

Attendance (30 Members)

Anne Aikman-Scalese	Karen Day
Avri Doria	Kurt Pritz
Cheryl Langdon-Orr	Martin Sutton
Christa Taylor	Nanig Mehranian
Christopher Niemi	Phil Buckingham
Christopher Wilkinson	Phil Marano
Donna Austin	Philip Corwin
Gemma Keegan	Raymond Zylstra
Gg Levine	Roger Carney
Greg Shatan	Rubens Kuhl
Hadia Elminiawi	Rudy Mendoza
Heather Forrest	Samantha Demetriou
Jeff Neuman	Sara Bockey
Justine Chew	Taylor R.W. Bentley
	Vanda Scartezini

Audio Only:

Kavouss Arasteh

Apologies:

Maxim Alzoba
Jamie Baxter
Kristina Rosette
Javier Rúa-Jovet
Annebeth Lange
Michael Flemming

Staff:

Steve Chan
Emily Barabas
Julie Hedlund
Berry Cobb
Dennis Chang
Trang Nguyen
Michael Karakash
Michelle DeSmyter

Adobe Connect Chat:

Michelle DeSmyter: Dear all, Welcome to the New gTLD Subsequent Procedures Working Group call on Thursday, 14 June 2018 at 20:00 UTC.

Michelle DeSmyter: Agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x-2DCgFBQ&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWI PqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWGIBLwww ehFBfjrsjWv9&m=aj8S75UosRaAT5ROVnrrTBk1ZZOdQPDed7QwqUX2W24&s=fj4gGWOW3yOZJnv6ca5xAzq6iGloZZn1DSQsF18KTI&e=

Christopher Wilkinson: Good evening, Phil - CAW

Christopher Wilkinson:Thaet was CW

Phil Buckingham:Hi Michelle , no problems with adobe add ons blocking access tonite !!

Christopher Wilkinson:Did ICANN bill Webex for the time spent on upgrading their Beta system?

Rubens Kuhl:@CW, software use licenses come with all covered for users not being able to bill or sue them.

Karen Day:It's beenworking fine for me in Chrome this week, CLO. Now of course, watch it kick me out in 5 minutes never to let me back in ;)

Christopher Wilkinson:@K<ren don't tempt providence!

Karen Day:@CW I like to live dangerously

Anne Aikman-Scaese:Could staff please release scrolling?

Anne Aikman-Scaese:Lockhed

Rubens Kuhl:Still locked

Karen Day:It is still locked

Emily Barabas:Undertood, Cheryl

Steve Chan:You can find all of the excerpts in the agenda as Emily mentioned.

Steve Chan:Or here on the Wiki: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_NwUhb&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWGIBLwwwFhfjrsjWv9&m=aj8S75UosRaAT5ROVnrrTBk1ZZOdQPDe7QwqUX2W24&s=8vbDZXVqJ21PCTF3wETqulAjBgV0QM8_S9g-btN5e_A&e=

Emily Barabas:We will

Anne Aikman-Scaese:Agree with CHeryl

Christopher Wilkinson:I am working from a printout. Back to the future. CW

Cheryl Langdon-Orr (CLO):I and staff will progress the doc pages Jeff

Cheryl Langdon-Orr (CLO):Page 5

Cheryl Langdon-Orr (CLO):dy stupid!

Cheryl Langdon-Orr (CLO):my hand slipped sorry

Cheryl Langdon-Orr (CLO):page 6

Cheryl Langdon-Orr (CLO):yes thanks Christopher

Rubens Kuhl:We can't have a conflict yet since WT5 Initial Report is not out... anything before that seems to be speculative.

Greg Shatan:Agree with Rubens.

Greg Shatan:We can't foreshadow any potential outcome from WT5, much less one particular outcome versus another.

Cheryl Langdon-Orr (CLO):Indeed Greg

Anne Aikman-Scalese:I agree in principle that Working Group members should be able to have input before public comment. I think it is the press of time that has changed the procedure.

Rubens Kuhl:Work Track members are always Working Group members. One can't be part of a WT without being part of the WG.

Anne Aikman-Scalese:Agree with Greg's comments.

