

**ICANN  
Transcription  
IRTP Part D Working Group meeting  
Monday 23 September 2013 at 15:00 UTC**

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 23 September 2013 at 15:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-irtp-d-20130923-en.mp3>

On page: <http://gnso.icann.org/en/group-activities/calendar#sep>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page: <http://gnso.icann.org/calendar/>

**Attendees:**

Paul Diaz – RySG  
Kristine Dorrain – NAF  
Angie Graves – CBUC  
Chris Chaplow – CBUC  
Bartlett Morgan – NCUC  
Kevin Erdman – IPC  
Mikey O'Connor – ISPCP

**Apologies:**

Bob Mountain – RrSG  
Holly Raiche – ALAC  
Volker Greimann - RrSG

**ICANN staff:**

Lars Hoffmann  
Marika Konings  
Glen De Saint Géry

Coordinator: Excuse me, this is the operator. I just need to inform all participants that today's conference is being recorded.

If you have any objections you may disconnect your line at this time and you may begin.

Glen Desaintgery: Thank you very much. Good morning good afternoon, good evening everyone. This is the IRTPD call on the 23 September.

And on the call we have Mickey O'Connor, Paul Diaz, James Bladel, Angie Graves. And for staff we have Marika Konings, Lars Hoffman, and myself Glen Desaintgery.

And I think there is somebody on the Adobe Connect that I have left off and that is Kristine Dorrain. Kristine Dorrain is on the Adobe Connect only.

Thank you very so over to you.

Please remember to say your name before speaking for the transcription purposes.

James Bladel: Thank you Glen, James speaking. And welcome everyone to this abbreviated working group session where we are focused on I believe a drafting team primarily concerned with Charter Question C.

So but per our standard procedure does anyone have any updates to their statements of interest please raise their hand at this time?

I have a question so I'll raise my hand but I'll let everyone else go first.

Okay so Mikey did you declare your - obviously it doesn't take effect until the next ICANN meeting in Buenos Aires but did you declare your status change that you will be seated in the new GNSO council?

Mikey O'Connor: I think I did. I did on...

James Bladel: Okay.

Mikey O'Connor: ...some of the calls. And I...

James Bladel: Okay will since I missed the...

Mikey O'Connor: ... (unintelligible) probably need to update my SOI. I think I said so on this call a couple of weeks ago. But you were probably gone.

James Bladel: Yes. Well I've missed the last two calls. And since then I was also elected to the new council that will be seated Wednesday in Buenos Aires at the Buenos Aires meeting.

So I will also update my SOI but wanted to make sure that the declaration was made even on an abbreviated call like this.

I think going beyond that meeting we should probably perhaps take a look at if everyone is still comfortable with the structure of this particular working group certainly if others would rather, you know, but we can discuss that I think when the time comes. We've got some time between now and then.

Mikey O'Connor: Yes. We might want to push that out to the list. That's a good idea.

James Bladel: Yes. Just, you know, in the interest of disclosure and transparency always err on the side of over disclosing I think.

Mikey O'Connor: Yes.

James Bladel: And then secondly there is a draft agenda posted on the right-hand column of the Adobe chat room as well as was circulated on the mailing list. If anyone has any additions, questions, or comments please raise your hand this time?

Okay seeing none I will once again apologize for missing last week's call. I knew I would be late because I had a 45 minute meeting beginning a half an hour prior. But unfortunately that meeting ran extensively long and I was in that for most of the morning.

And I do thank Mikey for just kind of being put on the spot like that and I apologize for letting the group down with my attendance lately.

But it sounds like significant progress was made towards drafting some of the recommendations. And I think what we are focused on the ultimate goal which is closing in on an interim report that can be published for comment in advance of the Buenos Aires meeting.

So with that said I think that it was agreed last week that this particular and perhaps future sessions but I know this one for certain would be a smaller group that would be focused with just some volunteers or inductees focusing on drafting a response for Charter Question C.

And since I think Mikey has quite a bit of material and thoughts on that, maybe I'll hand it off to him in stride and then I'll step back and perhaps

participate more in a registrar capacity because I think that looking at the list I think I'm the only registrar here.

And the Paul was covering for (Barbara) on the registries and I think we have other participants from non-contracted parties that are also representing their stakeholders as we draft this.

So with that said I'll just step back and turn it over to Mikey.

Mikey O'Connor: Thanks James. Mikey is scrambling because he got so fascinated with the audio problem that he hasn't quite got his act together just yet.

