ICANN Transcription
RPM TMCH Sub Team Working Group
Friday 19 August 2016 at 1500 UTC

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https://community.icann.org/x/XgusAw

The audio is also available at:

http://audio.icann.org/gnso/gnso-rpm-tmch-19aug16-en.mp3

Attendees RPM TMCH Sub Team:

Edward Morris

Grace Mutung'u

Jeff Neuman

Khouloud Dawahi

Kathy Kleiman

Kristine Dorrain

Philip Corwin

Apologies:

Kurt Pritz

ICANN Staff:

Mary Wong

David Tait

Michelle DeSmyter

Coordinator: The recordings have started.

Michelle DeSmyter: Great thank you so much. Good morning, good afternoon, good evening. Welcome to the RPM TMCH Sub Team meeting on the 19th of August at 15:00 UTC.

On the call today we have Grace Mutung'u, Jeff Neuman, Susan Payne, Kathy Kleiman, Edward Morris, Kristine Dorrain, and Philip Corwin, who has just joined us. We do have apologies from Kurt Pritz. From staff we have David Tait and myself, Michelle DeSmyter.

I would like to remind you all to please state your name before speaking for transcription purposes. Thank you. I'd like to turn the call over to David Tait.

David Tait: Thank you, Michelle. Good afternoon everyone. Unfortunately Mary Wong isn't with us this morning, or this afternoon or this evening, depending on where you are as she's traveling. So I'd prefer us to stick with the agenda as it's drafted at the moment and reference any issues with that immediately. And I'll just proceed from there.

The first document is agenda item two, which is the review of the updated tabular summary of TMCH's data to identify gaps and additional questions. And I propose to just go through that in order that it will be on the screen. That tabular document was thrown together by staff at the request of the working group last week to try and provide an easier to understand and digest model of the data we collected to date.

That document's (unintelligible). So what I would propose to do unless we had any objections is to (unintelligible) is to just go through that document page by page, unless anyone has an alternative to that.

Kathy Kleiman: David, this is Kathy. I have a question.

David Tait: Hi, Kathy.

Kathy Kleiman: Hi, David. The document we were working on last week, what's the status of that? Did I miss an update on that? The one that had kind of the compilation of publically available documents and more, you know, a summary of what was in them.

David Tait: Thanks for that, Kathy. And Mary, who put this together has her hand up so I'll hand it over to her.

Mary Wong: Thanks, David, and thanks, Kathy, for the question. I hope my connection's fine because I'm actually in Singapore at the moment. So, Kathy, this is an updated document in the sense that we tried to fill in some of the gaps last week which was just an initial sweep through what we had at the time. What we've since done is still use the publicly available data, but what you see here in the table for example under Section 1, TMCH Data, is we back through all the statistics that were pushed by the TMCH on their website and tried to fill it out with the I guess approximate time periods, as we said we would do last week.

                   So the point is that this is publicly-available information in tabular form that would be more helpful for the working group and the sub team. And the same is true for the other sections of this document.

Kathy Kleiman: So, Mary, this is a replacement of the document we were looking at last week? I'm just trying to understand the document and transition.

Mary Wong: It is reformatted and there's been more information put in. Yes so it looks very different because we've put in more information and we put in a different format.

Kathy Kleiman: But it is the replacement of the document we were looking at last week, it's a complete substitute. We won't be going - the plan is not to go back to that original document? Question mark.

Mary Wong: If the sub team would like to go back to that, we can. It's just that this is - yes this, in our view, supersedes it because it fills it out with more information.

Kathy Kleiman: Okay, okay, appreciate it. I will review it in that light. I thought - it's very useful information. And next time we swap out a document, just flag it and that would be great, because I kept looking for the older document as well. But thanks so much. Clearly, a huge amount of work went into this. I look forward to the walkthrough. Thank you.

David Tait: Thank you, Mary and Kathy. So with that in mind -- this is David Tait again for the record -- I propose that we begin that walkthrough with this document, all keeping perhaps in 20, 25 minutes to do that before we move on to the next point.

So turning to Page 1, to be a high level summary of the TMCH data. Mary already said this document was circulated yesterday on - so you may not have had a chance to digest all of it yet. But as you see, we've arranged the data from March 2013 up to April 2016. What we have here the number of marks (unintelligible), number of jurisdictions, percentage, submitted by trademark, (unintelligible), percentage of multiyear registrations, the number of trademark names sent, the number of ongoing notices sent, and the number of expired marks.

Again, picking up from one of the requests by Kathy last, you'll notice at the bottom, this data is referenced back to the original source, which is Deloitte, so we can change that back through. And so essentially that's - this is sort of by calendar month high level review of the data we've collected. Susan, you've got your hand up.