Greg Shatan:That's not my point, Rubens. My point is that the Work Tracks are being treated as dispositive forums and not as subsidiary to the Working Group.

Rubens Kuhl:Greg, it was a reply to Anne's chat comment.

Greg Shatan:These are questions, not objections.

Christopher Wilkinson:There are several things going on in other WT that most likely cannot be carried over into WT5: Objections, Reserved Names, Business Models, Geographical Indications, etc.

Greg Shatan:Rubens, in that case, never mind...

Anne Aikman-Scalese:I certainly thought the WG would come together to review and discuss issues discussed in the Work Tracks before moving to public comment. This was not notified to us until very late in the game - Process does not follow PDP Manual. Suggest this document be entitled "Preliminary Report rather than Initial Report." Also I don't think we have seen the intro language requested in the first call of the entire WG.

Greg Shatan:We also need to determine how we will deal with conflicts between Work Track outcomes. I would not assume that WT5 can decide on its own to reject findings of the other Work Tracks. I would expect that this would need to be worked out in the Working Group. Or do the Co-Chairs foresee another method?

Jeff Neuman:@Anne - I am not sure why you thought that was going to be the case. Certainly the CO-Chairs have not made that representation

Rubens Kuhl:@Anne, I also don't believe that WG guidelines were not followed. Quite the opposite.

Hadia Elminiawi:could you scroll down the document

Anne Aikman-Scalese:@Jeff - because Initial Report in the PDP Manual requires a Consensus Call. A Consensus Call is done in the Working Group, not in Work Tracks.

Hadia Elminiawi:Thank you

Jeff Neuman:@Anne - that is not a requirement

Jeff Neuman:it is a "Should"

Anne Aikman-Scalese:Jeff: it is listed as an element of what the Initial Report should include.

Donna Austin, Neustar:Apologies for my late arrival.

Justine Chew 2:c. 1st bullet -- did the WT consider who would administer the process?
Christopher Wilkinson:No general objections beyond what I have already said, on the understanding that the whole objections policy and procedures will not apply to Geo-Names applications.

Greg Shatan:There is no such understanding, Christopher, beyond your own.

Justine Chew 2:Can we pose the question for feedback?

Greg Shatan:@Anne, I think it would help all of us to review the WG's work plan.

Greg Shatan:Staff, could you please provide a link to the WG work plan? Thanks!

Anne Aikman-Scalese:From the PDP Manual Item 10 - "After collection and review of information, the PDP Team and Staff are responsible for producing an Initial Report. The Initial Report should include the following elements:fourth bullet point - "Statement of level of consensus for the recommendations presented in the Initial Report."

Cheryl Langdon-Orr (CLO):Yes good add ... point to existing and ask for input

Rubens Kuhl:Anne, that just means the level of consensus needs to be documented, not required.

Greg Shatan:The Charter says "The WG shall respect the timelines and deliverables as outlined in Annex A of the ICANN Bylaws and the PDP Manual."

Greg Shatan:If there's no consensus, then there are no recommendations....

Karen Day:@Anne I realize that in WT3 prior to the San Juan meeting we were expecting there would be time to come back to the WT with these sections before sending them up to the plenary, but unfortunately timing didn't come out as initially thought and the leadership decision was to go the route we have gone instead.

Rubens Kuhl:That would be the case only if there was a full dissensus, like everyone disagrees with everyone.

Cheryl Langdon-Orr (CLO):Thanks Emily

Anne Aikman-Scalese:@ Greg - I think that is correct.

Greg Shatan:Rubens, that's not the case. Decisions of the WG must be by full consensus, consensus or strong support but significant opposition.

Rubens Kuhl:Decisions = Final Report

Jeff Neuman:we are on the 4th bullet while i am drinking

Anne Aikman-Scalese:@ Rubens - level of consensus is a term of art - certainly not applicable to just a case of full consensus. The problems with the current process are: WG members have no input unless they participated actively in the Work Track and 2. Because no consensus call has been made, there is no "level of consensus for the recommendations" and further that means there is no opportunity for a Minority Statement, which is a specific tool provided in the PDP. A Minority Statement made in the process of a Final Report has no effect so deleting it from this phase is prejudicial.

