ICANN Transcription
RPM TMCH Sub Team Working Group
Friday, 09 September 2016 at 15:00 UTC
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Coordinator: The recordings are started.

Michelle DeSmyter: Great thank you so much. Good morning, good afternoon, and good

                      evening. Welcome to the RPM TMCH Sub Team Working Group Call on the

                      9th of September at 15:00 UTC.

                      On the call today we do have Jeff Neuman, Sarah Clayton, Edward Morris,

                      Kurt Pritz, Philip Corwin, Susan Payne, and Kathy Kleiman. We have no

                      apologies. From staff we have David Tait, Antonietta Mangiacotti, and myself

                      Michelle Desmyter.

                      I would like to remind you all to please state your name before speaking for

                      transcription purposes. And with this, I'll turn the call over to David Tait.

David Tait: Thank you, Michelle. This is David Tait speaking for the record. And good

                      afternoon everyone. And we do have apologies from my colleague Mary

                      Wong, who's unfortunately not with us because she's out on leave.

                      (Unintelligible) to the agenda, which is on the right-hand side of the screen.

You'll see there's three items, two substantive items and one smaller item for discussion at the end if we've got time. We've now got 55 minutes remaining for this meeting.

So turning item one on the agenda, a discussion of the sub sub-review of the charter questions related to the trademark clearinghouse. And I just see noted on the document in front of us, obviously ahead of you is a list of charter questions which have been reviewed by Susan Payne and Kristine Dorrain. And on that basis, I'd like to ask Susan if you'd perhaps like to take us through the list and your analysis, which you've given beneath.

Susan Payne: Yes. Hi, Susan here. Hopefully you can hear me. Yes, it looks like it's working. Yes, and apologies though not to get this out to the list a bit sooner. So I mean I don't know to what extent you all feel that it's worth going through this on this call or whether you have an opportunity to read and review and come back to it.

But just basically to briefly, at least, introduce the document, this is a list of the charter questions that relate to the TMCH that were captured a little while ago by Mary. And some of them are in the charter specifically against the TMCH. And then a couple of them have been sort of brought in because they're listed against some other part like the claims or the sunrise, but clearly, you know, seemed pertinent to the TMCH investigation.

And then there are also towards the end, sections B and C, are kind of additional questions that have been captured as we - along the way. I think the first group of questions came up in the Helsinki meeting, and then some I think probably came up in meetings of the wide RMPs working group. And again, Mary had captured them.

So probably for the focus, the charter ones are the ones where we, you know, we definitely -- and when I say we I mean the wider RPMs working group -- is tasked with answering or considering, and then the others may or may not be

helpful. They're certainly ones which members of the working group thought would be useful ones to be considered. So probably certainly for today if people want to quickly go through it, I think probably the best thing is to sort of focus on section A, which is the ones that are actually the charter questions.

And what Kristine Dorrain and I were hoping to do was sort of have a look at the questions in turn and then try and determine what kind of data could be gathered and, to the extent that we could, what sort of that data might be. Although in fact as we worked fast to go through it, on question one for example, we actually needed to take a step back even from that because the question one, as you can see, says, "Should further guidance on verification guidelines to different categories of marks be considered?"

And we found ourselves as we were trying to do think about what data could be captured or where would be the source, we were actually having to make assumptions about what it was we were trying to answer, if you like. So we felt that the initial question was really, you know, to identify what is the problem that that question was referring to before actually we could really go on and try and work out how to answer it or how to sort data in order to allow the working group to answer it.

Because, you know, I can make an assumption on what I think might be the problem with the verification guidelines, but I don't know. And that question it seems to me must have come up as a result of either the staff RPMs review or the draft issue report, or both, and presumably was raised in the context of those consultations by someone and presumably identified a particular concern that someone, or more than one person, had.

But so we felt that there's an initial stage, which is the need to go back to those document to work out what it is that's actually being - that actually needs to be fixed, if you like. And I'm - no one's got their hands up. I'd be really delighted if people just wanted to leap in and discuss these as we go

through if you have time to do it or, as I say, if people think that it's too soon when you have really had a chance to look at the document, we can defer to another time.

But I mean I'll just pause anyway in relation - so in relation to question one, I mean does that sound like a sensible approach to people on the wider group or is anyone confident already that they know what, you know, what that was - that question was sort of seeking to investigate? Kathy?