Susan Payne: Yes thanks, David. It's just a quick question. And I assume these are cumulative figures for all of it. So where it's got it expired marks and there's 4,938 in April 2016, that's in total, that's not how many expired in 2016, I'm assuming.

David Tait: Mary, you've got your hand up to reply.

Mary Wong: I do. And, Susan, I think that's a good question. We just took the data from what was available up on the website, and so we assume that it was some kind of cumulative figure but it's something we can certainly check back with Deloitte about.

Susan Payne: Okay thanks. I mean I think it would be helpful just so that we're all clear. It certainly looks cumulative to me, but I think perhaps it would, you know, we ought to be absolutely certain I think.

David Tait: Kathy, you've put your hand up.

Kathy Kleiman: Yes, a follow up to Susan's question. Could you define what an expired or did TMCH define what an expired mark is? I'm assuming it means that it expired in the TMCH, not that somehow it expired as a trademark. But we should maybe asterisk that and define it. Also I was wondering if you saw anything about cancelled marks.

There's certain been a famous cancelled mark in the United States during the period of the TMCH and it would be interesting to know if it was cancelled in - it was cancelled in the U.S. trademark office, it would be interesting to know if it was cancelled in the trademark clearinghouse, assuming it was there. But to the question of expired marks, are we talking about expired trademarks or expired TMCH registrations?

David Tait: Mary?

Mary Wong: This is Mary again. Kathy -- yes I do -- Kathy, I don't think that we as staff know the answers to that. What we did was basically use the information and terminology from the TMCH. And so they spoke about expired marks and we assumed that that meant expired for TMCH purposes, not for national or regional registration purposes. Similarly, there was no information that we could get from the website on cancelled marks. My assumption is that they don't reflect cancellations in national offices unless in some way it also affects the TMCH record. Thanks.

Kathy Kleiman: Then I'll recommend for our questions -- this is Kathy, a quick follow up -- for our questions area, can we supplement the questions right now? I know that's a different document but can we put some notes in for the questions?

David Tait: Kathy, David here. Yes absolutely, we're keeping a running mark in the notes of the meeting in the right-hand side in the notes box so we can note that.

Kathy Kleiman: Okay. If we could, okay, if we could add the question how is expired mark defined and how are marks cancelled in the national registries handled at the TMCH level. Thank you very much, appreciate it. See all this data's bringing up great questions. I'll put my hand down.

David Tait: Jeff, you've put your hand up now, if you'd like.

Jeff Neuman: Yes thanks. This is Jeff Neuman. Probably so we don't go through this with every one, let's just make sure that, you know, we define - like everything should be defined. I think that's probably an ongoing question or comment. But in the number of marks submitted, again I would assume that's trademarks, but what we should be clear on is the number of labels that have been generated from those marks.

So some of them you're able to have multiple labels associated with those marks, especially if the marks have characters in it there that aren't recognized or if there's been a UDRP action or other. So could we clarify that

those are the number of trademarks that have been submitted and not necessarily the number of labels on the SLD - the dealings list that was sent out? Does that make sense? Does everyone understand? Yes Mary's cool. Thanks, Mary.

Kathy Kleiman: Kathy. For the definitions, jurisdictions, is that a national term or something else, the number of jurisdictions? So when we see 121, are we talking about countries or regions? Because I mean, not just for Mary or David, does anybody know the answer on that one? Thanks.

David Tait: Mary…

Mary Wong: While Susan is talking, Kathy, and while others jump in, we do not have visibility into that at the moment because we're just basically scraping the data that is on the website. And it may be something to check. But again, the terminology that we use is what they use, and they say number of jurisdictions, which is I believe the terminology they've used in all their public presentations. But yes, it doesn't specify country or region.

Kathy Kleiman: Okay thank you.

Jeff Neuman: This is Jeff Neuman. I was just going to say Susan's put into the chat, it's either country or other jurisdictions like the EU or (unintelligible) union or others, where you can have collective marks. So jurisdiction is a field that's in the application for the - pertaining to your market to the clearinghouse. It says what's the jurisdiction of the trademark, and if it was the United States, you'd put U.S., if it's in Europe you could either put the country or the EU or whatever.

Kathy Kleiman: Okay, so while I'm - let me follow up with Susan. So while I might jump to the conclusion that 121 countries have registered, you know, people from 121 countries or corporations, have registered, that's not really the case. It could be Benelux in EU, we could be really looking at overlapping countries. So we

have to dig deeper to know really how far and wide the trademark clearinghouse is going. We have to dig a little deeper then. Thank you.

