# Transcript
# GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference
# 11 January 2012 at 19:00 UTC

Note: The following is the output of transcribing from an audio recording of the GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference held on Wednesday 11 January 2012 at 1900 UTC . Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

http://audio.icann.org/gnso/gnso-gac-ioc-20120111-en.mp3 On page:
**http://gnso.icann.org/calendar/#jan**


**Attendees:**

Jeff Neuman -  Registry SG group leader
Lanre Ajayi – Nominating Committee Appointee
Joy Liddicoat – NCSG
Thomas Rickert – Nominating Committee Appointee
Alain Greenberg – ALAC
James Bikoff- IPC
Steve DelBianco – CBUC
Konstantinos Komaitis – NCUC
Wolfgang Kleinwachter – NCSG
Kiran Malancharuvil – IPC
Charles Gomes – RySG
Gregory Shatan – IP
Zahid Jamil - CBUC


ICANN Staff
Margie Milam
Brian Peck
Nathalie Peregrine

Apologies:
Jay Scott Evans
Wendy Seltzer

Coordinator: Excuse me. This is the operator. I just need to inform all participants that today's conference call is being recorded. If you have any objections, you may disconnect your lines at this time.

And you may begin.

Nathalie Peregrine: Thank you very much Kelly.

Good morning, good afternoon, good evening. This is the IOC call on the 11th of January 2012. On the call today we have Jeff Neuman, James Bikoff, Steve DelBianco, Konstantinos Komaitis, (Unintelligible), Wolfgang Kleinwatcher, (Unintelligible), Thomas Rickert, Charles Gomes, and Gregory Shatan.

And Joy Liddicoat has just joined us.

From staff we have Brian Peck, Margie Milam, and myself Nathalie Peregrine.

We have apologies from Wendy Seltzer and Zahid Jamil.

I would like to remind you all to please state your names before speaking for transcription purposes.

Thank you very much, and over to you.

Jeff Neuman: Great. And just to note for the record, this is Jeff Neuman. I did get an apology note from J. Scott Evans as well, so if we could just note that in.

So welcome everyone to the IOC Red Cross call, and just want to welcome everyone. There's a lot more people on the call today than last week. So I just want to remind everyone that you know, I am technically the group

leader, but I really consider it more of a discussion leader. I'm just trying to get us to discuss what's going on.

Our role really is to provide input and advice to the GNSO Council so that they can have some background and some information from the GNSO community when the GNSO Council interacts with the GAC on the GAC proposal.

We have - for those of you on the call that may not be on Adobe, we do have Adobe Connect up, which is used to display documents and also helps me if you want to get in the queue to just raise your hand and then I can call on people from the queue. If you're not by a computer, then just let me know. Just kind of interrupt and let me know when you have a question and we'll form a queue that way.

So one more thing. If you can, when you speak if you could just you know, give your name for transcription purposes, and also the first time you speak, if you could just give a little bit of background for those that may not know you on the call as to you know, which stakeholder group you're a part of, or whether you're representing the Olympic Committee or whatnot, just to give a little bit of background and context.

That said, everyone should have by now I'm hoping filed a statement of interest, which also is another document that we use in the GNSO community to state if you have any interests so that everyone in the group knows where you might be coming from - any particular issue.

So all of that said, I think the agenda is similar to the last time, although hopefully we'll get through or start on some of the substantive issues. We spent a lot of time on the last call which I think was helpful, talking about more of the philosophical issues that were initially introduced by the GAC, which is you know, is this a matter of policy or is this a matter of

implementation? And so then that frees us up now to kind of talk about some of the substance in the proposal.

So all of that said, the document that's up on Adobe right now is actually the one that I sent around, which I also see that Chuck Gomes has made some edits to, which is great. So we can go through that document and we can then talk about the issues.

The goal is to have a call -- obviously this call today -- to set up another call in two weeks at this same exact time to follow-up. But also, everyone should be going back to their respective groups, and to the extent they can, be getting input from their stakeholder groups, their constituencies, the At Large, wherever you come from in the community.

And the next goal is to have a call with the GAC, kind of a prep call to just inform the GAC as to where we are on these issues sometime in February so that we can then have action items to discuss this issue in more detail with some hopefully concrete proposals in March in Costa Rica.

Any questions on that before we get - we dive right in?

Okay. Not seeing any questions, one of the first items that we had talked about last time, which I don't want to really get into an in-depth discussion is the discussion of whether this really involves policy development or implementation. The GAC has come back in their document and believes its implementation.