Vanda Scartezini:hi I am in a very loudly environment so just listen...

Greg Shatan:Jeff, sorry to drive you to drink.

Anne Aikman-Scalese:@Jeff - this report is also driving me to drink. ;-)

Greg Shatan:"Recommendations" require some level of consensus, whether they are in the Initial Report or the Final Report.

Christopher Wilkinson:These parameters need to be negotiated with the GAC. I doubt that the GAC would recognise the authority of an WT to create conditions. CW

Rubens Kuhl: CW, that's why GNSO PDPs have many processes of early interaction with the GAC, thru the GNSO GAC Liaison.

Justine Chew 2:e. 2nd bullet -- Can we add a footnote to reference the exact changes to the ICANN Bylaws that is being raised?

Kurt Pritz: As a thought exercise, imagine if there was application for .CAT today? How would certain governments use (not use) this process?

Cheryl Langdon-Orr (CLO): Good add Justine

Kurt Pritz: (my comment was rhetorical)

Greg Shatan: Also, after the WT, these should be approved by the WG before they are in a Final Report and then approved bylaws GNSO Council, which is charged with instituting just such conditions.

Steve Chan: @Greg, you asked about work plan. We will try and leave time to discuss that in Item 4 of the agenda.

Anne Aikman-Scalese: HAND up RE io

Steve Chan: @Greg, we are aware of this sentence under section 2.3 of the WG Guidelines: "The members of sub-teams report their results to whole working group for review and approval." There will certainly be a formal consensus call, at the plenary level, prior to the completion of the Final Report.

Rubens Kuhl: I noticed the text refer to a plural "independent objectors" instead of singular... but I don't know if it's related to it.

Anne Aikman-Scalese: There is work going in re IO in the Accountability Work Stream 2 - it should be referred to in item g. on page 18 of Section 1.8

avri doria: did the IO get shot in the last round?

Justine Chew 2: IO -- can we massage this section to move the questions regarding additional IO to be appointed (found in the 1st bullet) into a separate and last bullet? Because all the other questions apply to exclusively to the existing situation of one IO which is independent to the question of 'several' IOs.

Gg Levine (NABP): I posted a comment to the list regarding string confusion resulting from exact translations of existing TLDs. Do I need to bring it up verbally, as well?

Anne Aikman-Scalese: IN the section on LRO, this should read " is it appropriate for the LRO to be based on an "unfair advantage" or "likelihood of confusion" analysis. LRO was never based on infringement - This was discussed in Work Track 3.

Phil Marano:QUESTION: The LRO redline had a number of proposals in it, in addition to the "abuse" standard, could you please quickly recap on why questions about those other redlines do not appear here as well?

Rubens Kuhl:From AGB: ""Existing Legal Rights Objection" refers to the objection that the string comprising the potential new gTLD infringes the existing legal rights of otthat are recognized or enforceable under generally accepted andinternationally recognized principles of law."

Rubens Kuhl:AGB used infringement wrongly, but that's what it was.

Justine Chew 2:General Questions -- 3rd bullet -- can we use more neutral language for the question regarding limits on funding for objections filed by ALAC? something along the lines of "If this does continue, should limits be placed on such funding? If yes, what limits should be applied?"

Karen Day:Reccomendation 3

Rubens Kuhl:We can't rewrite AGB history...

Karen Day:"Strings must not infringe"

Rubens Kuhl:Or GNSO history, as Karen pointed out.

Karen Day:that's where the term came from Anne, but we are working on further massaging the language for expanitory purposes.

Rubens Kuhl:We can recognize the issue and fix it.

Anne Aikman-Scalese:Thanks Karen - AGB may say that but the rules are in fact not "infringement" analyses. WIPO rules state

Anne Aikman-Scalese:What criteria will a panel use to determine the outcome of a Legal Rights Objection?As provided for in section 3.5.2 of the ICANN Applicant Guidebook, the independent panel will determine whether the potential use of the applied-for gTLD by the applicant:(i) takes unfair advantage of the distinctive character or the reputation of the objector's registered or unregistered trademark or service mark ("mark") or IGO name or acronym, or (ii) unjustifiably impairs the distinctive character or the reputation of the objector's mark or IGO name or acronym, or (iii) otherwise creates an impermissible likelihood of confusion between the applied-for gTLD and the objector's mark or IGO name or acronym.