Lars can you promote me to godlike status so I can share my screen?  
Thanks.

There we go. Now I can do that. And while this is all coming up I'll sort of set the stage.

The conversation last time was pretty productive but what we got to was saying the devil's in the details.

And maybe what we need to do is put a drafting group together, people who are really into this who would be willing to really dive into the details of the language of the TDR P as it stands today with the goal of coming up with pretty precision language to be inserted rather than, you know, there seems to be pretty broad agreement in general terms but, you know, the devil is in the details.

So that's really our agenda today. We're a drafting group not a working group. And I'm going to kind of lead the conversation and scribe it at

the same time. I'll sort of see how this all works. I think I've got my act together.

So with that before we get into the super details let me sort of set the stage. Basically the several broad themes emerge especially from the call last week.

One was that it may make sense to essentially rewrite the TDRP policy because over the years it's gotten a little unwieldy.

And so there is that component. That's more of a mechanical thing.

Another theme that emerged was that it may make sense rather than trying to shoehorn two different groups of policy consumers if you will into one policy those groups have different needs, different timing, different documentation requirements.

It may make sense to basically split the policy in two and say okay here's the TDRP for registrars, here's the TDRP for registrants. That was another thought that emerged.

And one of the things that I had started to do was actually drive language into the Word document. James and I had a call with Lars that reviewed on the call and we ran into some of those definitional issues, et cetera, et cetera.

So we've got sort of three kind of things going on. And I hadn't really thought about how to tackle that pile of work. So process ideas may be first and then content ideas after process ideas. Take it away James.

James Bladel: Hi Mike. Thanks, James speaking. And it certainly sounds like I missed a lot the last two calls. Just thinking about the - how to approach this.

I mean if the consensus of the group is that the TDRP as it stands or let me say our recommended modifications to the TDRP are so extensive that it really would benefit from a bottom up rewrite of the TDRP I don't think we should dismiss that but I think we have to we would approach like you said.

I think that the best approach that it would be not to start by drafting language. I think that we have to start with a kind of a requirements like sort like what you're doing is what do we want to achieve and what stakeholders are going to use this process?

And secondly we'll build out one of Mikey's super awesome trademark flowcharts that shows, you know, what's happening at each stage of each process, do they run in parallel, do they feed each other, you know, is there an escalation path from one to the other?

And then when we had that flowchart down pat then that is then transcribed into policy language.

Another possibility - and this is a bit of a punt but so I don't like it but it is a viable approach to say that we would recommend that the policy be revised to accommodate the new chain of talent or change of registrants policy from IRTPC plus providing registrants access to dispute mechanisms plus allowing both, you know, taking the registries out and putting in secondary providers and, you know, basically layout the requirements as a recommendation.

And then the actual implementation of that recommendation is where the new language and process is designed.

That I think might get us sideways with this new policy and implementation working group that we would be putting way too much work and the heavy lifting of that exercise onto an implementation team and staff and that might get some folks, you know, the fur on the back of their necks roughed up.

So I, you know, but it is one other approach to this. So I just wanted to lay those out. Thanks.

Mikey O'Connor: Thanks James. I'm sort of tinkering away here with the actually Lars did all the heavy lifting on this. I guess most though I - hats off to Lars and I'm sort of fiddling a little bit.

Any other process thoughts? You know, I am thinking that we probably at least need to sketch out the requirements and sort of see where we get. Let's see what we've got.

So let me take you through - Lars did two chunks of work here. The first one is the one that he sent to the list that basically lays out the steps Keith, you know, that I've started editing. I'm actually going to take that out.

There we go.

So what we've got is we've got the language that we started to develop where we said step one registrant claimant. This was an idea that I have to give James credit for that I like which is this notion that there's



a registrant and then there's person that is claiming to be the registrant and we need to define them separately.

Anyway that first step is that they contact their original registrar. The next step would then be the traditional registrars solve it between themselves process, the process then forks.

The original registrar can either say that essentially I think at the end of this - at the end of this step there is really two outcomes.

One is it's resolved to everybody's satisfaction in which case it's done. In the event that it's not resolved so I can see that there's a fair amount of work yet to be done here.

I'm apologizing. I have to apologize right now. I haven't given this the review that I needed to to kick this call off dang nab it.

I was wrestling with a complicated thing on another working group. Lars go ahead.