There were a number of discussions last week - or sorry, the last time we had a call last month. Most of the people on the call felt this was an issue of implementation. There have been some notes back and forth and emails. Really, it's a question of implementation. And one of the things we had asked ICANN staff to go back to I guess to other staff - executive staff that was on

the Board call or in the Board meetings when they discussed this issue in Singapore, was to hopefully get some feedback on that.

And so I know (Brian)...

Man:              Hello?

Jeff Neuman:     Yes. Can you - sorry, can you guys hear me?

Man:              Yes.

Man:              Yes, now we can.

Jeff Neuman:     Yes. Sorry, I don't know what part I went out. Something weird happened with my phone. But Brian Keith, do you have any update on the question of whether the Board had discussed whether this was policy or implementation?

Brian Keith:     Unfortunately, (unintelligible) we did go back to legal and ask them for their input based on the question that you asked the last call. And, we - you know, we checked with them again yesterday. We're still waiting to get back to hear from them.

                 I think one of the questions that they had was you know, is it basically what you're group is asking is whether - is it - you know, is it an approach involving a PDP, or is it mainly more viewed as implementation advice?

                 We told them about the call today. We asked them if we could try to get you know, more feedback by this time. They are somewhat tied up with the launch of the new gTLD's tomorrow. We are meeting with them again tomorrow, so hopefully we can try to get a little more specific feedback on that.

But unfortunately, have not been able to get more input in terms of, as you say, the context of the Board discussion on whether they viewed that as - the Board in its passing of the resolution, viewed it as a policy or implementation issue. Beyond what you know, you guys have discussed amongst yourselves you know, in the last call and in between that time.

Jeff Neuman: Okay, great. And on the last call, and then I'll call on Chuck. I know he's in the queue. On the last call, we decided you know, it's - we're going to proceed based on the assumption that this is new gTLD implementation. And so you know, we're going to proceed on that.

If that's an incorrect assumption, obviously we'd like to know that as soon as possible.

Brian Keith: Sure.

Jeff Neuman: Because there are a number of issues that may affect - or that will affect the current ground that's being launched in a couple hours.

So Chuck?

Chuck Gomes: Sure. And I won't repeat what you can see on my comments that I sent earlier today as far as the implementation.

I certainly don't think that - if anything, this is more of an implementation issue than some of the stuff we did with rights protection, and I'm not complaining about what was done there. I'm fine with that.

So I - and I guess an alternative if for some reason legal - the General Counsel's office comes back and says it's a policy issue, one way of approaching it might be to treat it as an implementation issue for the first round, and that would give time then to do a policy development process if we're not able to expedite one, which I said in my comments.

Jeff Neuman:      All right, thank you Chuck, and I think that's very much in line with the discussion last month, so that's good.

Any other - Joy? Yes.

Joy Liddicoat:    Thanks Jeff. Joy Liddicoat. And I've shorted the materials since our last meeting to the non-commercial stakeholder group, which I (unintelligible) and received some comments.

I think it'll be fair to characterize those as falling into sort of two groups. One is sort of a reiteration of the opposition in principle to the Board decision and leaving aside that question but noting that those views still hold about the (reservation) of both names.

I think the second sort of (unintelligible) views was that in relation to the TLD, the top level domain, name protection should've been different from those relating to second level protection. And, there was a much clearer view emerging from the comments on our discussions that at second level, the (unintelligible) was definitely one of a PDP rather than implementation at the top level in anticipation for the new gTLD round.

So that might be also worth discussing with ICANN staff and legal if they're - in other words, are there different considerations in relation to the creation of a PDP or implementation for the TLD and second level protection processes? Thanks Jeff.

Jeff Neuman:      Okay, thank you Joy, and I think that is something we should have clarified or whether there is a distinction between the top level and the second level. And the good news is if at the top level - or sorry, if at the second level it is a PDP, well we have some time before new gTLD's are going to be launched, so we could do it fairly expedited. As much as we can, an expedited type of PDP.

So the sooner we get definitive feedback from ICANN staff the better on that issue. But like I said just for purposes of our group, we're going to treat it all like implementation. And worst case scenario is that it is policy development. And either way, the work that we do here will inform the policy development process.

So let me go to - I can see Margie's hands and then I see Chuck's. So Margie?

Margie Milam: Yes, thanks Jeff. A couple things I wanted to point out, and Brian's correct; we're still clarifying with legal. But as I recall from the resolutions from the Board, I thought the issue was really that they've agreed to treat the IOC and the (unintelligible) this way, you know the way it's now been announced, for the first phase of the - you know, the first round I guess in applications. And that for the second round of applications, it's not clear that those rules would continue.

So as we think about it from an implementation side, you know, I think the question for us is you know, should they continue if they do or should it be something different? And so that's my recollection and I just wanted to kind of raise that issue.