Jeff Neuman: Yes this is Jeff Neuman. I think that's right. There's not that many jurisdictions that are collective, there's a few, but yes. So we would need to dig a little deeper into that.

Susan Payne: Could I…

David Tait: Susan you…

Susan Payne: Yes, I was just going to leap in as well. It's Susan. Just responding to what Kathy was saying, I'm reading that and assuming that's the jurisdiction of the trademark, it's not necessarily where the company who owns the mark is based. I don't know that - it doesn't necessarily matter. I don't think that anything turns on it necessarily, but just so we're clear, I don't think this is about necessarily where the mark owner is incorporated.

Kathy Kleiman: Good point, Susan. This is Kathy. I guess what I was thinking is so like in the RDS when we say 121 countries have data protection laws, if we were to say that, we would be showing something across the world. Here - and so I kind of jumped to that. And here, I'm not sure it means the same thing. So we're looking at jurisdictions, but it sounds like I could have a trademark in the U.K. and France and Benelux and then in the EU, and those all would be counted as different jurisdictions. Is that right?

Susan Payne: Yes, they'd all be counted as different jurisdictions, but I'd say it wouldn't be many cases where a company would submit multiple trademarks. I'm sure there must be occasions when they have, but if you've got the same mark in a number of different countries, you don't get a great deal of benefit from putting it in the trademark clearinghouse more than once and you have to pay. So that's why for example there's a preponderance of usage of U.S. marks and community trademarks, European community trademarks for

example, because you wouldn't put the community's trademark and the U.K. mark, because there would be no point.

Kathy Kleiman: That makes sense. But it still sounds like we need more data to understand the geographic reach perhaps of the trademark clearinghouse, and I guess I'm just trying to get my head around kind of what the next set of questions might be. So just thanks for the explanation. I appreciate it.

David Tait: Okay thank you for that discussion everyone. So returning back to the Page 1, are there any comments or gaps that are noticed, aside from those that we've had raised, in relation to the sort of high level tabular format that we've got at the moment? That being the case, then we'll move to Page 2, which is - deals with some of the supplemental information into the analysis group's draft report on the 25th of July this year.

(Christine), if you'd like?

(Christine Germane): Hi thanks. (Christine) from Amazon Registry. I think that this data is a little bit, you know, sort of looking back at what we were just discussing on Page 1 as far as jurisdictions and where the marks are being submitted from, I think this data starts to head in that direction.

I think where the data becomes obscured is when we're talking about the trademark clearinghouse agents and the number of companies that use trademark clearinghouse agents and whether or not it's possible to get a breakdown of the, you know, sort of the where the corporate headquarters of the businesses that use trademark clearinghouse agents are located, just to get a sense I think, back to Kathy's point, of sort of what's the reach and how far are they going? Because if you've got a - let's say you've got a U.S. based trademark clearing house agent who's submitted, you know, 500 trademark clearinghouse records, the U.S.-based trademark clearinghouse agent would not have necessarily only done for U.S. companies.

I would think that anybody could use that trademark clearinghouse agent. So unless my assumption there is mistaken, I think one of the things we need to drill down into is trying to figure out the I guess corporate headquarters or location of the entities actually submitting marks.

David Tait: Susan, we've - I mean sorry, (Christine), we've noted that then as an issue to explore. And, Susan, you…

Susan Payne: Yes. I realize this is just - this is a sort of gathering of information that we know and so this might be the wrong point to ask this question, but what are we - what is it that we are trying to determine and why if we are looking at where people were based when they put marks in the trademark clearinghouse. I don't know how to ask this question. I'm just - there may be questions around sort of kind of competition and usefulness and so on. But I think probably isn't that the kind of thing that the CCTRT should and is looking at?

And I mean we are looking whether the RPMs have been effective in - I guess maybe that's why. We're looking at whether the RPMs have been effective in safeguarding rights, owners' rights. So I suppose if we're only addressing the rights of some countries, I guess that is a relevant point. I'm talking and I'm making my own mind up as I'm talking. Sorry.

David Tait: Mary?

Mary Wong: Thanks, David. And thanks, Susan. I think I had a similar question to yours in the chat, Susan, as in we probably want to be clear on the purposes for which we want either more specific data or additional data. And on your point about the CCTRT, my understanding is that there are - they're still in the data gathering phase. And internally amongst staff, we have some coordination meetings. I don't know at this point how much specificity they're going into with respect to this kind of - we'll do our best to make sure that, A, we find out and that, B, we're not duplicating their effort. Thanks.

David Tait: Thank you, Mary. And unless there are any questions on Page 2, any further questions I should say on Page 2, then I suggest we move on to Page 3 and sunrise transactions and the data we've collected on that.

