

### **Attendance - 35 Members**

Ankur Raheja	Marie Pattullo
Brian Beckham - WIPO	Martín Silva Valent
Cynthia King	Maxim Alzoba
David McAuley	Michael Karanicolas
George Kirikos	Paul Keating
Gerald M. Levine	Paul Tattersfield
Greg Shatan	Petter Rindforth
Heather Costelloe	Philip Corwin
Ivett Paulovics	Rebecca L Tushnet
Jay Chapman	Renee Fossen
Jeff Neuman	Roger Baah
John McElwaine	Roger Carney
Justine Chew	Sara Bockey
Kathy Kleiman	Steven Levy
Kristine Dorrain	Susan Payne
Lillian Fosteris	Zak Muscovitch

**Guests:** Stacey Chan & Greg Rafert - Analysis Group

**On Audio Only:** Nat Cohen, Claudio Digangi

**Apologies:** none

**Staff:** Julie Hedlund, Mary Wong, Berry Cobb, Julie Bisland

### **AC Chat:**

Julie Bisland:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group call on Wednesday, 28 November 2018 at 13:00 UTC

Julie Bisland:Wiki agenda page: <https://community.icann.org/x/JAHuBQ>

George Kirikos:Hi folks.

Paul Keating:Hello all

George Kirikos:Not sure if it's just my email service (GSuite / Gmail), but I've noticed many of the invites/notifications ending up in the spam folder.

Cynthia King:Thanks for the note, George. Morning!

George Kirikos:Not sure if perhaps ICANN's SPF or DKIM records might be causing them to be falsely flagged, or something.

Kristine Dorrain:Good morning. I'm mostly on audio this morning.

Maxim Alzoba:Hello All

Maxim Alzoba:Do we have Adobe audio?

Maxim Alzoba:sound is fine

Roger Baah:Hello!

George Kirikos:Answers are at: <https://mm.icann.org/pipermail/gnso-rpm-wg/attachments/20181126/120465e9/QuestionsComments-FinalReportRPMSurvey-AGcomments-0001.pdf> for those who'd like to read them in a different browser window, etc.

Julie Bisland:@Maxim, if you are having audio issues, please drop AC Audio and reconnect, we can also dial out to you

Julie Hedlund:@All: The document is posted in the adobe connect room and unsynced.  
Greg Rafert:Stacey Chan from AG is also on.  
Kathy Kleiman:Tx to Greg and Stacey for being with us!  
Maxim Alzoba:@Julie, it works now, I think it was just silence at that moment, when I got connected to Adobe Connect  
Julie Bisland:great to hear, Maxim! :)  
Kathy Kleiman:Link to AG paper Phil was reading from:  
[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_static.ptbl.co\\_static\\_attachments\\_191542\\_1540023249.pdf-3F1540023249&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=1pr-WUtrH0d\\_h7QMUIInzy7TFk552UNp2p5otA4wJeg&s=poml0QXC6yOEVWjqCBqiWrO4u-08w7tr-C36VnYn6Q4&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_static.ptbl.co_static_attachments_191542_1540023249.pdf-3F1540023249&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=1pr-WUtrH0d_h7QMUIInzy7TFk552UNp2p5otA4wJeg&s=poml0QXC6yOEVWjqCBqiWrO4u-08w7tr-C36VnYn6Q4&e=)  
Rebecca L Tushnet:In fairness to me, it was not posted on the wiki when I asked that question.  
Greg Rafert:Very much agreed.  
Kathy Kleiman:2 responses?  
David McAuley:Sorry to be late - tech issue  
Greg Rafert:@Kathy - I believe that is correct.  
Kathy Kleiman>Welcome David and tx Greg  
George Kirikos:+1 Kathy  
George Kirikos:It shows that those responding (to earn their 75 cents) were just answering randomly.  
Rebecca L Tushnet:Good point, Susan, though it is also the case that almost no respondent chose "something different happened on subsequent instances." (I don't have the wording right.)  
Susan Payne:we did not ask questions about outcome of DRPs  
Mary Wong:Q8: "After you registered your domain name(s), did you ever receive any of the following types of warning or notices of possible trademark conflict regarding your choice of a domain name? Please note that you can select multiple options."  
Kathy Kleiman:We did ask the TM Owners about URS/UDRP outcomes of domain names in TMCH -- can we cross-correlate?  
Mary Wong:Options included: UDRP/URS notice, C&D letter, notice of lawsuit, or "Other"  
Rebecca L Tushnet:I'll amend my question so that we use the denominator reflects those who received a NORN in total  
Mary Wong:Response options for 21(a) included - added to list for monitored domains or sent C&D (the two most common options at 18 respondents each); filed a UDRP or URS; or attempted to purchase the domain, or other.  
Mary Wong:And per Susan, 21(a) is predicated on "In response to any NORN that your co/org received".  
Susan Payne:@rebecca - can you clarify what you mean about surveying TM owners who register domain names?  
George Kirikos:Unrepresentative, as it wasn't a randomly selected survey (see answer to my question coming up next).  
Maxim Alzoba:We did not receive (as a Registry), Registrant surveys  
George Kirikos:@Maxim: the surveys were published on ICANN's website, to invite responses.  
Kathy Kleiman:TM Owners filled out the Registrant Survey?  
Maxim Alzoba:I am not sure Registrants go to ICANN site usually :)  
George Kirikos:Indeed, not "typical" registrants.  
George Kirikos:BTW, folks might want to say their name before speaking, as I've seen the transcripts get names mixed up.