Jeff Neuman: Right.

Okay, and then Chuck and then I want to try to move on to some of the substance, because I think we have a lot to talk about. So Chuck?

Chuck Gomes: Sure, I'll be brief Jeff. I wanted to give a little historical perspective to the distinction that Joy made to top level and second level. Because in the reserved names working group as well as the PDP on new gTLD's itself, which that was a part of, there was really a distinction made. We were - the recommendations were stricter at the top level in terms of making reservations.

Carrying that - there was less tendency to carry it over to the second level. For example, two characters. Two character names were reserved at the top level for ccTLD's. At the second level, a little more openness. So I think that's a good distinction and consistent with the work in the new gTLD PDP and in particular the reserved names working group.

Jeff Neuman: Yes, thank you Chuck.

Any other comments on that?

Great. So then we're not going to get into this discussion today, or right now. I'm sure it'll come up through a number of the other items. But we also talked about an overall issue. We talked about - you know, we're just talking about - sorry, let me go back one.

Then on C we talked about whether this only applies to IOC and Red Cross, and we came up with a determination. And I think the Council agreed when we did a recap afterwards, that the only names that are before us right now are the ones that were submitted by the IOC and the Red Cross, even though there have been letters submitted since then by groups like on behalf of IGO's and I think maybe even pharmaceuticals and others.

The only ones this group are considering are those in the GAC proposal related to the IOC and Red Cross.

If in the future the Council wants to change that, which I don't see happening in the immediate future, then we can think about picking up additional ones. But at this point, we should only be talking about IOC and Red Cross. And so therefore, I would ask that a number of discussions on whether this sets precedent for future action? You know, you could raise the concern and you should raise the concern, but I don't want to spend too much time talking about that, if that's okay.

So I also try to monitor the chat so certain people file comments on the chat and that's great.

So (Steve) has - (Steve), you want to make that comment, or do you just want to...

(Steve):     Yes, that's just an FYI. Someone brought up the Singapore resolution.

Jeff Neuman:     Right.

(Steve):     That was the genesis of some of this action, so I simply pasted the text in there. Thank you.

Jeff Neuman:     Okay. Thanks (Steve).

             Joy?

Joy Liddicoat:     Thanks Jeff. Just one addendum. In terms of the discussion going forward, and I agree with you the Council made it clear that in terms of the GAC advice, we're only talking about the IOC and Red Cross names at this point. I think the other feedback from our constituency group was that while that's the case, it would nonetheless be very advisable for both the GNSO Council and GAC to be cautionary and mindful of the task that we're doing. At least set a precedent, and mindful that there may be requests that follow.

             And so while we should deal with this issue squarely on its own terms, we must you know be aware of that wider context while generally we're making decisions. So I'm just offering that feedback as well. I thought - I think it's useful advice and guidance for us to remember that as we go forward.

Jeff Neuman:     Yes, thank you Joy. And it's perfectly fine if when we're presenting our advice to the GNSO that we make it clear that this advice only applies to the

International Olympic Committee names and the Red Cross names and to no others. We can make that very clear that this is not intended to create precedent for any other types of names.

And those - if those ever come up in the future, they need to be decided on their own merits and not based on the work that we're doing now.

Okay, so let's dive in then to the top level protections. And what I have documented here again was my interpretation of top level protections which we started talking about on the last call. And that was - and since there's some new people here.

Right now on the top level, the first question, and Margie had kind of introduced this a little bit earlier, is whether this should only apply during the first round or to all future rounds. I suggest from now we talk about pushing that issue actually to after we decide how we're going to handle top level in this round, and then choose the topic of should it apply to future ones, if that's okay.

Right now in the guidebook, just to - and the new guidebook is coming out today, right, at some point, or very shortly, and so I'm assuming the treatment will be the same. But at this point in time, let the - what ICANN staff had done with the Singapore resolution - and someone jump in if you disagree or you think it was something different.

But essentially, they created a separate category for these types of names. And it's not in the category with the word example or test, for example, where those marks are reserved and there is a string similarity review that's done if someone applies for something that's similar.

So if someone for example were to apply for -- and this is one I used the last time -- example, but E-G-G-A-M-P-L-E as opposed to E-X-A-M-P-L-E, that would undergo a string similarity review with the String Similarity Review

Panel. And if the String Similarity Review Panel had found that to be confusingly similar using the standards in the guidebook, then ultimately that would not - that string would not be allowed to go forward.