Susan Payne: Could I ask a question? It's Susan here sorry. This is really helpful, having these sunrise transactions, but it's - I'm very conscious that the data goes up to only 2015. Is it - how easy is it to update that information? I know when we've been looking for this - when I've been looking for this, it's not really readily available, although I presume that TMCH has it. So it is something that can be brought up to date?

David Tait: Hi, Susan. David Tait here. Yes, I think it's my understanding that we're hopefully going to have access to that. All of that data is hopefully - the trademark clearinghouse data is hopefully going to be coming online within the next two to three weeks, and hopefully that will all be there. However, we're just waiting for that - for Deloitte to finalize the distribution process for that.

Kathy Kleiman: So, David, can we add that to the notes for Page 2 on the right side, updating to as close to present as possible? Because it's - I mean this is great data and, jumping ahead to the next page, the table that you've created so that we can see what was rolled out when, right now the roll out takes us to, what, May 2015, so .bank, .express, .site, .tech, but so much more has happened. So it'll be really cool to bring this table, monthly sunrise transactions, up to speed or up to the turn of the, you know, up to January or something like that. I think that'll give us a lot of information. Thank you.

David Tait: Thanks, Kathy. Yes that's not a problem for us to do. We'll make sure that we have the most up to date publically available data as soon as we've got it. Kathy, you've still got your hand raised. Is there a second point you'd like to make?

Kathy Kleiman: Sorry, David, old hand and thank you very much. Appreciate it. This is really good stuff. I'm assuming, let me just double check, this is just our first pass on it as we're kind of listening to your review and taking, you know, what may be a first look for some of us or a second look for some of us. So we're going to circle back to some of this next week, this is kind of the start? Is that what you and Mary envision?

David Tait: Mary if you'd like to (unintelligible).

Mary Wong: Sure. Sorry, my hand shot up. You should have responded to that, but. So, Kathy, I think that's kind of what we're looking for from the sub team as David mentioned at the start of the call, where there any obvious gaps that you folks see with what we have and whether there's any additional information that is not here that we should be getting, so not necessarily a gap but just things that could help fill out.

What we can say is that for the table that you saw on Page 1 and what is now on Page 3, all that is information that is on the TMCH website, so we pull it from that. And in that regard, I'm not sure how much more we can pull from that since it's already out there. That's why we're looking for guidance in terms of gaps of data that is not there at all, as well as additional data that is not there but that would be helpful.

Kathy Kleiman: Understood. That's helpful to know. Thank you.

David Tait: Thank you both. So moving on to - oh, Susan, you've got your hand raised.

Susan Payne: Sorry. One thing I thought - I think might be useful, I'm not certain, but it might be useful for us when we've got the data to have a bit of an understanding of which ones of the TLDs that had looked were subject to a DPML block. I don't know. Maybe it's getting into too much granularity but it seems to me that it impacts on, you know, if we're trying to work out what percentage of sunrise registrations that had TLD - or a number of them sunrise registrations, an

average number pre TLD. Some TLDs are not going to necessarily have as many sunrise registrations because they're subject to a DPML block. Oh, I'm cutting out.

David Tait: Mary, you've got your hand up.

Mary Wong: I do. And Susan, even though you cut out, I think I got the gist of what you were saying. I think the question from the staff is we don't know -- and not that we've dug deeply into this, but we don't know at this point what kind of accurate information we could get about the DPML or any other sort of list that individual registries might be running. So we might know that certain registries running from a list.

I don't know, A, that we might get that sort of information from them to the level of granularity that might be helpful; and, B, whether or not we can even get that information. We can try but here's where I think some guidance from the team would be useful. And certainly we can go and talk to Donuts for example, but we would be grateful for any specific guidance and certainly any specific instructions as to what data we're looking for.

David Tait: Kathy, you've got your hand up.

Kathy Kleiman: Yes I'm not sure it's too granular. I'm hoping it's not too granular to gather. It would be really useful to know as much as we can about the DPML, because it is using the TMCH resources and using ICANN resources. And so it is related to the work that we're doing. I think as much information as we can gather would be useful. So the question I guess might be what's public about the DPML and then whether - how we get more information if there's not enough information that's public to help us evaluate it.

And I think to (Christine)'s point, why not? I think that's a great idea. But should we be inviting Donuts to talk to us or to the full working group at whatever point we get there. Just thinking aloud of what we said about kind of

hitting the same parties up twice. I don't know the answer, I'm just raising, truly, truly raising the question.

David Tait: Mary, you've got your hand up.

Mary Wong: Actually I had my hand up to ask the exact same question that (Christine) did. And, Kathy, to your point, I think my initial (reaction of) staff support is that if we're just looking for what the DPML comprises and what kind of specific information regarding data Donuts is willing to share with the full working group, that is a conversation the sub-team can have with Donuts.