Lars Hoffman: Thanks Mikey this is Lars. Yes I think this early - I mean a lot of questions that makes a little bit clumsy maybe to the right.

But I think just to help you after step two you're right there's basically - I supposed I missed it out. If they both agree then it is finished. And if they don't agree then step three contingent because that's really part of the TDRP that would be initiated by a registrar claimant right? I mean so step two this is what happens today anyway.

Mikey O'Connor: Right.

Lars Hoffman: So if they agree after two and there's a solution that everyone is happy with then there's a stop. If they don't agree then either step 3A or 3B kicks in.

Mikey O'Connor: Yes.

((Crosstalk))

Mikey O'Connor: I'll tell you what. Let's start with a clean sheet of paper. And...

James Bladel: Yes Mikey I was going to recommend that as well. Just if we can...

Mikey O'Connor: Yes.

James Bladel: ...start back with...

Mikey O'Connor: So here's we're going to just - we're going to do - okay so in the first step process initiates recording concurrent policy. Concluded.

So one way to treat this is as a branch. Okay we start and we run through the whole thing registrar to registrar, TDRP, you know, the whole shooting match. James go ahead.

James Bladel: Sorry I was about to sneeze there. So and maybe I'm just oversimplifying this but maybe that - there might be some value in that. I'm not sure

Mikey O'Connor: Yes. Simplifying is good.

James Bladel: So really what we're saying and I think just boiling down the conversations that we've had thus far with the group on this issue we're saying is in the event that a transfer is disputed the first step is to determine whether it was a change of registrar or change of registrant under the new policy that hasn't been implemented yet.

But the change in registrants really the process goes to the sponsoring registrar and it's between the registrant claimant, the registrant and the registrar correct?

Mikey O'Connor: Right.

James Bladel: Now really in many cases that's all the further it would go although if it does escalate from there it really can only escalate to UDRP or court cases at that point. There's really no other pass for that because there are no other parties involved.

So then the next use case would be that it's a change of registrar and/or registrants. But the two registrars are able to work it out.

And that's kind of where we I think we determined when we looked at our data that, you know, the bulk of these disputes are being resolved between cooperative registrar agreements where they're saying I've got a customer here, they're saying they were hijacked, you know, let's look at the paper trail together and, you know, make a determination that yes, you know, in our discretion that should reverse this or no. There's not enough here to turn it over.

And I think that, you know, as a registrar I can say that process is fairly common and it is working where the registrars, both registers are cooperative.

I think that, you know, there is probably a temptation in the community to put more code and structure and language around that. But I think that would actually make it worse and make it less effective and make - and slow it down in my opinion because we're, you know, we're able to work those out sometimes in a matter of hours. And for hijacking I think that's key is to have something faster.

So I would recommend that we kind of leave that alone. But in the event that a registrar is not able to get the - the registrar is not able to work together or that they reach a conclusion that the registrant claimant or the registrant does not feel it was the right decision then new policy, new - or new - not new policy but new TDRP mechanism...

Mikey O'Connor: Well hang on. I think we've got - I think let's document the steps already. So the steps that we just described is the registrars work it out.

If they're not successful then the next thing is to try the TDRP as it stands today right?

James Bladel: Yes. Well but I think...

Mikey O'Connor: Or a registrar...

((Crosstalk))

Mikey O'Connor: ...we're going to model through their routine dah, dah, dah, dah TDRP or not.

James Bladel: But didn't we want to remove the registry from the TDRP? So it's not exactly...

Mikey O'Connor: Yes let's leave that one aside. That one's pretty easy...

James Bladel: Okay.

Mikey O'Connor: ...actually.

James Bladel: Okay.

Mikey O'Connor: That one I think there's so much consensus around that it's basically just a matter of striking those paragraphs from the policy. It's pretty easy at it.

So, you know, just continuing on with the process this is the case this - the one that we're on right now is the one when registrars can't work it out -- we'll worry about that wording later -- one of them initiates A TDRP.

And then again we have successful, good. In the case of not successful we've really got two instances, not attempted by the registrars or registrar wishes to dispute.

I think in the case of, you know, today's TDRP we could leave that policy untouched except chop out the business with the registries because I think there's pretty universal support for that.

James Bladel: Well except for one or maybe you're about to continue here.

Mikey O'Connor: Yes and then I'm going to do another - I'm going to eventually do one where registrant or start calling it TDRP. No that's no good because it stands - essentially a version of the TDRP that is tailored for the registrant type critter.