Or the way that our guidebook treats the Olympic names and the Red Cross names is that it has to be an exact match and there is no string similarity review. So if someone were to apply for Olympix that ends with an X instead of a C-S, that would not be - that would not be an exact match and that would not be considered in the string similarity review.

So presumably, that would go forward, at least until an objection phase, right, because the Olympics could always object to that based on the objection procedures. But it would not be kicked out based on the string similarity - based on an exact match.

Chuck, do you have a question on that or comment?

Chuck Gomes: I do, because if my memory is correct that the string similarity review happens with regard to existing names - top level names...

Jeff Neuman: Yes.

Chuck Gomes: ...applied for names, and for reserved names. So if these sets of names for IOC and Red Cross were reserved in the first round, I would think it would apply to them - that a string similarity would be done.

Jeff Neuman: Yes, and that's what a lot of us logically had thought, but the guidebook specifically makes a delineation between these names and the other reserved names and does say that there is no string similarity review.

Chuck Gomes: Okay, I recall that. Thanks.

Jeff Neuman: So...

Brian Keith:     And Jeff, this is Brian. I did confirm that with internal staff. That is correct for both, specifically the IOC and the Red Cross names, that there is no string similarity review conducted for those names.

Jeff Neuman:     Right.

Brian Keith:     In the first round.

Jeff Neuman:     So I think this is probably one of the most important questions that we need to decide fairly quickly on or provide advice on, since the application window is opening in four and a half hours you know, and there are - you know, it does go on for three months, and then you know there's an administrative checkpoint. But, there's a very limited amount of time to get in our advice so that the evaluators can actually consider it.

So if it is the - and I'm not saying it is, but if it is the recommendation of this group that a string similarity review should be done, well A that should be known when people are applying for it so that they know that you know, their application will be subjected to this type of review.

I think that's important, so I would put this as a - this one and the next - and one of the next questions we're going to talk about with respect to expanding the names to include not just foreign translations that were in the - our initial IOC letter and Red Cross letter, but expanding that to other foreign translations.

So those are the types of things I think we really need to decide fairly quickly.

Some of the other issues, especially the second level ones, I think have a little bit more time, but that one's something we need to decide. So let me throw it out there and maybe Chuck you already gave the registry viewpoint,

or maybe that was your own personal viewpoint. But - so let me pose the question out and you can kind of - I'll call on you to be first in the queue.

Given what the current rules say in the guidebook and what Brian has confirmed, what are people's thoughts of should a string similarity review be done on these particular names? And we'll just limit it to the first round at this point in time.

Chuck Gomes:     And did you want me to start Jeff?

Jeff Neuman:     I would, because you kind of went into your opinion anyway, so it'd be great if you could kick it off.

Chuck Gomes:     Thanks. So this is Chuck again. And I don't recall us in the registries talking specifically about this question. I guess my own personal question would be if the name is - any reserved name I would - we don't want confusion, right? The GNSO recommendation was to you know, try to avoid user confusion. And so why wouldn't a string similarity review be done on any name that's reserved because it risks user confusion? But I'll leave it at that.

Jeff Neuman:     Thanks Chuck. And I think that's a very important point, and I think that does go back to a GNSO policy that was actually in the policy development process. That was one of the fundamental principles, so I think - I appreciate you raising that and I think that's important for us to note.

                 (Allen)?

(Allen):         Yes, I guess I have a question. Does anyone understand -- staff or anyone else -- why they explicitly put that wording into the guidebook? The only (unintelligible) I can think of is the Board passed a rather unusual motion to add this at the very last moment and they wanted to keep it as minimalist as possible.

But I'm not sure that - you know, is there some real rationale for not doing - not including the similarity review, other than keeping it a minimalist change?

Jeff Neuman:     I don't know if Brian or Margie are prepared to answer that, but that's certainly - that was one of the questions that we asked them to take back. And Brian has confirmed the language.

It could just be as innocent as you know, the Board passed a resolution and the staff followed the resolution...

(Allen):     To the word.

Jeff Neuman:     ...to the word.

(Allen):     Yes.

Jeff Neuman:     So - but let me ask (Allen), what are your thoughts on it? So how do you feel? Would you object if we had advice, or would you be - would you support advice to the GNSO Council that yes, as Chuck said, you know, we should support the principle of having uniformity and avoiding user confusion? And therefore, this should be treated like all the other reserved names and undergo a string similarity review?

(Allen):     My personal opinion is yes we should. I see little utility in accepting a name and passing it by to the later stages if it's likely to be eligible to objection anyway, or if the objections would not hold water than to create user confusion.

So yes, I - certainly I'm talking on my own behalf, but I suspect I'm talking on behalf of the - of At Large in that anything which is going to really confuse users and things that sound the same in a common language or look the same, I put into that category.