So it's very similar to what we did the Analysis Group. It's a very specific focus on data format, what's available, what's not available and we report back to the full working group.

So if that's something that sub-team would like to know, we can try to, you know, reach out to the Donuts folks maybe for next Friday. And as Susan said, numbers of DPMLs and whether we're able to drill down, it seems to us that if we can have that conversation with the Donuts folks and see what they can tell us, that might tell us something about what other registries might or might not be willing to share.

And it might give us a little bit of a head start in trying to define the sort of granular information on this account that we might be looking for. So if that's fine, as David's put in the notes, we can reach out to Donuts about DPML.

Kathy Kleiman: Okay. So you're…

Mary Wong: (Yes).

Kathy Kleiman: …not inviting Donuts onto the call next Friday. You're trying to get data from Donuts that we might be able to take a look at by next Friday. Is that right?

Mary Wong: Actually it was the other way around. It means to us as staff that it might be more effective if Donuts was able to be on the call so that (individual) members can ask all the questions that you feel might be appropriate.

That doesn't mean we wouldn't have other registries on other calls, either the sub-team or the full working group. But since Donuts is one of the largest registries and it did come out very early of the DPML, it might give us some sense of the sort of questions and direction we might want to go with respect to other registries. So in short…

((Crosstalk))

Kathy Kleiman: May I respond? Because I don't - I'm not sure that's a great - with the Analysis Group there was a report. So there was something to respond to. In this case we don't know what's publicly available from Donuts or what might be privately available for on request.

So can I suggest that - I'm not even sure where to start the questions because I'd hate to ask something that was easily available on a Google search or from materials that they would be like sure, we have this report. Go ahead and take it.

So can I suggest that we actually gather the data first? Take a look at it and then that would give us some basis for thinking through maybe, you know, more well developed questions. I think having them on the call next week is a little premature. But that's my thought. I'm welcome, you know, I'm happy to hear other people's thoughts.

David Tait: Kristine, you've got your hand up.

Kristine Dorrain: Hi. Kristine from Amazon Registry. You know, we have, you know, several questions that we want staff to answer before next week. And maybe one of

the questions we can add to the list is look and see what publicly available information is available for DPML.

I think the answer just given my history and what I do for a living is going to be almost nothing. I think that when I come at it from a registry perspective, being asked to provide, you know, written data in the form of spreadsheets, et cetera, is going to be A, time consume and B, I'm going to raise an eyebrow.

But if you invite me onto a call to sort of ask me general questions about the program, gather some gentle gathering of information - and I'm not talking about prodding or prying. It means they'll give out what they can or they won't.

And using that to sort of guide our question asking, I mean they may come back and say sorry, it's our proprietary information. We're a company. We don't have to tell you anything. And then that's it. That's the end of the conversation.

But perhaps what they can do in their, you know, having a come back and forth conversation with Donuts if they're willing to talk to us would be to say hey, this is one of the things we considered or, you know, this is why we didn't do X when we put together our DPML. Or this is why we didn't do Y or this is why we chose to do, you know, this other thing.

You know, we might be able to gather some side information that there's no way we could anticipate from just doing a public records search. So I don't really have a probably because it looks like we've given staff a lot to do for next Friday. I don't have a problem with adding to the list, see what's available for DPMLs before we invite Donuts.

But I think the answer's going to be nothing. And I think that we do have a lot of value in having a friendly conversation just sort of helping direct us and then allowing them to say yes, we're willing to provide X. We're willing to

provide, you know, this or that. But we're not willing to provide this other information.

So I think to that extent we actually touch more - get - we have the possibility of getting more information if we actually have a friendly conversation. That's I guess my opinion. I don't - I can't speak for Donuts. I don't know if they'll even give us anything.

David Tait: Thanks Kristine. I know that in the chat Kathy and (Phil) tend (unintelligible) what Donuts has and is going to share prior to a call in order to make it as (maximumly) productive as possible. And Mary's got her hand up.

Mary Wong: So this is Mary from - and I guess I'm just trying to figure out what the due diligence is that we need to do. Because we, like I said in the chat, we haven't been (unintelligible) and such using the DPML (unintelligible) much less numbers. So I (unintelligible)…

Kathy Kleiman: Was I the only one who just lost Mary?

David Tait: No Kathy. I think that happened…

((Crosstalk))

Kristine Dorrain: Yes. I think what I heard though before she went away - Kristine again. I think what I heard her saying is she's just trying to figure out from staff's perspective what their specific direction is before next Friday.