James Bladel: Or claimants.

Mikey O'Connor: Yes.

James Bladel: And Kristine has had her hand up for a while. I don't know.

Mikey O'Connor: Oh I'm sorry. I missed it entirely. Kristine?

Kristine Dorrain: Oh that's - yes that's okay. This is Kristine. I wasn't sure if it's such a small if I shouldn't just jump in or not.

My - I was actually going to comment okay yes I was just going to comment that the up above where it talks about the registrant escalation passing the UDRP I mean I know that that's something that's commonly thought is the case.

But most of the time these registrants cannot use the UDRP because they're not trademark holders.

Mikey O'Connor: Right.

Kristine Dorrain: You have to be a trademark holder to participate in the UDRP. So I just wanted to make it, you know, I don't know if we want to have UDRP on there because it's in the vast majority of instances it's not really an option for a registrant.

Mikey O'Connor: Well I'll put it in their parenthetically and clarify that.

Kristine Dorrain: Okay cool. Thanks.

Mikey O'Connor: Something like that.

James Bladel: And this is James. I just want to comment that's absolutely correct. But in those rare cases where one of the parties believes they do have trademarks rights, you know, we do offer that as an option to or an alternative to a court case.

Mikey O'Connor: Yes.

James Bladel: But agree it's not always common.

Mikey O'Connor: Okay. So then so we, you know, we're doing the little logic chart here. So we have, you know, this first one is the 99% of the time that it gets worked out between the registrars.

The next is the few times when a registrars either can't or won't work it out either because they don't think the registrant has a valid claim or whatever, you know, this is a - this is the traditional TDRP where a registrant initiates the TDRP.

And down here is where we say when registrar initiated TDRP can't resolve issue and the registrant or their - or the claimant initiates their version of the TDRP.

I got that in there twice.

And I think, you know, Volker was the one on the call that said it sure would be easier to have a separate policy or at least a separate section of the policy to describe this process rather than trying to weave it in.

And so one way to do this would be to essentially take the TDRP document as it stands and leave it pretty much untouched and add a section at the bottom that describes the second process and then a little wordage at the top that describes the fact that there are really two processes in one.

In other words...

Kristine Dorrain: Yes this is Kristine from NAF. Can I interject?

Mikey O'Connor: Yes. Go ahead.

Kristine Dorrain: Yes only one problem is from that perspective is that we've already sort of got two processes in the UDRP as you noted when you tried to figure out sort of how the process went.

We already have sort of the registry defined process in the TDP which is the request for enforcement. And then we have the provider process



which is typically an appeal but could also include a request for enforcement.

So from even the provider standpoint -- and my full-time job is to interpret these policies -- the TDRP is pretty convoluted as written as you noted. And I think it's really complicated for the parties.

So I think adding another type of claim to the same policy is going to get incredibly confusing. That's just my opinion from, you know, the inversion of the, you know, point of view of somebody who works with it daily.

Mikey O'Connor: You know, I don't have strong opinions about this. James what - what's your thinking? Do you want to split this into two chunks?

I'm going to have to noodle on that one a little bit and probably read the transcript to see what Volker's concerns were.

Mikey O'Connor: He wasn't terribly...

James Bladel: So...

Mikey O'Connor: ...specific about his concerns when he...

Kristine Dorrain: I mean at a minimum - this is Kristine again. At a minimum, you know, maybe we could just do a better job of rearranging.

You know, or you actually have headings that say for the, you know, registrar who wants to proceed with the registry assuming we leave that option on the table right? Because I think there's some discussion

that we take that off the table for the registrar who wants to proceed with the provider for the registrant who wants to proceed with a provider.

You know, and then rather than cross-referencing back you could actually rewrite some of those pieces out so that you only apply to that - you only refer to the section that applies to you because one of the problems with this policy is the cross-referencing back.

Mikey O'Connor: Yes. And I actually...

Kristine Dorrain: So that might be one option to keep it all in one.

Mikey O'Connor: I'm quite enchanted with that idea because I agree that policy is really hard to follow and that's why I asked Lars to let's see if this worked.

Yes see now here's the TDRP crushed into a mind map. And so we have a section of definitions that's pretty tall. We have a dispute resolution process that describes these levels but also has a statute of limitations in it.

Then we have a second level that you sort of go but wait there was a second level up here, you know? So why is - you know, Lars you were brilliant.