So yes, I personally would support including - widening the restriction to similarity.

Jeff Neuman:     Okay. Thanks (Allen).

So as - (Joy)? Okay.

Joy Liddicoat:    Thanks. Just speaking for myself and looking at the Applicant Guidebook, and the - you know, the evaluation process I think - it seems like the way it steps through is quite clear. It involves the string similarity review, which includes comparison of each applied for gTLD string against existing TLD's and reserved names. And that's courtesy out of the Applicant Guidebook.

And the IOC and Red Cross are already included in that list of reserved names, so it seems to me that A, the discussion becomes rather circular because the string similarity review involves (unintelligible) the reserved names for which these two already exist.

But secondly again, thinking about precedent and thinking about sort of transparency, it seems to me sensible in my personal view to treat the names as we would any other names that fell within the reserved names list. Even if we do that only for the purposes of this initial round, as per the Board decision.

Jeff Neuman:     Okay. Thanks Joy.

So it sounds like you were all saying the same thing as far as - and again, I'm just limiting it for the first round just to kind of separate it out. Does anyone disagree with that recommendation that we treat - that we recommend to the GNSO that they agree with the GAC proposal with respect to treating these names as all of the other reserve names?

Okay, I think we have our first kind of - oh, (Steve) wants me to restate this. Okay. So let me try to restate it.

The people who have spoken so far have all said that the names - and we'll decide which names these are, so I think that's still sort of an open question. But whatever names fall under the IOC/Red Cross names that were proposed by the GAC and the Red Cross, that those be placed, as the Board has said, into the reserved names list and that we recommend that they be treated like all of the other reserved names; whereby, a string similarity review is conducted.

Margie, do you have a comment on that?

Margie Milam: Oh, I had a comment - I think it was related to the other thing. Whether you wanted to treat it the same as a registered name, so it's more broadly. And I just wanted to share an observation that I had received that one of the differences between this and the reserved names list is that the IOC, or the Olympix Red Cross, could actually apply for those names.

And so my understanding was that that was a little bit different than the reserved name concept.

Jeff Neuman: Yes, so that's a good point. So how about then just to limit what I said then, to treat these names similarly to the other reserved names with respect to undergoing a string similarity review. And then we'll address the topic of whether we think that the Olympic Committee or the Red Cross should be able to apply for these names at the top level. Let's handle that separately.

Did anyone disagree with that?

Man: No.

Man: (Unintelligible) Jeff?

Jeff Neuman:      Oh Joy, you still have your hand up. Is that left over or is that new?

                 Okay, there we go.

                 Chuck?

Chuck Gomes:      Yes, I was - I'm not sure what you were asking what we disagree with. But my - in response to Margie's comment, keep in mind that the string similarity review applies to - applied for names too. So those aren't in the same category of reserved names either.

Man:              It's a telephone conference.

Chuck Gomes:      Did that make any sense?

Jeff Neuman:      That's a good point. But Chuck, those aren't reserved in essence.

Chuck Gomes:      I agree.

Jeff Neuman:      Yes. But...

Chuck Gomes:      But there's still a string similarity review that happens, right?

Jeff Neuman:      Right. I think Margie was just - and Margie can speak for herself I think. But I think her point was with my earlier statement that said if we treat it like a reserved name, then they couldn't apply for it.

                 So I guess the main point that's come out of this, and then maybe it's an issue of draft or the way we say it, but I think everyone here agrees that whatever names fall on this list from the IOC and the Red Cross, those should undergo the string similarity - or applications for strings should undergo string similarity review with these particular names, right?

I think that's the point, and it seems like people are hitting the checkmark.

(Steve)?

(Steve): Thanks Jeff. And I understand the arguments on this approach to be - in terms of making things more consistent and to increase the operational efficiency of the application process, we should never underestimate the GAC's ability to misinterpret what we do as somehow defying their wishes.

So I only ask a question is there any reason to suspect the GAC would object to a string similarity review the way we're recommending it now? Thanks.

Jeff Neuman: Yes. I think - you know that's a good point, and I believe they answered that - I think they asked for that in there, and they clarified that in the second - I want to say it's their Q&A document that came out.

And maybe Jim's on the call, and not to put him on the spot, but I think that was clarified and I think the GAC was supportive of a string similarity review.

(Steve): Thank you.

James Bikoff: Jeff, it's Jim. I believe that's true.

Jeff Neuman: Okay.

And for those of you that don't know who Jim Bikoff is, then you may have seen his name. He represents - in certain matters, he represents the Olympic Committee and has been following this very closely, as you can imagine.