If the answer is we're not going to try to invite Donuts for next Friday, then we need to tell them that. If we're going to try to do some additional research before we invite them, that's fine. I think we just have to know what research we want staff to do and give them the specific direction. I think that's - that was what I was taking from her before I lost her completely.

David Tait: Thanks Kristine. Just to pick up on that, yes. I think that is - on behalf of staff that is what we would hope that the sub-team (unintelligible) a little bit if we're not to be tasked to go and ask Donuts to meet with us next week and (have) some specific topics or information that you would like us to seek in advance to whether that due diligence that Kathy's looking for.

Kathy Kleiman: Guys, I think we're getting - I know we've been talking about DPML. I think we're getting off topic. I wouldn't dive into the DPML yet. We're still working on this material, on the TMCH. The DPML is - there are a lot of questions about the DPML. It's not just Donuts that's using it.

But Minds + Machines is using a variation of DPML. There's a lot of questions I think we need to get our hands around. And we have no preparatory material for it.

So for, you know, (Jeff), I know you live and breathe this, you know, all the time. But the rest of us - I would much prefer to have some time and not do this in the dead of summer and go through, get the TMCH material, go through that analysis and then go off on other tangents. And it is a tangent. Very important tangent but it is a tangent of DPML a little later.

Kind of getting hands around one topic at a time would frankly be very useful to me especially in the dead of summer. Thanks.

David Tait: Susan, you've got your hand up.

Susan Payne: Yes. Yes. I wanted to just quickly respond. I don't agree Kathy that this is a tangent at all. The DPMLs will rely on the Trademark Clearinghouse SMP files. You have to have your mark in the TMCH in order to apply for a block.

So the utilization of the TMCH for the block is incredibly important. And it's stated that completely in terms as to what we're doing and it's not a tangent at all. It's also something that I'm afraid that no one seems to be trying to

investigate. So the analysis report for example completely fails to address this. And I think it's really important and not a tangent.

Kathy Kleiman: Susan, thanks for your response. That makes perfect sense. But does it also make sense that for those of us who don't really live and breathe this every day, getting our hands around one topic at a time. Let's finish our work on the publicly available data of the TMCH; the questions we're putting together.

We're also doing the PDDRP at the same time. Does it makes sense that we kind of - there are only so many topics to kind of take up at a time. I'd love to do the DPML. I want to do some more research.

And, you know, I believe if (Jeff) says there's only one piece of data out there, then there's only one piece of data out there. But maybe someone else has done some kind of discussion or review or interview Jon Nevett or something.

Like to get just some more information on the DPML, who else is using a similar concept, so that I have, you know, so that there's a better basis of asking questions.

Again, the Analysis Group had a report so there was a basis. And, you know, thank you for pointing out that the Analysis Group didn't deal with this. But kind of only so many topics on the front burner at a time would be really, really useful for those of us in multiple working groups. Thanks.

Susan Payne: I guess I just don't agree. I recognize we can't dive in deeply into an analysis of the DPML and its effectiveness. I think that's the topic just as say an analysis of sunrise is a topic. But at the moment we're just doing - we're, you know, we're the data gather (vanguard) and we need better data. Otherwise we can't do anything with it.

David Tait: Kristine, you've got your (hand up).

Kristine Dorrain: Hi. This is Kristine. I'm going to propose a way forward because I have to jump off the call in five minutes to get to another meeting. So sorry about that. I'm going to propose and run. So I'll check later.

I'm going to suggest that we, like I said before, we've given staff a whole bunch of stuff to look at. Let's sit on this for one week, come back when we talk next week and go through the information. We can add as an agenda item, discuss the types of questions we would ask Donuts and/or other, you know, DPML like providers of private RPMs.

You know, what information would we like to get from them that would be useful toward our data gathering for the effectiveness and use of the Trademark Clearinghouse as an RPM?

That will sort of, you know, keep us moving forward. We've given staff a lot to do. There is research to continue to address. As (I'm) looking at it now, we're still only on Page 6.

So I think we've got a lot to look at. And we can table this, give it some thought for next week and come back with our concrete suggestions about what we would ask if we want.

And then if we decide at that time we just don't have enough information or it's not the right time to ask these providers, you know, how they're using the Trademark Clearinghouse, then at least we have our question list and we can come back in two or three weeks and go forward there. Just a suggestion.

Kathy Kleiman: Good idea Kristine. This is Kathy. I think that's a great way forward. It looks like Susan does too. So thanks for path.

(Jason):   Hi. So this is (Jason). Kristine and you'll see that we've copied that into the notes and actions for the next meeting.

David Tait: So everyone's permission, then I'll suggest we move on to the - we'll go back to the document and (if it takes) nine minutes try and finish off the summary doc of the TMCH data.