Susan Payne:ok thanks

Kathy Kleiman:Rebecca and Greg: "ICANN Panel" is a part of the Registrant survey group, is that right?

Mary Wong:Greg and Stacey can confirm; it doesn't seem that the Registrant survey "controlled" for distinguishing between TM owners who were also registrants (and thus could have received both a Claims Notice and NORN) and registrants who are not TM owners.

Susan Payne:@Maxin, my point was that if you completed, say, the registrant survey you were asked if you also wanted to complete the registrant one if you registered names in your own capacity. I think that was the case for all the surveys. I objected to that when we put the surveys together but was overruled.

Susan Payne:sorry i meant the registrar survey

Mary Wong:@Kathy, I believe that "Panel" meant the registrant sample used by SSI/Research Now, versus the "ICANN sample" which are respondents who took the registrant survey based on outreach by ICANN/non-AG means.

Jeff Neuman:Poor Julie is going to lose her voice reading all of this.....can one of the co-chairs help her out :)

Kathy Kleiman:Could the confusion be Donuts -- which has a separate legal entity for each New gTLD.

Mary Wong:The lower right hand side of Slide #2 here may help:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.icann.org\\_en\\_system\\_files\\_files\\_contracted-2Dparties-2Dsatisfaction-2Dsurvey-2D08may18-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=1pr-WUtrH0d\\_h7QMUIInzy7TFk552UNp2p5otA4wJeg&s=U8kijnwncfyucNsjKgiOAmq-1VXyAeB9WKXndswWRkQ4&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_en_system_files_files_contracted-2Dparties-2Dsatisfaction-2Dsurvey-2D08may18-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=1pr-WUtrH0d_h7QMUIInzy7TFk552UNp2p5otA4wJeg&s=U8kijnwncfyucNsjKgiOAmq-1VXyAeB9WKXndswWRkQ4&e=)

Susan Payne:I also don't think those figures exclude Brands, who were not able to respond to the survey

Kathy Kleiman:Greg and Stacey -- any input/insight?

Kathy Kleiman:Context would be great!

George Kirikos:If they wanted to be anonymous, they could have chosen "prefer not to respond", though.

Mary Wong:It shows 542 registries and we are told by our GDD colleagues that about half may be multiple TLD operators.

Kristine Dorrain:Context would be great

George Kirikos:So, perhaps we should get those 22 names?

Kristine Dorrain:Don't break anyone's confidentiality. :)

Greg Rafert:@George - agreed, but we didn't want to allow specific responses be tied to a specific registry.

George Kirikos:+1 Claudio. I called out that section before, but the registry operators pushed back on that....

Jeff Neuman:This was not the type of economic study that was envisioned by that provision

Kathy Kleiman:Sorry if this has already answered - do we know collectively how many gTLDs the responding registries had?

Kristine Dorrain:This is not an economic study of the type anticipated

Greg Rafert:I unfortunately missed the last question.

Kristine Dorrain:HA Jeff

Maxim Alzoba:when Economy study comes not from ICANN - it is not one

George Kirikos:[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_newgtlds.icann.org\\_sites\\_default\\_files\\_agreements\\_agreement-2Dapproved-2D31jul17-2Den.html&d=DwIFaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-](https://urldefense.proofpoint.com/v2/url?u=https-3A__newgtlds.icann.org_sites_default_files_agreements_agreement-2Dapproved-2D31jul17-2Den.html&d=DwIFaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-)

05YzARosRvTYd84AB\_UYInlydmFcjNmBM5XgySw&m=1pr-WUtrH0d\_h7QMUIInzy7TFk552UNp2p5otA4wJeg&s=Sf5QC4sp1ToQMpOZwjN5qWpRNVX1QI9LIIDzVnY TzE&e= Sectionn 2.15 Cooperation with Economic Studies.