Great. So then the next question is, and Jim please step in if I'm misstating this - the next question was with respect to the names that the Board had recognized in the guidebook - so...

Man:                    (If you kick me out, I'm sitting outside thus far).

Jeff Neuman:            Whoever's - if you could put it on mute? I think we hear some other conversation.

So in the - when the IOC and the Red Cross initially presented their proposal, they had presented examples in other languages, and they said - it was pretty clear in their letter, they said it was for illustrative purposes only.

For whatever reason, and I don't know the background of this, and maybe that's helpful to find out. But for whatever reason, I think the ICANN staff in the guidebook took that as the definitive list of foreign translations as opposed to an illustrative list. Again, I'm not sure what the rationale was for that.

But in the GAC proposal, they came back with a more comprehensive list of foreign translations of these - of the Olympic words and the Red Cross. And so the question I threw out to the group is is this group willing to consider the GAC proposal which expands the foreign translations based on the rationale that when the Olympic Committee and Red Cross initially presented the list it was for illustrative purposes, and I don't think they ever intended that list to be the sole and exclusive list.

So (Steve) is your hand up? Is that new or is that a...

(Steve):                I wanted to point out that the reserved names list in the actual guidebook Jeff.

Jeff Neuman:            Yes.

(Steve):                Just the top level reserved names. There's a footnote in that table that says that, "in addition to the above strings, ICANN will reserve translations of the terms test and example in multiple languages."

And, my question is is ICANN implying that the reserved names will also be reserved in multiple languages? Or, is that only the words test and example? And I'm speaking of Module 2, Page 2-9.

Jeff Neuman:     So it's my understanding, and Brian or Margie correct me if I'm wrong. My understanding is that only applies to test and example, and they were very specific with the Olympic ones in the guidebook and specified which translations they were talking about.

(Steve):     Thank you.

Jeff Neuman:     So, yes.

Joy?

Joy Liddicoat:     Thanks.

Wolfgang Kleinwatcher:     And this is Wolf.

Joy Liddicoat:     Just a point of clarification. I'm just trying to make sure I'm looking at the same - at the version of the Applicant Guidebook as everybody else, and just clarifying that I think I am, which is the one - the clean copy - the PDF that's dated the 19th of September last year?

Jeff Neuman:     That is the last one until maybe today.

Joy Liddicoat:     That's the last one, right?

Because in looking through Page 10 of this, it seems that the IOC and the translations, which is what we're talking about here, the Red Cross, it clearly states that these names are not being placed on the reserved name list, and

thus are not part of the string similarity review conducted for names on that list.

Jeff Neuman: Correct. That is what it says, and that's what we just talked about, which is that it's our recommendation that a string similarity review should be done.

Joy Liddicoat: (Unintelligible) be applied.

Wolfgang Kleinwatcher: This is Wolfgang. I want to be in the queue.

Joy Liddicoat: Okay, so I'm just making sure that we're reading off the same pages, because I know it's confusing to some other people on the call who may not be - may not have this document in front of them and following the discussion.

Jeff Neuman: Right. So - yes, just to clarify and then I'll let Wolfgang speak. The guidebook right now as it's worded says there will not be any string similarity review of the IOC and Red Cross names. The discussion we just finished up was that we were going to recommend, in accordance with the GAC's proposal that these names be placed on the reserved names list, and - or let me take that back.

That these names should undergo a string similarity review.

Joy Liddicoat: Not withstanding that they are not on the reserved names list?

Jeff Neuman: Correct.

Joy Liddicoat: All right. Okay, thanks.

Jeff Neuman: Okay, Wolfgang let me get to you.

Wolfgang Kleinwatcher: Okay. Thank you very much.

So that means while I have nothing against review, you know, I just want to raise two points. One is regarding to the Olympix, Olympiad or whatever is a close to Olympic.

So I think Konstantinos made a good point in an email recently when he said, "Okay, there are so many variations and the Olymp belongs to the Greek people." And so he was wondering why the Greek representative in the GAC did not raise this point whether everything which goes to Olymp or something else will be just you know, reserved for the IOC, which is a rather commercially-oriented organization.

So that means we have to be very precise what we want to reserve and what has to be reviewed because only Olymp you know means many things. Olympiad or Olymp is the (mountain) and things like that. So that means there are some variations which really - which go beyond this what the IOC is calling for.

And the second point is you know, remember the letter which was sent to ICANN a couple of weeks ago where a number of UN organizations asked similar things. So we are talking about a response, and the IOC, the Olympic Committee.

But you know, this will thirdly produce a wave of other issues. So unfortunately, I was lost a little bit in this telephone call because I was cut off and I have no idea whether this was already discussed. But I want to raise this again. This is an issue which needs also further consideration.