So turning to Pages 4 and 5. We have the table showing the number of sunrise launches. And unless you have any questions on that, we'll move on to Page 6, which is (open) to various regions and countries. So this - so it's the outreach efforts versus trademarks submitted. And this is - and again covers the period of March 2013 to May 2015.

Kathy Kleiman: Hi David.

David Tait: Kathy, you've raised your hand.

Kathy Kleiman: …question of - yes. Outreach efforts. Outreach efforts to whom? Sorry.

David Tait: Kathy, thank you for that question.

Kathy Kleiman: Thanks.

David Tait: This again was taken from the staff RPM paper. My - it doesn't necessarily specify to whom those events were delivered. But it's definitely something we can dig into and we'll not that in the notes.

Kathy Kleiman: Yes. I'd like to see if we could - I would like us - one of the questions we've been asked from the Non Commercial is whether there were outreach efforts to registrants to explain what the trademark notices were.

So if we could break down - if I could ask were there outreach efforts to registrants? Are the outreach efforts documented by the Trademark Clearinghouse ones to trademark owners?

My guess is they are because that's how I saw the presentations. But (instead) we should clarify it in the paper and then it would be great to know if there were outreach efforts to registrants. Thank you.

David Tait: And just to answer that question Kathy just read from Mary's response in the chat. She says yes, there are Webinars presented by TMCH. And before - Jeff…

Jeff Neuman: Yes. Sorry. This is Jeff. Other than those Webinars with which - I mean I think Kathy outreach to registrants I mean how could there be? Right. The Trademark Clearinghouse doesn't have contact with the registrants. They don't have registrant information. They don't have - their role is not to do outreach to registrants.

So I think what we're going to find is probably zero outreach. Most of their Webinars were meant for trademark owners to get their marks into the clearinghouse. But other than that because trademark owners are registered with them, there's no mechanism by which the clearinghouse could have done outreach to quote registrants.

Kathy Kleiman: Jeff, I would agree with you. I think those Webinars were directed at trademark - for trademark owners. And I think we should clarify that. But I disagree with you. I think there are a million ways the Trademark Clearinghouse could have reached out to registrants to let them know what the trademark notice was and provide better information and understanding about that process.

You can do it through Webinars, you can do it through ICANN Learn, you can do it through I think (Hughes). I think there are a lot of ways. And in fact they were asked to do it.

So I do think here we should clarify what you just said, which is that all - 100% of their outreach was to trademark registrants - trademark owners. Just

I think we should clarify that because - and it may become a question that we ask them as well when they come is, you know, did you do any outreach to registrants. If not, why not.

And they'll probably give the response that you did. But this is kind of a question was there education on both sides and (unintelligible) my question. So thanks.

So if we could clarify the document, ask the question and see if there's any information publicly available or otherwise that we don't know, that would be great. But thanks for your answer too Jeff.

David Tait: Thanks for that (Kathy). So unless there are any further questions on the outreach portion of the document, (please) turn to Section 4, which is trademark claims notices. And that's Page 7.

Susan Payne: David, can I - I haven't put my hand up. Is it okay to just (leap in)?

David Tait: No. Please do Susan.

Susan Payne: Thanks very much for finding this note about - the one about the (sneakers) and the disproportionate number of notices being generated by one registrar. That was what I remember but couldn't remember well when we were talking about this last week.

Is there any way to correct the figures that we're using to take that into account or indeed have the - are the figures correct to take that into account? Because otherwise we're trying to look at the effectiveness and impact of the claims (mix is). But we know that we're using data, which is inaccurate due to a fault by one registrar. So is there any way to fix that or is it fixed?

David Tait: Susan, I think that Mary may well be (able to) respond to you in the chat on that.

Susan Payne: I see Mary saying the final (item) in the staff paper is corrected. Okay.

David Tait: Okay. Thank you for that Mary. So are there any questions…

Susan Payne: Sorry. Mary, I hear that but it does say if you have since been corrected in terms of like the registrar has stopped doing what it was doing wrong, but it says and so it is expected the ratio of claims notices generated to names registered should decrease over time suggest that the figures haven't been retrospectively corrected.

So we still have all of those wrongly generated notices including in our figures. And although the ratio is going to decrease over time, it still means we've got way more notices than we ought to have included in our figures that we're working from I think, if my reading - but please tell me I'm wrong.

David Tait: Okay. And Susan, (I guess) Mary's responding. Kathy, you've got your hand up (in a moment).

Kathy Kleiman: I think Susan's waiting for an answer from Mary. Or did Mary write it in the chat?

David Tait: Kathy, Mary has now responded to Susan and the way forward will be that staff will ask the Analysis Group for the (raw) numbers - ask them where they got (54)% rate.