Kathy Kleiman: Hi. Susan, thank you for so much work. This is Kathy for the record. And I have to say, I haven't reviewed this document yet, so we could go through it but all you'd be doing is getting top of mind kinds of thoughts. So thank you so much for sending it out. And I apologize. I prepared for the questions for the, you know, the question list that we were working on. I didn't prepare for this, so I'm sorry that I missed it. But I'm not sure discussion would be fruitful right now. Can we - would you object, can we do this next week or would you want to do a quick run through and then we'll do the discussion next week?

Susan Payne: Yes, why don't I do that? I mean as I say, I'm - we didn't - it took us sort of a bit longer than we thought, and indeed, you know, with more time I think even Kristine Dorrain and I would have, you know, ideally would have wanted to spend time on it. So yes, but I did also feel that, you know, there's a benefit to getting things out for people to have a look at. And very much, as I indicated in the e-mail, it's kind of quite rough and ready. It's a starting point. I would definitely hope that as group we can improve it. So yes, I'm happy to kind of just whiz through for now and let people sort of think about it, if that's okay.

Kathy Kleiman: That would be great. A review would be great. Thanks so much.

Susan Payne: (Unintelligible) All right. So that was just a question and we kind of approached it. The second question was is the protection in TMCH too broad, is the TMCH providing too much protection for those with a trademark on a generic or (unintelligible) word.

So we did have sort of initial reaction, which was that obviously a record in the TMCH of itself does not actually prevent anyone from registering any term. It is - the record gives the trademark owner a priority in order to register during sunrise, if they choose to do it. So to some extent this question does go to the - does ask the group to be rethinking the purpose of giving that priority to brand owners when it's saying is there too much protection or is preventing.

But in any event, we - moving on, just sorts of data that we thought would help go to that would be other examples of generic terms that were entered into the TMCH and we used to secure sunrise registrations and are there examples of trademark terms that may be the counter that, were there examples of trademark terms where they were not - where brand owners were not permitted to register during the sunrise by some registries because they were sort of blocked or reserved or viewed as premium, and are there examples of claims notices having been received in relation to generic terms but, you know, where the registrant didn't then proceed.

I have to say, you know, some of this may well be extremely difficult to gather this data or even not really possible. But as I say, this is kind of a brainstorming of the starting point.

Kathy Kleiman: Yes this is Kathy. I know I said I wasn't going to discuss anything, but I just wanted to point out that I think maybe we should use this - the way you're going through the questions to help us with the data gathering, because we're finalizing that list today. But in terms of knowing that people are turning around on generic words, we know the answer to that; the analysis group told us that, that that's yes in a big way. So, you know, that - it's really helpful to actually have them. You know, as narrow as their mandate was, the analysis group gave us a resounding yes on this one. So.

Susan Payne: They may have done, I'm not sure that I agree with you, but I don't think they went further in terms of establishing why that was and whether it was, well I think analysis group should have gone further.

Kathy Kleiman: I agree, but just, anyway. So I'm going to use this, and maybe others can too, as we get to trademark (unintelligible) and others, you know, are there things that have been raised - one way to use this today is are things that are being raised in these charter questions as we go through them in such detail, which I thank you for, or at least the overview, are there things here that trigger additional data, you know, additional questions we could be asking the providers or registries and the registrars as we close those questions today. Thanks. I'll return to you.

Susan Payne: Well that was exactly why we're doing this, to help inform the questions we were asking of people, which is why, you know, that was the purpose of this exercise. So it may be that we can't close those questions today because there may be other questions in here, if you know what I mean. But that was the reason for trying to go back to the charter questions.

Kathy Kleiman: Then I'm duplicating our original mission. Great, thank you. Thanks. Let me let you go on. Thanks so much, Susan.

Susan Payne: Okay. And I don't know - oh it looks like - good, it looks like people can scroll down. So the next was, you know, should TM plus 50 be reversed. And some of these charter questions are quite presumptive but, you know, so it seemed to us that what is that asking. It's saying are there examples of terms on the TM plus 50 list, which were effectively, you know, preventing additional registration.

So one question to be asked would be what are the safeguards or criteria that exists to provide reasonable limits on the use of the TM plus 50. And we thought some of the data that might be useful in informing that is like how many records are there that have a plus, you know, that include a plus 50

and on average how many are they - how many claims that have been sent to domains that are on the trademark plus 50 list, how many of them resulted in the domain registration or proceeding. Kurt?

Kurt Pritz: Hi, can you hear me?

Susan Payne: Yes.