This actually shows precisely the problems that Kristine is describing which is the document's just badly organized.

And one of the nice things about having this all in a mind map is that we could drag sections of the thing around probably either on this call

or another drafting call where we sort of take it on ourselves to reorganize the TDRP.

And then what we could do is we could say instead of I think what's happening with the conversation about the registries dropping out Kristine is that there would be instead of two levels where the registry operator is essentially the first, you know, District Court and you guys are the Court of Appeals that this would collapse to one level but it would have two consumers if you will.

It would have okay like you said if you're a registrar here's what you do. And if you're a registrant don't read this part. Skip down to the next part and read the part that's aimed at you.

And they would probably read very similarly with minor differences to accommodate the fact that registrants and registrant claimants are, you know, going to have to go through this series of documentation hoops that we want to describe.

So Kristine is given us a tick mic. You know, (Bartlett) is that better if I shout right into my microphone? Thanks for the sound check.

That's why I like the other one better because I can modify the volume. Anyway just yell at me again if I get off mic like that.

So I think we're on the track. James I think you can noodle either way. I don't have strong opinions about one policy or two, the second one looking very similar to the first.

And I don't think that Volker would have a terrible problem with that either. I think the problem was when I tried to crush all these different customers into the single process and especially with the confusing way that this is written now that the combination of those two made it really, really tough.

So noodle way in know that I don't think that I have a strong feeling either way on that. Although there is a point of pride that I will point out James which is there are only ten consensus policies.

And if we did a new one we could get a new one on there. That would be a good badge don't you think?

James Bladel: No known unnecessarily.

Mikey O'Connor: No? You're no fun. All right.

James Bladel: Still at the end of the day I have to, you know, report to folks who have to build the business systems around this stuff so...

Mikey O'Connor: Yes.

James Bladel: So and this is James. Do you mind if I weigh in?

Mikey O'Connor: No. Go ahead.

James Bladel: I think I'm kind of - and again I'll just circle back and I'll defer to folks who have been looking at this a little bit longer. But I think I'm kind of weighing towards the end of a single policy with multiple entry points and multiple options for a path through the policy.

Mikey O'Connor: That's fine.

James Bladel: I don't know if that's where we're headed but that's what it seemed like.

Mikey O'Connor: Well I think that that I think that (Christina)'s point and mine are addressed by just reorganizing this one. I don't think - I don't really have strong opinions about needing another one except that I would like to get a badge but I'm okay. I'll find some other way to get that badge.

(Kevin) you're on. Hooray. Welcome to the gang.

(Kevin): (Unintelligible)...

Mikey O'Connor: Oh you're cutting out really bad. Can you get like right on top of the microphone because your microphone is...

(Kevin): Okay.

Mikey O'Connor: Oh that's better, much better.

(Kevin): Does this work?

Mikey O'Connor: Yes way better.

(Kevin): Okay. I'm practically kissing it right now but...

Mikey O'Connor: Yes that's the key.

(Kevin): Okay the - I would have - and this is keeping it all in one policy I think makes more sense because particularly when we do the registrant and the registrant and the registrant claimant (unintelligible)...

Mikey O'Connor: All the good stuff is cutting out.

(Kevin): You either fail the attempts before or the lack of attempts before in the prior parts of the policy dealing with the registrars and the registries.

Mikey O'Connor: Yes.

(Kevin): So I think that makes a case fall under what...

Mikey O'Connor: Okay (Kevin). Here's the deal.

(Kevin): ...we are clearly making sure that the documentation that we want...

Mikey O'Connor: (Kevin) I'm going to ask you to dial in because your computer's microphone it's - it doesn't work. It's...

(Kevin): Okay.

Mikey O'Connor: And the problem is that your stuff is really, really, really good. And I'm only getting about 60% of it and I'm worried that I'm going to miss - I think I got the gist of what you said which was keeping it together has the advantage of being able to verify that prior steps have been completed.

And I - I'm suddenly finding a persuasive argument in that direction. That would also tend to backup James's inclination as well.

But if you could real quick dial in. Let me just see if I've still got the dial-in number in my - no I don't. But your - there it is. Okay let me just give you the bridge number so you can dial in real quick so that we don't lose this stuff because your mic is just dreadful. Sorry.

Okay carrying on then I think one job is going to be the reorganize this policy job. And I would be willing to take that on. I don't want to do it on the call. I think that's solitary work on the first try.