George Kirikos:\*Section, even

Maxim Alzoba:it should be originated from ICANN

George Kirikos:"If ICANN initiates or commissions an economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters, Registry Operator shall reasonably cooperate with such study, including by delivering to ICANN or its designee conducting such study all data related to the operation of the TLD reasonably necessary for the purposes of such study requested by ICANN or its designee, provided, that Registry Operator may withhold (a) any internal analyses or evaluations prepared by Registry Operator with respect to such data and (b) any data to the extent that the delivery of such data would be in violation of applicable law. Any data delivered to ICANN or its designee pursuant to this Section 2.15 that is appropriately marked as confidential (as required by Section 7.15) shall be treated as Confidential Information of Registry Operator in accordance with Section 7.15, provided that, if ICANN aggregates and makes anonymous such data, ICANN or its designee may disclose...

George Kirikos:...such data to any third party. Following completion of an economic study for which Registry Operator has provided data, ICANN will destroy all data provided by Registry Operator that has not been aggregated and made anonymous.

Greg Rafert:@Kathy - we could give a range of the number of gTLDs for the registry survey.

Cyntia King:@George - isn't it fine for Greg to provide anonymized context?

Kathy Kleiman:@Greg - tx!

Maxim Alzoba:without provision of the contract between ICANN and 'designee' - there is no reason to believe that the particular party is the one

Jeff Neuman:@George/@Claudio - you cannot go back and interpret a contractual provision intended for one thing and apply it to something completely different

Kathy Kleiman:Tx Greg!

David McAuley:Yes, thanks to Analysis Group

Kathy Kleiman:Tx to both Greg and Stacey!

Greg Rafert:Thank you all for your questions!

Greg Rafert:We will sign off now, but can answer any other questions that arise.

Paul Keating:THank you everyone. I am sorry but I have an other commitment and mustl leave.

Martín Silva Valent:I think we should do the subteam again, is a lot of info and we need to analyze it fully with all other data we gathered

Jeff Neuman:I would like us as a group to a post mordem on the value of doing this survey and the correlation between the survey results and the final recommendations of this group. This PDP WG spent months working on getting this survey together, then many more months doing the survey and getting the results. It would be interesting to do a cost benefit analysis of doing this type of survey in the future and how it aids policy development

George Kirikos:I don't think there's a call on Jan 2

Martín Silva Valent:we can improve, but getting actual info is part of legitimacy in the process, but I get the point

Kathy Kleiman:@Jeff - to be fair, I don't think we know yet... perhaps a good question for after Initial Report :-)

Jeff Neuman:@Kathy - yes, that is what I meant.....doing it after the Initial Report

George Kirikos:(no Jan 2, 2019 call is scheduled on the wiki)

Kristine Dorrain:Agree with Jeff

Brian Beckham - WIPO:Agree with @Jeff on a post-mortem

Kathy Kleiman:It was prepared a long time ago...

Kathy Kleiman:@Jeff - great!

Maxim Alzoba:2 Jan is bit rough

Jeff Neuman:@Martin - I have no issue with getting data where actual data is available. But surveys for things like this that are so specific and so niche are difficult to get true objective data

Jeff Neuman:Focusing on what objective data we can try to get in the future would make for effective god recommendations

Maxim Alzoba:for example avg. price - how to calculate it if it is not only plain price?

Jeff Neuman:good recommendations

George Kirikos:@Jeff: a lot of time was invested in creating the questions, but then the implementation (i.e. getting the random sample of sufficient size) was not properly done, in my view.

Kristine Dorrain:@ Phil, I 'm pretty there is an existing recommendation for claims notices for non-exact matches

Maxim Alzoba:let's see , I might use it as an excuse of not celebrating ;)

Jeff Neuman:@George - If we can make some concrete recommendations on colleting objective data as Sunrises, Claims Periods, etc. are happening in the future, that may help down the road.

Susan Payne:Also agree on post-mortem; and, as raised before, that it would be a useful outcome for the WG to identify data that would be beneficial to have for future such review, where we have not had it this time around.