I have no final answer to this, but you know we have to discuss this and have to respond to this letter, you know which is an endless of United Nations organizations and other who want to have - if we give this special status to the IOC and the International Red Cross, which certainly you know will call for a similar status.

So I think I have no answer for this at this moment, but we have to take this into consideration. That means if we give this special status to the IOC and the Red Cross, we create a precedent you know which then others will refer to and will certainly ask for the same rights and the same considerations.

Jeff Neuman: That's - thanks Wolfgang. And just - I don't know if you had been dropped off. We did have a discussion on precedent. And what we said was that the - certainly, the objection should be noted for - you know, that we don't - we're not intending to create a precedent, and we need to be very clear in that in our messaging to the GNSO Council and our recommendation to the GNSO Council that we are only talking about the Olympic and Red Cross marks.

That it is not our intention to create any precedent and nothing should be read into our advice to constitute precedent. And even in the GAC letter that they had submitted, they do say that these are the only two marks they can think of that have these types of protections so universally accepted with a number of nations, treaties, and otherwise.

And so we should note the fear of creating precedent. We should be very strong in our advice to say that this only applies to those. But, I think we still need to move on with these names and our thoughts on these names with the underlying concern that it could - we're not intending it to create precedent.

So let me go to Joy. I'm not sure if that's new or old, but if that's new then you have the floor, then Chuck and (Allen).

Okay, let me go to Chuck.

Chuck Gomes: Thanks Jeff. Wolfgang, I don't - personally, I think that the registry's stakeholder group came to this conclusion pretty much as a whole. I don't

think the risk of setting undue precedent is really there because of the careful way that the GAC did their letter.

This is one of the areas that I personally compliment the GAC on because they defined the parameters that set these two aside -- which I think Jeff was just kind of indirectly referring to -- in a very careful way. And I think that even applies to the latest request for IGO names, that they do not meet the same criteria that the GAC applied to these.

So I don't think that danger is there as much as you suggested.

Jeff Neuman: Okay - sorry, just lost my place here. (Allen), thank you.

(Allen): Yes, thank you. I agree with Chuck on that one. I don't think precedent is the issue here. The GAC may come back and say, "Oh, we have found these other 49 things which are relevant," but that's a different discussion altogether.

The other part of what Wolfgang mentioned however I do have some concern with, and that is not for the Red Cross but for Olympics there are a whole host of other uses of words that are very similar and might well be excluded by a string similarity review unreasonably, and perhaps without any appeal at all.

And I just suggest that we think carefully about what we're going to - what wording we're going to put. I don't want to try wordsmith it right now, but what is the intent? Is it that these things be rejected categorically because they're deemed to be similar, or there be some - is there a review process? Do the Olympics get a veto?

I don't know the answer, but there are an awful lot of words and terms that are quite similar to the Olympics ones. And I'm not at all sure I want to exclude all of them.

Jeff Neuman: I think that's a good point. I think we need to consider one other option. Again, I'm not - this is a personal not - shouldn't have any more weight other than a personal opinion. Is we could also say, "Well, let's see how it works in the first round."

If we find that there are actually applications that are cut out, then you could always go back and review and say, "Okay, maybe we need to reconsider this rule and narrow it down." Because, I think we're being - we're thinking of a lot of situations that are theoretical, and I'm not sure any one of those organizations are actually thinking of applying.

You know, it may be that Olympus wants their camera or whatever trademark as a brand and they get caught up. I would hope not, because I think you know, the whole concept of string similarity is for visual confusion, not necessarily trademark confusion, which are - it's not necessarily the same standard.

So let me go to Konstantinos because...

(Allen): Jeff, one quick follow-on. Does anyone - I'm not an expert on the guidebook as perhaps I should be. Is there an appeal process over the string similarity review?

Jeff Neuman: So I'll just answer that and then go to Konstantinos.

(Allen): Okay.

Jeff Neuman: I believe the way I've read it is that if something does not pass string similarity review, there is no appeal from that.

(Allen): That's what I was afraid of.

Jeff Neuman: If something goes through however, then there'd be nothing preventing the Olympics for example, or the Red Cross to challenge that string based on trademark rights or legal rights objection.

So I hope someone could double check that for me because that's my belief, and I think that's the way it is. But if I'm wrong, someone please jump in. But in the meantime, let's go to Konstantinos.

Konstantinos Komaitis: Thank you Jeff. Very quickly I will just like to reiterate what Wolfgang said in relation to the Olympic mark as well as (Allen). And I would like to draw everybody's attention to the fact that we need to make sure that we don't treat those two names the same, despite the fact that they were presented through the GAC letter and they have (unintelligible) this for the past two months as if we need to treat them exactly the same.