Thanks Lars a million for doing the heavy lifting because now what this is is a matter of sort of dragging the little pieces around into a better sequence and taking all the numbering out so that we can - part of the problem with this policy is that it's been revised so much that the numbering is all screwed up too so it's extra doubly confusing.

But James can I drag us back to sort of that process flowchart for a minute and keep kind of working on our specification if we presume...

James Bladel: Absolutely. But it looks like (Kevin) is back in the queue.

Mikey O'Connor: Yes (Kevin) are you back?

Oh the phone isn't working either. Drat well give it a try with your computer microphone.

(Kevin): Does this work now?

Mikey O'Connor: That's okay. Go for it.

(Kevin): Hello?

Mikey O'Connor: Yes that works for me.

(Kevin): Okay. Well okay this is (Kevin) again. The point I was trying to make was that to keep it all in one policy but the reason we would want to do that is that we want to -we want the registrar claimant to document things that have done that have occurred or have not occurred in the rest of the process that will precede it.

So I think that makes a compelling case to keep it in one policy. And then as we go through and develop what a registrant claimant has to do that may also allow us to (unintelligible) some of the other parts of the preceding and improve those as well so that's my 2 cents. Did that (unintelligible)?

Mikey O'Connor: You know, it's interesting. It's like the microphone on your computer knows when you get to the good new stuff and cuts out. So the first part where you recapped was perfect and the second part where you were doing new stuff I got about half of it. It's driving me nuts.

The phone doesn't work...

(Kevin): Okay.

Mikey O'Connor: Why don't you take another run at the second half and see if we can capture that?

(Kevin): Part two we want to document...



Mikey O'Connor: Yes.

(Kevin): ...the either successful or unsuccessful or the things that have been tried or not tried earlier in the policy for the registrar, registrant claimant.

And so keeping it in one policy so we can refer to those steps and possibly even refine the predecessor steps I think makes a compelling case to keep them all in one policy.

Mikey O'Connor: Perfect. It all came through. And I agree....

(Kevin): I'm done.

Mikey O'Connor: Ta da, way to go (Kevin). Way to prevail over that silly microphone. Sorry it was so hard. Okay let's see if we can sketch out this process flow. We're getting pretty close to the top of the hour.

So let's - I think I'm going to take another run at this but I'll do it after the call is done as well.

So we've got the change of registrar that the registrar's work it out. We have them initiating a TDRP the way they do today and so on.

And then if it's successful we're done. If it's not successful then we're in the new stuff where we say a registrar initiated TDRP can't resolve the dispute.

A registrant or a registrar claimant initiates their part of the TDRP. Again this is pretty casual approach but I can turn it in.

Is - and then it seems to me that once that's done everybody, you know, that's it. So I think what we're doing if we were thinking about the TDR P document it sounds like we're taking the existing TDRP and cleaning it up so that it's easier to follow.

And then we're adding a section at the end that gives the registrant initiated entry point. And I like (Kevin)'s idea of referring back to the fact that those preceding steps have already - they have to have happened.

In other words I don't think that there's a lot of appetite in the group to give the registrant access to this without demonstrating that they've done these two first, you know, for all sorts of reasons.

I don't know exactly where to go from here. We've got about ten minutes left.

It may be that - I'll tell you what, rather than belabor this maybe I should actually do the homework I should've done before this call and work these over a little bit. Oh James go ahead. Sorry.

(Kevin) I assume that's an old hand right? Yes I think it is. James carry on.

James Bladel: Okay. I was going to defer to (Kevin) but I think yes I was just - I think we're landing in the same place here Mikey in that there's some off-line work required before we can dive in a little more deeply on the subject.

I was going to volunteer to help you on that. I mean if you need some extra time I can probably carve out some time on later in the week like Thursday or Friday if that works for you.

Mikey O'Connor: You know, we've got a call that I put on my calendar as recurring. No I didn't. Never mind.

James Bladel: Yes it dropped off my calendar as well but I know what you're talking about the Friday...

Mikey O'Connor: Yes.

James Bladel: ...thing with Lars.

So if we can resurrect that to this week that would be great.

Mikey O'Connor: All right let's do that because that'll give me a fence post to shoot at to get this draft done. And then I think what we did on the call as we set the expectation that next week's call in this timeslot will be back to the committee of the whole.

So why don't we - why don't James you and I tried to get this knocked into some sort of shape before then and then go back to the whole group.