Jeff Neuman:I realize that doesnt help us now.....but for future studies

Jeff Neuman:The sooner we can get ideas for that type of data, then we can perhaps get that into the SubPro recommendations as well

Cyntia King:@Jeff - Like UDRP review? ;)

Mary Wong:@Jeff and @Susan, I believe the suggestion for a WG recommendation that relates to collecting regular info consistently in the future was raised previously and generally agreed to, so it should appear in the Initial Report.

Jeff Neuman:@mary - I am looking for more specifics

Kathy Kleiman:@Julie: can we control the timeline slides, and download them?

Cyntia King:@Phil - I say yes. Hope springs eternal.

Kristine Dorrain:I admit I'm multitasking (making breakfast for my family), but are we reprising subgroups to do this work or is the intent to do it all as a big group. IT seems like that will be a big factor in the timeline

Kristine Dorrain:^I might have missed that

Julie Hedlund:@Kathy: The table is now unsynched.

Kathy Kleiman:Tx Julie!

Kathy Kleiman:@Kristine, good question. What do you recommend?

David McAuley:Kristine, the post mortem work Jeff suggested is, I think, not possible until final recs are seen

Brian Beckham - WIPO:@Kristine, that is a core Q (subteams) the chairs are looking to the WG for guidance on.

Jeff Neuman:@David - I think the Initial Report.....the survey is intended to inform the Initial Report, not necessarily the Final Report (which will also reflect public comment and lots of other factors)

Cyntia King:Absolutely yes to subteams.

David McAuley:lost track of chat, Jeff, thought you meant final recs but see that is not case

Kristine Dorrain:I think other big WGs have worked effectively and efficiently with subteams. Up to 4 hours of work a week can get done that way

David McAuley:'meant final recs'

Jeff Neuman:<COMMENT> To the extent that data elements are on the top of our minds, As one of the co-chairs of the SudbPro group, if there is data that this group believes should be collected for future Sunrise/Claims Periods, etc., it would be helpful to get those recommendations sooner rather than later so we can make sure that they get incorporated into Agreements if necessary.

Susan Payne:I think we can work more efficiently in subteams

Cyntia King:Yes to subteams w/ the caveat that there should be clear guidance on how much re-working of sub-team recommendations comes when the sub-teams report to the WG.

David McAuley:+1 @Susan on use of subteams

David McAuley:@Susan - bad typing day

Greg Shatan:Agree we need to use sub teams to be timely. Bu we need to be clear that their work has significant weight or they will be a waste of time.

Susan Payne:and +1 to Cyntia on clear understanding of role of subteams and treatment of outcomes

Mary Wong:@Cyntia, @Greg, @Susan, all - staff agrees that being clear about the scope of work for the sub teams and their role vis-a-vis WG/individual recs is necessary.

John McElwaine:@Cyntia +1

Brian Beckham - WIPO:Noting to add, @Phil, except to say that as with URS, subteam work would not eclipse inividual TMCH-related comments/proposals

Martín Silva Valent:+10 to subteams

Kathy Kleiman:subteam members?

Susan Payne:well if we are not also having full wg meetings at the same time as subteam meetings there is no reason why we won't have sufficient participation

Kathy Kleiman:working group members?

Cyntia King:@Phil - Another advantage is applying expertise of the group members appropriately.

Cyntia King:Group members who are not on any particular sub-team should be able to review the staff-prepared Meeting Notes to stay on top of the main issues..

Kathy Kleiman:??

Mary Wong:@Brian, that was one of the staff questions/comments

George Kirikos:The survey results weren't statistically valid, so that wouldn't be a great use of time.....

Kristine Dorrain:The survey questions were designed to "match" the charter questions, so the sub teams associated with each charter question should use the data from the sruveys as much or as little as necessary to suppor deliberations.

Cyntia King:Whether a statistician would deem the survey results "valid" or not, the info is useful. We are all smart enough to obtain value while not relying solely on data that is limited.

Greg Shatan:The survey was never meant to achieve the type of statistical result you are calling "validity."

Kristine Dorrain:Correct Greg. it was desogned to get some context on the random charter questions.

Mary Wong:To follow up on Julie's points, staff is not saying sub teams should not be used. To be clear, we are concerned about the timeline whether or not sub teams are used.

Justine Chew:Survey - apart from results, also get insights on how it can be improved/re-done to aim for better results

George Kirikos:Disagree. One does survey's of a subset of a group to be able to draw conclusions regarding the entire population/universe.