Kurt Pritz: Okay great. So yes, so I think (unintelligible) so I was going to try to give an example for number two, if you don't mind going back to that. So where we have under data gathering are there examples of generic terms, not genuine uses of trademarks but got entered in the TMCH to secure sunrise registrations. So that's not really - yes, so that's another question we want answered, but it's not really data. And so I'm trying to figure out how to turn that into a request for hard data. And as you pointed out on that one and on some of these, it's really difficult. But I think we could get to that.

And then - so the example I typed into the window was about the third one down about claims notices, are there examples of claims notices being received in relation to generic terms and, you know, and so on. And I think that the data gathering we could do on that one would just be to ask for the abandonment rate during claims versus abandonment versus non-claims rate, and it would give us some sort of indication about, you know, what sort of, you know, chilling is probably the wrong word, but sort of chilling effects the claim period has on potential registrants. And that could tell us, you know, whether it could be - the protection could be too broad or not too broad.

We could also ask for the number of -- I forgot how this works -- but the number - oh the number of registrations, pre-claims and post-claims, to see of trademark names to see whether the claims notice period is too long or should be extended, something like that. So anyway, my big point -- I've talked too long -- is you know, I think we want to take these data gathering

questions and really try to turn them into hard data that's really just numbers. So I can help with that when I review the document during the week.

Susan Payne: Sorry, I was on mute there talking away. Thanks very much, Kurt. That's great. Thank you. Kristine Dorrain?

Kristine Dorrain: Thanks, Susan, and thanks for taking the lead on this while I was struggling with my phone this morning. You may have mentioned this already as you told the group a little bit about what we were going through, but I wanted to just chime in when I heard Kurt's response. Because what you are proposing and what you are doing is exactly what Susan and I were hoping, that this sort of problem identification data gathering source, like sort of going for the charter questions, would prompt people to say, to ask the question, you know, if this is the proposed problem, you how could we gather data and then to like further refine that into hard numbers.

So right now we're putting data gathering at this point in some cases it's anecdotal. You know, do we even have an anecdote. Because in my opinion, once we have an anecdote or two, that will provide us a little bit more okay, so how do we back this up, how do we verify the anecdote. And from there we can really come up with some ways to get hard data.

So I just wanted to support what Kurt said and say that your sort of taking this to the next logical step was exactly what we were hoping this group would do, because this was definitely outside, you know, at least my expertise. I'm not going to be able to figure out how to get all this data. But that's what the amazing brain of this group can do.

Also I did - to further Kurt's point, I just had put into the chat, and for those of you on the call I'll read it, I received an e-mail from a registry. I had solicited some comments, and the registry had sent me a point that said they were aware of a mark that had been entered into the trademark clearinghouse that

was a basically, in this registry's opinion, a fraudulent mark. And it was only there to sort of game the system.

And then - I'll just read what he said. "It is an IDN domain name" -- and it's Russian characters so I'm not sure how to pronounce it -- and it says, "It was obtained by a person with interest selling brick-and-mortar kinds of goods such as drills and concrete." And that Russian word, or Cyrillic characters, is translated from Russian to English as the word we, like you and I. Currently the website tends to be social network and in reality it just pumps some news in order to look valid. The gaining party neither knows of any kind of product nor invented anything beyond using the trademark clearinghouse to obtain a good, generic word.

So this was an example of somebody who may have been gaming the trademark clearinghouse. So this is the sort of the thing that I'm hoping for is anecdotes that will then let us try to figure out, you know, how to verify and validate these anecdotes. Thank you. Go ahead, Susan.

Susan Payne: Lovely. Thank you. Thanks very much. Yes okay. I'm going to try and whiz through these a bit faster because actually otherwise we won't actually have time to talk about the questionnaire, the other questions.

So - but I think we got to four, which was are there legitimate noncommercial and individual registrants who are losing legitimate opportunities to register domain names. And it seemed to me that that's basically pretty much seeking the same kind of intention or it's the same kind of question around generic and description words as question two. So, you know, moving on.

The next one is how should the TMCH scope be limited to apply only to categories of goods and services in which generic terms in the trademark are protected. I think - I don't particularly like that question quite how it's phrased but - so I'm choosing to interpret it as should that limitation happen. But again, I think that - when you look at the question, I think it's essentially going

back to the same question again, question two, which is all around are trademark owners getting wide protection for generic and descriptive terms and perhaps wider than they ought to.

So moving on to six, it's around the matching rules and whether they should be expanded or not to include plurals and marks contained and marks plus key word. And so I think the question I think is there a significant level of trademark infringing names which are consisting of the expanded matches and which are not being protected at the moment, and therefore do we think wider protection is required.