Kathy Kleiman: Great.

David Tait: (Unintelligible).

Kathy Kleiman: And I wanted to - I wanted to link what we're looking at now to a question on the other document that we haven't gotten to yet, action Item and

suggestions from the sub-team. David, is that okay to propose a new question for the registrars?

David Tait: Yes please Kathy.

Kathy Kleiman: Okay. There's a question for the registrars and guys I know you don't have it in front of you. Let me read it to you. And I know we're at time. That says gather statistics on the number of claims notices sent by registrars in light of what seems to be an unusually high number of claims versus actual registrations.

And I know Susan's trying to dive into that. Thank you. The question then goes on further and says the purpose is to try to get some insights as to whether some registrars have been using checks with the Trademark Clearinghouse to develop premium pricing.

I'd like to expand that that the purpose is also to get some insight as to the number of registrants turning back and not registering their selected domain names and why.

So we should be looking at the claims notice statistics once they're corrected or revised for both things; both registrar gaming for lack of a better word and registrant response and turn back. And whether - and what purpose one of our overall charter questions has to do with chilling affect.

So David, does that make sense as an expansion of the questions for registrars on the action items and suggestions from the sub-team? Perfect. Thank you.

David Tait: Thank you Kathy. And Susan, you've got your hand up.

Susan Payne: Yes. I think that's right but we - we're tasked with trying to determine the (current) on infringement and also if there is a chilling affect on what would be classed as registrations.

And I think perhaps this sort of claims notice question to the registrars plus the (current) abandonment question was what we were hoping to be able to use to try to get further than the Analysis Group had got because they acknowledged that they didn't gather data which allowed them to draw these conclusions.

But I would caution against us having - notwithstanding that I think that it's a really important question about use of the TMCH on premium pricing. I caution whether we're genuinely going to get any response from registrars, you know, any data from them.

If they think the reason that we're asking them for that data or the risk of providing that data is that they then are in trouble for misuse of the TMCH data.

And so I guess I think we have to - we have to decide whether we think we can get useful data on the deterrents and chilling affect. And if we think we can, we perhaps have to acknowledge that we shouldn't be asking registrars the data or we shouldn't be expecting to use the data that the registrars provide to us to then hit them with a compliance notice.

Yes. I think it's fine if it's something that Analysis Group identified as a result of their data from the TMCH results in a compliance investigation. Don't get me wrong. But I don't think we're going to get anywhere if we're expecting registrars to shock themselves.

David Tait: Thank you Susan. And Mary has just asked me to - yes. Mary just asked me to (directly) add a similar point, which is to note that the Analysis Group

cautions that (unintelligible) of non-registration as a result of claims notices. So that is just a point that (she just asked me).

So noting that it's five past the hour, unless there are any further comments on Pages 7 and 8, I propose that we - noting that we haven't been able to (to this) Point 3 (directly although) there are a number of different questions including that which Kathy has proposed for staff what (unintelligible) revised list of - our next revision of the list of questions for TMCH (provide with) registrars and registries.

I'd like to move on to Point 4 - Item 4 on the agenda, next steps and the next meeting. And so what we propose to do is circulate the revised list of questions by the start of next week and - or early next week and ask you to provide us with some feedback on them if that's possible for the meeting on Friday.

Obviously we need to get answers to these documents - to this document today. And moving on to Item 4. One of the issues that came up at the end of last week's meeting was about the level of participation in the meeting. And I requested by the sub-team staff sent out a note requesting feedback from the rest of the working group and about the suitability of this time on a Friday for the sub-team to meet.

While there is no - in terms of the response that we received from members of the working group, there was very little in the way of the fact that (unintelligible) the question have an alternative time. And they didn't note that that would (unintelligible) people and it was just - so therefore we haven't really received any (unintelligible) requests for a different time time.

And there doesn't seem to be any suggestion about which would increase participation if we were to move from this time. So with that, maybe (unintelligible) continue to expect Fridays at 1500 UTC unless there are any further requests that we should look at changing this time.

Kathy Kleiman: Sorry David. This is Kathy. I'm having some trouble hearing you. Did you say we're sticking with the main time because nobody really commented to suggest another time?

David Tait: Yes, that's correct.

Kathy Kleiman: Okay. Yes. Apologies. It's my portable that's having some problem. And did you say that you're thinking of sending the questions out this week or that we're going to meet on them again next week?

David Tait: We'll (re-circulate).

Kathy Kleiman: Okay. Thank you Mary. Great. So we'll have at least another week or so on these questions and lots more to consider next week. Thank you for such a substantive meeting. Thanks everybody. And have a good weekend everyone.

END