Justine Chew:... in future

George Kirikos:\*surveys, even

Kristine Dorrain:+1 susan

Kristine Dorrain:@George, as one of the group that asked for the survey, I can tell you only why we requested it.

Mary Wong:@Susan, one other option may be to have sub teams review the survey results along the following lines - registrants, Contracted Parties, TM/brands.

Kristine Dorrain:The TMCH is too intertwined.

Brian Beckham - WIPO:@Susan, what we did with the URS was that subteams could refer questions/work to other subteams, so that could work for the various TMCH items?

George Kirikos:Mute? \*6 to unmute.

David McAuley:very faint

Kathy Kleiman:barely

David McAuley:can hardly hear now

Susan Payne:@Brian - maybe. There is possibly work that could be done on the TMCH which didn't cut across the Sunrise/Claims

Kathy Kleiman:can hear you now!

David McAuley:that is suddenly better

George Kirikos:Disagree, otherwise minority proposals get squelched.

Cyntia King:@George - drawing conclusions from a subset to draw conclusions for a whole group is the very purpose of surveys since polling an entire universe is cost- and time-prohibitive.

George Kirikos:@Cyntia: re-read what I wrote. That's exactly what I said. But, if surveys are done poorly (unrepresentative, small, etc.), then that's a waste of time/money.

Susan Payne:@George, why wouldn't you raise the relevant issue in the subteam?

Cyntia King:@Phil - re: sub-teams, would it be too onerous to work in sub-teams but have short meetings periodically to update the full WG so that everyone is up-to-date on the issues?

Kristine Dorrain:=1 Greg

Cyntia King:This could reduce the time afterward for WG members to review the sub-teams' work.

Kristine Dorrain:No submarines.

Cyntia King:@George - again, every member of this WG is intelligent enough to weight the results of the survey.

Kristine Dorrain:@kathy, those subteams were only administrative, so people were told it wasn't important to join, that's why those subteams were limited in authority\

Cyntia King:@Kathy - so are we finished discussing use of sub-teams?

Kristine Dorrain:For a substantive subteam, people should join.....

Kristine Dorrain:early and often

Martin Silva Valent:context! we need to have it all into the consideration

Jay Chapman:agree Martin

Kristine Dorrain:@George, clearly you want this work to go on for years. Nothing prevents every member from joining every subteam to make sure their views are represented.

Kristine Dorrain:It's about moving faster, not leaner

Maxim Alzoba:Subteams are a subset of the WG, so I do not believe others should be silenced (I am for positive discussion in the whole WG after the Subteam materials delivery)

George Kirikos:@Kristine: not true, that I want this to go on for years.

Maxim Alzoba:\*others

Greg Shatan:Individual proposals on sub team topics should be an anomaly.

Mary Wong:All - note that the GNSO Working Group Guidelines speak to the role of sub teams.

Greg Shatan:They cut against the very concept of substantive subteams.

Susan Payne:good suggestion Cyntia

Mary Wong:From the staff perspective, it's not so much Sub Team "supremacy" (which is not contemplated by the Working Group Guidelines) but the question that was raised is, how Sub Team recommendations will be treated vis-a-vis proposals from individuals etc.

Kristine Dorrain:+1 Brian.

Kristine Dorrain: The subteams were NOT aligned and we worked together in a spirit of compromise very well. All viewpoints were well represented.

Maxim Alzoba: bye all, I have to drop

Kathy Kleiman: Agree with Brian - lots of referrals.

John McElwaine: Perhaps, a Subteam recommendation that has consensus within the subteam should be presumed to have Working Group consensus. That could be reversed if there is consensus within the WG. Individual proposals thereafter are welcome but would require WG consensus (which as we've seen would be unlikely but not impossible). All individual proposals should have been vetted by now and should be taken up by the Subteams in their discussions and those individuals should be invited to discuss with the subteams.

Cyntia King: To recap my suggestion for the record: Staff could email the Notes from every sub-team meeting to the WG so everyone can stay informed of the issues & progress.

Kathy Kleiman: @Cyntia: good suggestion!

Justine Chew: +1 John

Julie Hedlund: @Cyntia: This is noted.

David McAuley: Agree, thanks Cyntia

Mary Wong: @Cyntia, we already do :) And all Sub Team calls are recorded, transcribed and posted to the wiki.

Brian Beckham - WIPO: Thanks @Phil for today!

Kathy Kleiman: Tx Phil!

George Kirikos: Bye folks.

Zak Muscovitch: Thanks Phil.

Martín Silva Valent: thank you all

Greg Shatan: bye all