And so in order to look at that, we'd need to see if there are examples of domains that are registered by third parties which would fall within the scope of what expanded match would look like and how that compared with overall registration levels in new gTLDs and are there examples of trademark owners perhaps were unable to secure name in the sunrise because of the narrow matching rules and then missed out on registration in general availability because someone else registered the name first, so, you know, whether someone who might legitimately is expected to want to protect their brand in the matched form or in the expanded match form and lost it.

Some of this is somewhat covered in the analysis group report, although they didn't consider mark plus key word. I think off the top of my head very much, you know, the other places that we would have to go to try and seek the data is from perhaps looking at same file data and talking to trademark owners and the like. But as I say, I'm going to move on very fast.

Seven is are there additional - should there be additional or different recourse mechanisms to challenge protected trademarks. And I felt that this one needed some kind of additional background into what was the problem that was leading to this question as well and, to some extent, what are the current TMCH recourse mechanisms for rejected marks and how are they perceived to be inadequate or unfair.

I'm assuming as with the question that was the first one that we talked about, somewhere along the line during the staff RPM review or the issue report that led to this charter, someone has raised this as an issue but it's not clear to me what their issue is. And so it's difficult to go on to talk about whether we need different recourse mechanisms until we've understood what the recourse mechanisms currently are and what the perceived problem with them is.

Then next one is number eight is how quickly can cancelled trademarks be removed from the TMCH, and we've been talking about that a little bit on our previous calls. So the question is, you know, what's the TMCH process, if any, for when marks cancel or are expired, you know, either to the extent that there's obligations on the trademark registrant to be notifying them and maybe declarations that they give, or whether there's anything proactive that the TMCH does.

I've got a question from Kurt on the list - in the chat which says on seven, how many marks were rejected, question mark, what is a breakdown of the reasons. Yes, I think he's saying that's another source of information and that sounds - yes, that sounds very useful. Thank you.

Back to eight, yes for the cancellation of marks. I think it should be possible for us to find out how many S&P files have been cancelled in the TMCH from the TMCH. I would assume that they have that information. And there is also part of the - the TMCH has dispute process and it's possible to bring a dispute action in relation to where you allege that the trademark is not valid or is no longer valid. And so we, you know, equally there should hopefully be data from the TMCH on the number of those disputes, if indeed there have been any.

And then one of the heads of the sunrise dispute resolution process that registries offer tends to be around whether the sunrise registration was

acquired on the basis of the mark which was actually expired or cancelled. And so again, that data ought to be available within registries if we can get it from them.

Moving quickly, okay. So moving quickly on then to nine. Nine is how many - how can TMCH services be much more transparent, sorry, in terms of what is offered pursuant to ICANN contracts and policies versus what is offered to private new gTLD registries pursuant to private contracts. And I have to say, I personally am not entirely clear what that question is seeking to answer.

I think it's asking about what is the TMCH doing that it's required to do under its contract versus what is value-added services that they're not obliged to offer, and can we be - can there be more transparency about whether they're using the trademark data that trademark owners have submitted for the purposes of offering others services. But that one's not entirely clear to me. So I feel again this is one where there may be - there's a kind of issue identification process that needs to go through first.

And ten is should there be a review on accessibility to the TMCH for individuals, private trademark owners, and trademark agents in developing countries. Again, there may be something of an issue identification here. But there certainly should be - it should be possible to gather data around geographic distribution of both recording marks in the TMCH, although we would obviously have to bear in mind that you may be a brand owner in one country and use a TMCH agent in another country for some reason and also that the country of the registration of the mark is not necessarily indicative of where the trademark owner comes from. I think it's quite common for people in - not based in the U.S. to have relied on U.S. marks for example.

Kathy is saying, "Is it telling or is this telling that we as experts cannot always understand the meaning of some of the charter questions?" Yes indeed. But that may simply be a failure of mine and perhaps our collective five minds may be able to work it out.

And then the final one was - the final question 11 is around the TMCH providing education services not only to trademark owners but to registrants and potential registrants. And I think, you know, that's quite clear. You know, there's a clear question there about what education services have been provided and to who.

And actually it leads to another question which is actually does the TMCH have any contractual obligation imposed by ICANN to give any education? I don't know the answer to that. I'm sure ICANN - it would be in the ICANN contract. I don't think we can have access to that. But ICANN staff would be able to tell us whether the TMCH has any educational obligations.