Just to bring you up to play on the rest of the call last week we pretty much agreed that we're basically done with the rest of the last two charter questions that talked about penalties where, you know, there wasn't any disagreement that the, you know, we don't need to specify

penalties in the IRTP that can move to the more general RAA kinds of frameworks.

And then there was also agreement that there wasn't much of an appetite to do anything about FOAs right now. So I think we're pretty much at the point where we can start working on language of the initial report except that this piece.

And if we can beat on this pretty hard I bet we can even get this knocked out pretty quick. So I...

James Bladel: Yes I think that's encouraging Mikey. The only add-on that I would say is once we get this piece hammered out we should probably circle back and take a look at see if it makes any impact on B?

I doubt it but, you know, it's just...

Mikey O'Connor: Yes.

James Bladel: ...due diligence.

Mikey O'Connor: Yes. Yes, yes good point.

James Bladel: Yes or A I suppose as long as we're being careful so okay. That works for me.

Mikey O'Connor: Cool. All right I've got homework. That's fine. I...

Kristine Dorrain: Hey I have a quick question everybody. And this is Kristine.

Mikey O'Connor: Sure. Go ahead Kristine.

Kristine Dorrain: So as you doing as you're going through in sort of starting this out are you at the same time also going to be removing the portions of the policy that what we call rules and making that a separate rules document?

I know we talked about that last week. Are we just going to kind of carry-on and keep it all bundled together?

Mikey O'Connor: So this is the part where all the muddle happens right?

Kristine Dorrain: Yes. So I'm specifically looking at TDRP 3 like part three. TDRP 3 is the rules portion. It tells you what needs to be provided and...

Mikey O'Connor: Oh there it is.

Kristine Dorrain: ...you know, and it isn't really part of the policy.

So that is - and that's part of what makes it muddled. And that can be just like the rule of what has to be supplied but it's not part of the policy itself. It's actually the rule.

Mikey O'Connor: Oh it...

Kristine Dorrain: At least 3.31 or 3.1 and 3.2. Three point three it looks like it might be part of a policy. I'll have to take a closer look.

Mikey O'Connor: Do you think it's rules document or a rules section?

Kristine Dorrain: Well the UDRP does it I think right. It is a policy document and an attached rules document that the policy document refers to and the two go hand in hand.

The two are created by ICANN. They're both part of the consensus policies. One references the other but it - if that's what keeps having the two different documents is what keeps the confusion down.

Mikey O'Connor: Let me take a stab at that. It's really easy to do it now that this thing's in - so let's just use our handy dandy checkmark. Whoops not that one.

So if we're saying that one, 3.1 should go into a rules document.

Kristine Dorrain: Yes.

Mikey O'Connor: Three two should go into a rules document, 3.3 we've got to look at a little harder right?

Kristine Dorrain: Yes.

Mikey O'Connor: Okay. How about all this...

Kristine Dorrain: Three four is the fees that's probably a rules document.

Mikey O'Connor: Okay.

Kristine Dorrain: And there may be places in the policy where we would reference some of this stuff but not like itemize it out.

Mikey O'Connor: Right. How about 35 availability of court proceedings?

Kristine Dorrain: That would be in the policy.

Mikey O'Connor: Okay. All right those are good. I like that a lot. That'll help me. And I'll go find the UDRP and steal some framework out of that.

Kristine Dorrain: Yes, yes. And the same sort of thing is true sort of 44.3, 4.3 is also a rule. It's a rule for the appeal.

Mikey O'Connor: Okay.

Kristine Dorrain: Although except for the part at the very bottom talking about the remedies that might be a policy. So the whole - I guess the whole thing's kind of goofed up but 4.3.4 Roman - or 4.3.8 specifically might not actually be part of the rules.

So you see what I'm saying? That's all kind of goofed up. And then 4.4 would be in the rules and 4.5 would be in the policy.

Mikey O'Connor: Four point four is rules. This one's kind of both so I'll put both in there. Do you want to join us on the call on Friday Kristine?

Kristine Dorrain: Yes. I think I can. Let me double check. What time is it on Friday?

Mikey O'Connor: I think we were - James?

James Bladel: Yes just real quickly is this a - I'm concerned that if we try to do these at the same time we might get stuck.

I'm thinking that Kristine has some very good points here and I'm wondering if we should take task one where we actually write this as it is and then task two we separate the rules from the policy.