Kurt Pritz:@Karen - If this is a PDP, can it not change the previous GNSO Policy?

Rubens Kuhl:@Kurt, it can, but not when it describes the 2012 round.

Christopher Wilkinson:@Justine. Indeed, it would be useful to know how many and how much ALAC objections were financed. CW

Karen Day:correct Jeff

Anne Aikman-Scalese:Section 3.5.2 of the AGB clarifies the use of the word "infringe" and is actually a different standard. Here we propose a change in the standard as if it were infringement so we should clarify what the rules really are.

Steve Chan:https://urldefense.proofpoint.com/v2/url?u=https-3A_docs.google.com_document_d_1m5W9S7Eigjs0OER6wv2skbG-2DeaObojBWMxvK4i1rNmc_edit&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwwwwehFBfjrsjWv9&m=aj8S75UosRaAT5ROVnrrTBk1ZZOdQPDeD7QwqUX2W24&s=AsJlqDatOU9UBUHNkAxPSDAyjOB85uMCPUGOrtsqvgg&e=

Karen Day:Sorry @Kurt I didn't see your note until I heard Jeff speak

Steve Chan:Here is a work plan to get to publication of the Initial Report only

Justine Chew 2:Community Objections -- 1st bullet -- what about if an applicant acts in concert with a third party with standing to file a Community Objection for the same string being applied? Deliberations covered this angle.

Greg Shatan:Steve, is there a link to the work plan on the WG wiki?

Steve Chan:The revisions will be stored here: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_NwUhB&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwwwwehFBfjrsjWv9&m=aj8S75UosRaAT5ROVnrrTBk1ZZOdQPDeD7QwqUX2W24&s=8vbDZXVqJ21PCTF3wETqulAjBgV0QM8_S9g-btN5e_A&e=

Greg Shatan:I can't use that link from a tablet.

Steve Chan:@Greg, we will get that added shortly (in PDF as well)

Cheryl Langdon-Orr (CLO):Yes That is annoying isn't it Greg a bug that has been around for years now

Cheryl Langdon-Orr (CLO):Thanks Steve

Karen Day:Sept 3 is Monday, Labor Day

Karen Day:I know the year's there's a holiday for my birthday :)

Cheryl Langdon-Orr (CLO):Sent you the link via Skype Greg

Jeff Neuman:@karen - you are right....i should have said the 5th

Christopher Wilkinson:We need the CCT-RT Report and the WT5 report BEFORE the PDP can put forward a 'final'document for public comm,ent.

Greg Shatan:I'm still trying to SEE the work plan.

Greg Shatan:The initial report is not a final document when it is put out for public comment.

Justine Chew 2:Community Objections -- last bullet -- is there a disconnect in the sentence "If the objector prevails, these PICs become mandatory for any applicant that wins the contention set"? Isn't it the case that if the objector prevails, then the application is rejected? See also IG R on pg 6 :perhaps there may be opportunity for applicant to move their application forward subject to accepting and incorporating these PICs into their application?

Karen Day:1.8.2 1.9 still to go

Steve Chan:@Greg, I just added the link for the Initial Report work plan on the Initial Report tracking page: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_NwUhB&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwwwehFBfjrsjWv9&m=aj8S75UosRaAT5ROVnrrTBk1ZZOdQPDED7QwqUX2W24&s=8vbDZXVqJ21PCTF3wETqulAjBgV0QM8_S9g-btN5e_A&e=

Greg Shatan:That said, I agree that before a Final Report, there must be WG consensus on all recommendations.

Cheryl Langdon-Orr (CLO):So homework will be to prepare for Monday's call

Steve Chan:I'll add a PDF after we get off this call

Steve Chan:I take that back - PDF available now as well

Greg Shatan:Thanks, Steve!

Steve Chan:Next WG Meeting: Monday, 18 June 2018 at 15:00 UTC for 90 minutes

Karen Day:goodbye

Hadia Elminiawi:thanka