And I think probably in the interest of time I think I'll stop there because that's the charter questions. And the remaining questions as I say are the ones that were captured during sessions of the working group, either in person or some of the early ones that we had on the phone.

So that's been a really quick (cancel through). But I do think it would be really - if people think it would be helpful, I think it certainly would, to kind of use these charter questions as a way of identifying, you know, additional questions we can ask in terms of basic (unintelligible).

And sort of, you know, as Kristine Dorrain was saying, either, you know, to the extent that we can anecdotal or to the extent that there's, you know, hard (bases) that we can gather.

And I really do think that, you know, as a sort of collective mind we will probably be able to hone this significantly and improve it. And let's say that was the kind of aim of bringing this to the group. Kathy.

Kathy Kleiman: Yes Susan, this is really, really cool. It's fascinating. It's important. But we're starting the TMCH this coming week. And we're actually going through these charter questions in the working group this coming week.

And so I think in some ways you've laid the groundwork for the analysis that the working group has to do. But from a perspective of the low-hanging fruit, to continually quote Kurt. Don't cringe Kurt, sorry, but I love that phrase.

I think we should finalize the questions for the providers. I think the charter questions I personally think that this is an important analysis. I think this is what the working group's going to start to do. And so, I don't know.

I just wanted to share that I think our job is to get the questions out to the providers, the registries, and registrars for the low-hanging fruit as quickly as possible and then go back and do this kind of interpretation with the full working group because I think we're going to find many drafters of these questions in the working group.

And while we may not be able to shed light on what they meant, I'll bet somebody's going to raise their hand and say, "I know exactly what that means. This is what I intended when I asked that question." And I think that wealth of experience would be great. Thanks.

David Tait: Kurt you have your hand.

Kurt Pritz: Yes, so thanks. So Kathy, even though you quoted me I'm going to disagree with you a little bit. I think – you know, I think this is really good work that's been done here that, you know, we've gone back to the charter questions.

And so I think it's worth it to take an additional step and try to translate the data gathering list here and see if we can translate that pretty easily into what hard data we could ask for and see if that's included in the questions we have already or not, just to see if there's any big holes.

I think like 80% of the work's done, so I think we could easily, you know, do some additional analysis and see if anything pops out here where we should augment the questions. You know, I can help these guys out some. We could probably do that in a few days.

You know, you need to have some, you know, some more low-hanging fruit pop out of these questions that we didn't include in the other ones.

Kathy Kleiman: You think that can be done, you know, quickly? Because I think the answer to the questions we've already compiled would be extremely useful. Sorry, this is Kathy.

((Crosstalk))

Kathy Kleiman: …really, really useful really, really soon to the working group.

Kurt Pritz: Yes. Perfect. Yeah, I think…

Kathy Kleiman: And then we'll go back for (unintelligible).

Kurt Pritz: I'm going to be sitting in the car for the next 72 hours so…

Kathy Kleiman: Oh lucky you. Seventy-two hours? Wow. Okay, that sounds great. Kristine Dorrain go ahead.

Kristine Dorrain: Okay I can - sorry. Oh, hi, thanks. Kristine Dorrain from Amazon. I just wanted to - I agree with Kurt. I think that the point of this exercise wasn't to go through and spend ten weeks hashing out each charter question. I agree with you Kathy. This is not the purpose of this group. We're not here to hash out every charter question to the, you know, great detail.

We really wanted to just go through, figure out really quickly who we would have gone to to get data or anecdotes or whatever, try to figure out that low-hanging fruit so that we can make sure that we send as much low-hanging fruit questions as we can at one time to the providers.

So I think I agree with Kurt. We can't - we don't want to dig too deep but we do want to make sure that we've got all the low-hanging fruit. And I agree with you Kathy, we do not need to take five more weeks on this because as you said the trademark clearinghouse, the (RPNs) Group is starting the Trademark Clearinghouse review.

So we do need to get moving on this. And I think that this is a great - I mean, those of us who've gone through this work now, I think we're in a really good position to sort of guide the discussion as well with some of this information.

David Tait: Susan you (unintelligible).

Susan Payne: I have. I was just going to say perhaps not surprisingly I kind of - I'm with Kristine Dorrain and Kurt on this. And yes, I mean, there may be cases where, you know, we said the questions are very clear. We need to work out what the problem is first. Well then that's probably not a low-hanging fruit.

But I think, you know, either already overlap with the questions we're asking or, you know, would help to inform and tweak the questions we're asking or add to the questions we're asking.

