send that out. But it's certainly - you know, again it's exactly what we're looking for, is to get other suggestions as to data sources to look at for these questions. Susan?

Susan Payne: Hi, Susan Payne. Thanks, John. I may have missed it, but when you were dealing with the section about abuse, sort of sections against abusive complainants, I think when we talked about that in the wider working group

we talked about the need for that sort of question area to be kind of mutual, so it should look at sort of respondents' abuse as well as complainants'.

And it may be captured somewhere else and I missed it. But I thought, you know, in relation to, you know, this idea of is there a fair balance, and there's already a sanction against the complainant who is perceived to be acting in an abusive manner, but there isn't the same sort of sanction for the registrant, if the registrant is viewed as being acting in an abusive manner.

And so I thought maybe some kind of information-gathering would be around, you know, the sort of multiple - the registrant who's been the respondent in multiple cases and lost every single one. And there may be no - you know, there may not be any.

But I think it would be a useful sort of information-gathering purpose to see whether that situation arises, because, you know, as I say, one of the things that I think we're supposed to be thinking about is whether there's the balance in terms of, you know, is there a balanced sanction against abusive behavior on both sides.

John McElwaine: Yes, Susan, that's a great point. And, Berry, is that the type of data we can probably look at, whether there's respondents with the same name in multiple different cases?

Berry Cobb: It is possible. Again I'm probably going to -- pardon me -- lean on Rebecca's research. Again, they have columns in there for the complainant and the registrant/respondent.

And, you know, I think in several of those cases there's going to be privacy proxy listed there, so we won't know who was behind it, and likely they didn't respond for sure with those responses. The 250 cases, we'll know who they were. So it is possible, and we'll see how that gets rolled up. And we can



probably run a pivot table against the registrant for that, and see what it comes up with.

But to answer Susan's question, I don't think that that section had really brought on the balance that you had mentioned. And so I'm sure staff's documented it in the note, and we'll make sure to add that in.

John McElwaine: Any other - Maxim?

Maxim Alzoba: Maxim Alzoba for the record. Actually the idea behind that question, when we brought out the - yeah, maybe years.

So the goal was that in situations where the same person registered like a lot of domains obviously he doesn't have right for -- big companies, et cetera, et cetera, well-known -- and he loses case after case, and there is nothing like, for example - yeah, more - yeah, fast procedure for such persons -- for example, if he lost or she lost five or six cases for a year cumulatively, there is no need for to wait for all these six months, et cetera. But it would just be an idea.

John McElwaine: Need somebody to put a pin in this. It may be interesting to ask practitioners, and the providers for that matter, whether they think that a sanction against respondents would make sense.

Certainly going through the list of - that we were going through, our spreadsheet, there were any number of cases against multiple domain names filed by the same application using the same string in multiple TLDs, to which they, you know, clearly had no rights.

As well, I believe, there were certainly multiple cases brought by the same complainant, but I'd have to see whether they brought multiple complaints against the same respondent at different times. But there are clearly cases

where they found a bunch. You know, the biggest one was the Ashley case where a guy registered at, you know, 300 Ashley - whatever.

Anybody else have any data sources, documents, they would like us to look at? Okay, Kathy, can I turn it back over to you or Phil?

Kathy Kleiman: Absolutely. So, Kathy Kleiman with a huge thank you for the documents sub-team, and for John for taking over at the last minute to do the presentation. That sounded as if it wasn't taken over at the last minute.

So thank you very much for the work, and to the provider sub-team for the work that was presented here, and the two weeks of evaluation and discussion and preparation, a lot of it in the last week as we were also preparing to come here. Practitioners, again, tomorrow.

Something to think about, since we do have three whole minutes before we break and then come back for our next session, is one of the things that the leadership team has been discussing is who should do the data gathering?

We can certainly take some comments now. This is intended more for something to think about. So right now we've divided into sub-teams to figure out what the data questions might be, but the question is who should do it.

So I was just talking to Berry, kind of privately when you were going through and you said that ICANN collected - that when the documents team said that ICANN was collecting certain information. And Berry, of course, said he could gather it. But who should the data come back to from the practitioners question, from the documents questions, and from the provider questions?

And so a question for the sub-teams of course is, do you want to continue your work as evaluators? And I'm not volunteering that, because we haven't decided that. But this is going to be a question for one of our full working group meetings to consider.

So if anyone has any comments, we do have a minute or two to discuss this very briefly. But it's a lot of data now that we'll be gathering. So any thoughts on who should do the data analysis and evaluation? Good. We'll all think about it. It is an overwhelming task.

In that case, unless...

Man: At my usual hourly rate, I'll do it.

Phil Corwin: We were expecting your pro bono. Why don't we start our break one minute early? And we resume at 5:00 pm for another 90-minute - yes? Oh...

Susan Payne: Yeah, I just wanted to slag for people. I don't think I'm incorrect here, and staff can tell me if I am. But the next session is meant to be a sub-team meeting for the data sub. And so that's not to say that other people aren't very welcome if they want to observe, but it's - we're not coming back for a kind of full working group meeting in this format.

Our anticipation is that the data sub are a small group of people who have been working for months now. We'll gather in a, you know, convenient huddle and continue our work in a, you know, proper working session. And so if people want to observe that, that's wonderful - or, you know, want to join us and sign up and become part of the data sub and do the work. But it's not a full working group meeting in this kind of presentational format.

Kathy Kleiman: And a quick note. This is Kathy. The data sub is a shorthand for a group that's been meeting for a very long time on the trademark clearinghouse data, since we've been talking about URS data all day. On the trademark clearinghouse data we will be talking about protected marks lists, and it could be a very interesting conversation.

So if you want to think back to when we were still doing the trademark clearinghouse work, this is part of that larger data-gathering exercise. And you're certainly invited to join us. As Susan said, there's a core of people that have been meeting on this every Friday for months.

But it's going to be an interesting discussion. We do have the questions we'll be sharing that have come from the working group to the data sub-team, the trademark clearinghouse data sub-team. So feel free to join us in the next session that starts at 5 o'clock.

Phil Corwin: Well now that the purpose of the next 90 minutes has been clarified, that it's a sub-team meeting rather than a full working group meeting, but one that everyone is welcome to participate in or observe, we'll take our break. And we thank you all for your contributions during the past 90 minutes. Thank you.

Woman: Thank you, everyone. And we can stop the recording.

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