I'm just putting that out there as another possible approach to keep - otherwise I'm worried that, you know, it might be...

Mikey O'Connor: Yes here's the pushback I'm going to give you if - I've already been through this policy and nowhere near the detail they Christine has been through it but in some detail when I tried to write that stuff.

And this thing is just a dog's breakfast. I mean it's got all kinds of numbering issues and stuff like that. And so it would actually make it easier to modify it if it were better structured. And so I'd kind of like to take them both at the same time.

Kristine Dorrain: The other I mean and I kind of agree with you Mikey and I can be there at any time on Friday. My only thought in support of James's approach is that if you were going to start, you know, looking at the TDRP policy but really shows a blank sheet of paper and then basically make an outline.

So A, you know, one we're going to have a definition section and what are some of the definitions we'd have. But you don't necessarily fill them in yet.

Two we're going to have them both, you know, a registrar to registrar deal. And then, you know, and here's where we're going to flesh that out.



Three we're going to have a register claim - registrant claimant to register however, you know, however you decide. I mean that could work as well.

But you - I don't think it's going to be possible to actually take the current TDRP and redline it and for the same reason Mikey mentioned because it's too convoluted.

So I think the option is either to pull out the convoluted part so you can redline it or to start with a blank document with the current TDRP open right next to it and say let me work through it, let's pull the pieces out that are going to work for the policy and then we can pull the rest of the rules into a rules document after we figure out the policy elements.

I think there's two ways to do it. One is closer to what James is suggesting. One is closer to what Mikey is suggesting. But I don't think my personal opinion is it's going to be easy to redline the current document as is.

Mikey O'Connor: Yes. I think James I'm fine with the approach that you're favoring. I just - I don't I don't want to try redlining this one. This one is really I...

James Bladel: No.

Mikey O'Connor: ...it's a mess.

James Bladel: Yes. And just to my point here I'm just thinking but not so much changing what we're doing that just the sequencing. That's all.

Mikey O'Connor: Yes. So...

James Bladel: Well we can discuss on Friday. I think that...

Mikey O'Connor: The one way to approach Friday would be to take - I mean this is the existing TDRP all crammed into mind map format.

And we could take all of that stuff and basically pull it into two copies of the document and chop it - well we could - let me take a run at it and Kristine if you could hang on for just a minute. I know we're going a little over the hour. This always happens. The really good stuff happens right at the end.

So all of this 4.3 is into the rules document right?

Kristine Dorrain: Yes. I think so. Yes and a lot of it is a regurgitation of yes it's a regurgitation of 3.1

Mikey O'Connor: Three point one is over here.

Kristine Dorrain: Yes. So it's the same, so basically that section 3.1 and 4.3 was essentially pulled out of the UDRP and so that they're very similar.

It says you have to have a complaint and here's what you have to have. It has to say this, It has to say that. It has to provide this information. It has to provide that information.

And that's the rule part is pulled out of the UDRP rules is where that comes from.

Mikey O'Connor: Okay. All right let me - so my nomenclature here is things with checkmarks going to rules, things with question marks bad choice stay in the policy.

Kristine Dorrain: Yes or some combination. They might go to the rules but you might reference in the policy for instance where it comes to fees for instance.

You may see in the policy the fee shall be set by the providers or the fees shall be limited to whatever or whatever you say about fees and then the rules document talks more detail about that or that sort of thing you can - you know, the way the UDRP works is it sometimes punts on a couple issues and says it's going to be discussed by the providers or in the rules. And that just basically, you know, I think that's in there just for clarity and I think that's fine to do that.

Mikey O'Connor: Yes okay. I have to go.

James Bladel: Yes same here.

Mikey O'Connor: I have a man with a bulldozer outside my door. Hesitate to think what he do if I don't tell him where to put the bulldozer.

So on and since we're late in the week I think I'm going to take a run at it. I sort of have to get familiar with these documents. So Lars if you can set up a call with me and James and Kristine and anybody else.

(Kevin) if you want to join anybody else who wants to be in on this I don't want to be exclusionary but at least the three of us will bash away on this and see how we do.

And Lars is giving me a big thumbs-up so we're all set. Thanks gang. I think we're getting there.

Man: Thanks Mikey.

Mikey O'Connor: See you in a few weeks.

Man: Thanks Mikey.

Mikey O'Connor: Okay.

Man: Thanks Mikey. See you on Friday.

END