And I do think it would be a valuable place to do that rather than miss the opportunity when we're putting a question in to one of the providers or to, you know, a registry or whatever that we miss the opportunity to ask a question that with, you know, not a great deal more work we could be asking them.

David Tait: So Kathy asked a question in the chat, "Great, so could things move to finalizing the questions we have?"

Kathy Kleiman: Let me define finalizing. This is Kathy. Before we - I think it would be great to go through - here's my proposal, to go through the list of questions compiled already. There are a number of questions and issues that have been raised. Let's see if we can go through that. We've only got 20 minutes.

And that way maybe we could clear the track changes currently on the list of questions that we have, that second document – not this document up on the screen but the second document. And that gives us maybe a clean or almost clean document for whatever changes get – or whatever additions – because I assume it's going to be additions – get put in based on Susan and Kristine Dorrain's document. Is that fair? Should we move forward? Thanks.

David Tait: Great, thanks Kathy. With that in mind, I'll just throw the new document up on (unintelligible). The version we have in front of us is I think (unintelligible) Kristine Dorrain is the version that Susan circulated around 20 minutes before the start of this meeting. And as you can see there are questions (unintelligible) the right hand side of the screen.

Kathy Kleiman: So David this is Kathy. Jeff are you on the line? This question keeps - it's a really hard first question to hit people between the eyes with, but I wanted to read it out loud and see if whoever drafted it would explain that. I think it's Jeff.

So for blocking mechanisms offered by new gTLD registries, a valid (SMD) file from the TMCH is required. Is there a limit to the number of domains or gTLD extensions that can be blocked with a single unique (SMD) file?

I'm just going to share, if that's the first question we give to the working group, we're going to have everybody's eyes crossed. But nonetheless, you know, or share with the working group. But if whoever wrote that could explain it, it looks like there's a lot of questions about it. Thanks.

Jeff Neuman: This is Jeff. I'm not sure I wrote that. Can you just read it again and maybe I can discern it?

Kathy Kleiman: Sure. So for quote "blocking mechanisms" closed quote offered by new gTLD registries, a valid (SMD) file from the TMCH is required. Is there a limit to the number of domains or gTLD extensions that can be blocked with a single unique (SMD) file?

Jeff Neuman: Yes I don't think I drafted that question. I'm not sure - who is that question to about questions to the registries?

Kathy Kleiman: Yes, to the registries.

Jeff Neuman: Is there a limit? Yes, I mean, I'm trying to interpret that. I think the limit is only the number of registries that that registry operator is responsible for. Read that second part again. Is there a limit for…?

Kathy Kleiman: Is there a limit to the number of domains comma or gTLD extensions comma that can be blocked with a single unique (SMD) file?

Jeff Neuman: So I think (unintelligible) did offer the ability to block the mark plus generic word. You have to pay more money, but so like if your mark was Microsoft, I think they did allow, you know, you to block Microsoft software dot whatever.

Kathy Kleiman: That's without it being a TM plus 50. That's not a TM plus 50 issue.

Jeff Neuman: Right. Right, that was not a TM plus 50. So I didn't draft that question. I'm not sure I would ask something that pointed. I would just say, you know, please describe what marks you were - or what you were able to block with a given (SMD) file as opposed to is there a limit.

Kathy Kleiman: David did you capture the rephrasing? Does anybody object to the rephrasing?

David Tait: Kathy just to note that Susan has her hand up.

Kathy Kleiman: Oh okay. Sorry I'm not - go ahead Susan. David I'll let you moderate. Thanks.

Susan Payne: Hi Kathy, it's Susan. Yes I was just - sorry. It wasn't my question. I think - I can't remember what it originally looked like. And that was a sort of redraft from staff to try to make it clearer. But Jeff's restatement is probably clearer still, which is let's not get into the detail and let's just say, you know, what can you cover with a single (SMD) file or, you know.

Yeah, so I think I agree with Jeff's restatement. I think something more - less detailed and less precise is probably going to get a more useful answer.

David Tait: Thanks Susan. Unless there are any objections to that question, we'll copy that in the notes of the meeting and have that amended in the redraft that's prepared.

Moving on to the next comment below which is from the long Comment 3, which is in relation to the question, "Can we have a breakdown of the number of sunrise registrations by registry?" And staff have pointed out that there's a list which has been prepared by the CCTRT from their page.

And staff's question is are we asking for more details than this. Susan you (unintelligible).

Susan Payne: Yes David, I think that the issue was that we found that list that the CCTRT was sharing. But what we weren't sure of was its source. And so I think there was a lack of knowledge within our group as to where they got that from and how accurate I guess it was. So I think that's what the question was around that document.

Jeff Neuman: Yes this is Jeff Neuman. Just to add to that, I mean, if you looked only at the data they got from let's say something like Dot Sucks, which says they only got I think it was 97 or 91 sunrise registrations, I kind of know just from the activity of our registrar and some other registrars that that number is not accurate.

I don't know why it says that number. I know it's a lot higher than the number that - the number indicated in that. So we would like to know the sources of that data and then be able to do some fact checking on it.

David Tait: Kathy you've got your hand.

Kathy Kleiman: Okay so let me ask you. So this question, can we rephrase it, and is this an accurate rephrasing? So this is going to the registries. Can you tell us by new gTLD by new gTLD how many sunrise registrations you had during your sunrise period? Is that all we're asking?

Great. Thanks for typing that David. The only thing you might want to do is change "who" to "how" in the notes. Thanks. And does anybody think the registry is going to push back or say they can't do it? Or is this data kind of easily available from the registries? I would think it's easily available. I'll take my hand down.

Susan Payne: Kathy could I ask a question? Because I'm afraid I lost audio for a few minutes while my Internet went down. And so…

Kathy Kleiman: Oh, I'm sorry to hear that.

Susan Payne: …I'm not sure what bullet point we're on or what you're asking.

Kathy Kleiman: We're on the bullet point, "Can we have a breakdown of the number of sunrise registrations by registry?" And Jeff Neuman had explained there was some data in the CCTRT report that had raised questions. And so I was

trying to figure out if a rephrasing -- since some of us didn't understand the question – could be, "Can you tell us new gTLD by new gTLD how many sunrise registrations you had during each sunrise period?"

David we might want to say instead of your each - during each sunrise period. Just wanted to make sure that was the right rephrasing of the question because I think that's what we're looking for is, you know, in a given – you know, in Dot XYZ, how many sunrise registrations were there? Cool. Great. It looks like we'll clarify that question with a replacement.

Okay, next question unless anybody objects. Is there anything about the TM claims notice that can be approved and that (unintelligible).

David Tait: Kathy, Susan's got her hand up just I think in relation to the previous section so just before we go on…

Kathy Kleiman: Okay.

Susan Payne: Sorry. I sort of got my hand up in relation to the bullet that you were just about to go onto Kathy but also the one two up from that. So I missed it as we were going through because we went straight on to the sunrise one.

                  But I have a comment about so many potential registrants do not proceed further with registry or domain name. And then also the final bullet on that section as well. Is there anything about the claims notice that can be improved? I don't believe that we should be asking those questions of registries.

                  I don't think that they are the ones who have the information - who have information to answer those questions. They could give us their opinions but we're asking them to speculate. And their speculation in that regard is no different to anyone else's speculation because the registries are not the ones who have the relationship with the registrants.

So they're not the ones trying to register and then deciding not to proceed. They don't have a relationship with the registrant until the registration happens. So in any case where someone receives a claims notice and doesn't do anything or doesn't understand it, the registry don't know that. The registrar knows that but the registry doesn't.

Kathy Kleiman: Susan we've – this is Kathy – we've respectfully disagreed on this before, and I drafted these questions because I think there's ample evidence that the registries do have a relationship with the registrants and the new gTLDs, particularly for anchor tenants, particularly for people they're trying to bring in at the very beginning to kind of open up the top level domain.

And in fact – and you can call it anecdotal but a lot of what we're working with is anecdotal. Bret Fausett was the one who hit us between the eyes on this in Helsinki. I mean, he was really mad. And he knew exactly what his registrants had gone through. So…

Jeff Neuman: Hey Kathy this is Jeff, if I could just jump in as well. I think we got to be careful with Bret because Uniregistry is both a registry and a registrar. And so I'm not sure in what capacity he was coming to you on.

In other words, it may be right that it's an anchor tenant issue, but it may be that they were forcing anchor tenants to come through their registrar. So (unintelligible).

Kathy Kleiman: So let me ask you is there a down side to ask - what's the down side to asking a registry? If they don't want to answer, they don't answer. But we do (notice a) 93.7 turnaround rate.

Susan Payne: I don't think we should be asking them - I don't think we should be asking them the question because if we're going to ask them the question we should ask it to everyone. And we're already asking questions to the world at large.

We've issued, you know, a request for examples of problems already to everyone.

This is asking the registries to speculate about something they don't know anything (about), and so I don't think it's a valid data gathering question. We may want to ask everyone to speculate but that's not a task for this group.

Jeff Neuman: If you wanted to just ask something, it would be something concrete. It would be, you know, to the registry to (unintelligible) support in any inquiries from anchor tenants or pioneers or however we want to define it that were unable to – unable or unwilling – to proceed with the registrations due to questions on claims notice. If we want to put it that way, I think that would be the only kind of hard concrete…

I will say that when I was with Dot NYC, with NeuStar and Dot NYC, there were some pioneers with some anchor tenants that we had that started to do the registration, got a claims notice, and then did send a question saying, "Hey, what does this mean?"

They all proceeded but there were some questions that were received. So if you asked a registry in that way for some concrete data of, you know, do you have any support inquiries about firm registrants about the claims process or notices, that might be better.

David Tait: Thanks Jeff for that proposal. Kristine Dorrain and Kathy just before - Kathy I'll let you come back or Kristine Dorrain to make your point. I just wanted to note that it's five to the hour now and that we only have five minutes left. And we're only on page - we're doing page one of six on this document.

Additionally, obviously the document that was prepared and circulated by Susan and is going to perhaps raise further questions that are going to have to be dealt with next week.

So in terms of how you would like to structure next week's meeting, I think it might be appropriate at this stage to turn to that and to consider what the content of next week's meeting should be.

We've got one item for action next week - over the course of next week. (Unintelligible) wishes to review that document it was prepared by Susan and to make additional proposals for questions and types of data information that could be sought and via the mail list over the next week.

So I suggest that just take a couple minutes just now and if people got their hands up (we'll just have you directed to) next week's meeting forward and to deal with the remaining 5-1/2 pages of this document. I know that Kathy's typing in the chat. Kathy it would be easier if you'd speak.

Kathy Kleiman: It might be faster if I talk, which is I think I'm okay with just rephrasing. I'd like to think about it though. And before we take out those two questions 3 and 5, David maybe if you could strike them out in track changes so we can keep them there. Add just a new bullet point, and that way we can just think about it, especially if we're coming back for next week.

I'd really love us to get this list of questions out by the end of next week because I just think timing-wise we're running late for the working group. And I really want - you know, this is really important information that the working group needs. So thanks everybody. Kristine Dorrain go ahead.

Kristine Dorrain: Thanks. I was starting to type too and realized it might be faster just to talk. Yeah, and I think if we're - any rephrasing should also be really targeted to the party that we're asking the question of.

So where a registry and A registrar are integrated, I think you need to say as a registry doing a registry functions, you know, if you have any data of a Trademark Clearinghouse… Otherwise you're going to compare apples to

oranges. You're going to get registries that are not operating registrars with completely different answers from registries that are operating a registrar.

And for instance at Amazon's - we take separation extremely seriously. So we don't know what a registrar is doing. So our data – if we were going to respond – would possibly even be different than other integrated registries.

So I think if we're going to rephrase the question we need to be extremely careful that we are asking the same question so we can compare apples to apples across all registries for the same data. And again I support Jeff's comment that we can't ask an opinion question because we're just going to get a whole bunch of opinions with no sort of basis for those opinions.

David Tait: Thanks Kristine Dorrain. So just before wrapping up with two minutes left, I'll note that the actions then are for subteam to review the document prepared by Susan and to make any additional proposals for questions, types of data and information that could be sought in the mailing list.

I'd also note that staff will prepare – based upon the comments we've had already on the first half of Page 1 of the subteam questions, the document we're looking at at the moment – we'll prepare up the (unintelligible) of that document.

And if I could also ask if the subteam could take a look over the course of this week at the comments that Mary Wong has made, comments four through nine in particular which are on Page 1, and they are questions that staff has in order to be finalizing that up. And I think these are the major outstanding issues on this document with a view to getting it finalized next week.

So with that, if there's no other comments I'd like to thank you all for your attendance in this meeting this week. Next week's meeting takes place at 3 o'clock UTC on Friday of next week. And wish you all a pleasant weekend.

Jeff Neuman: Thank you.

Woman: Thanks everyone.

Susan Payne: Thanks. Bye.

Woman: Thank you so much. Again the meeting has been adjourned. Operator please stop the recordings and disconnect all remaining lines. Everyone have a great Friday and an amazing weekend. Thanks again.

END