The reason I'm saying that is that especially in relation to the Olympic mark, I can think of at least 10 different Greek trademarks incorporating the word Olympic or Olympiad. One of them being a very strong one, the Olympic Airlines.

And to this end, needless to say that (unintelligible) for the Greeks incorporates some sort of cultural knowledge and heritage which is protected through intellectual property laws.

So what I'm trying to say is that I think that this group needs to separate some instances at least what we - when we're talking about the Red Cross and when we're talking about the Olympic mark. Because if we reserve the Olympic mark, this automatically means that a lot of trademarks honors and Greece as a nation is automatically excommunicated from potentially wanting to apply. Thank you.

Jeff Neuman: Okay, thank you Konstantinos.

So are you saying - so I want to treat a couple - I want to treat or segregate the issue here. So there's one example that you said. If someone has a legitimate right to that name, like Olympic Airlines, I think that's one example. And I think we should talk about that as to maybe you know if someone does come through in the first round - or maybe we just let the first round go as it is, because that's what ICANN's Board has pretty much recommended or has passed the resolution. And maybe for the second round we consider that.

But the other example that I want to make sure that we don't tie in together is you know, I also don't - I don't think it's - this is personal opinion. I don't think it would be fair to have something on the reserved list but then allow someone to apply for Olympix with an X and they don't necessarily have a legitimate right or trademark in that. They're just applying for it because it's another way to say Olympics. It's a different spelling.

So I think that situation needs to be treated differently. Then the situation you're bringing up is what if someone with an actual right to it applies.

Konstantinos Komaitis:    Yes. And also that in the case of the Red Cross. Because you're talking about the Red Cross. We are talking about the Red Cross and the International Olympic Committee. We're talking about the two names in a batch. I'm just saying that the Red Cross does not necessarily create as many problems as the Olympic mark.

Because in the case of the Olympic mark, there are also valid intellectual property rights being involved. So that's also the other angle that I was trying to mention. Thanks.

Wolfgang Kleinwatcher:    Okay, this is Wolfgang. I want to continue with Konstantinos' comment. You know, as long as it's restricted to the IOC and the International Olympic Committee and Olympic games, I understand this. But if it goes further down the road to - Konstantinos mentioned Olympic Airways.

Or you know in Cypress, it's Mt. Olymp like in Greece. You know, if Cypress or somebody in Cypress creates an .olymp for people - you know, climbing in mountains, do you want to stop this because we have the IOC which asks for special reservations?

But at least this needs a very special recommendation how to review such applications? And so that means handling this on a case-by-case basis. But it means you cannot give a carte blanche to the IOC that everything which includes Olymp in a certain way, you know remains to the IOC in - headquartered in (unintelligible) - in Switzerland as a commercial organization.

And so far you know, we have to be very specific. We have to recognize the special rights of the IOC. I have nothing against it. But you know, this does not mean that they occupy everything which is related to the you know, words Olymp both in Latin and Greece and in other languages.

Jeff Neuman: So I think we also - I think it's a good point we need to think about, but we also have to think about the differences between a string similarity review and a review under trademark laws. I'm not sure that Olymp and Olympic are - would fail in a string similarity review. You know, I think we could run it in the algorithm, but I'm not necessarily sure that with the way they set out the string similarity that those are visually similar enough to not pass through the review.

If that were the case, then any mark that is - to compare, just because there's a two letter country code doesn't mean you can't have a four letter string, the first two letters include two letters that are in a country code, right? I don't think those would fail. And I'm trying to think of an example off the top of my head. Unfortunately, none are coming to my mind, but there's got to be lots of examples where the first two letters of a three or four letter string are with a...

Okay, here's an example. Is .eco confusingly similar or a string similarity to .co or .ec? I think the answer is now. I don't know that for a fact, but that's kind of something we need to think about.

Let me go - I think Konstantinos - I think that was a left over one, right? So let me go to Chuck.

Chuck Gomes:     Jeff first of all, I want to disagree with you on one thing. String similarity is not just about visual similarity. The initial checks are just about visual similarity, but the grounds for string similarity in terms of objections are much broader than that.

Jeff Neuman:     Correct. Yes. Sorry. Thank you.

Chuck Gomes:     Yes, so I just want to make sure that everybody's clear on that.

Now with regard to what Konstantinos and Wolfgang talked about with regard to like Olympic Airlines, we've already got some history of cases. In fact, even in the current guidebook there are - it's not so much at the top level as it is probably at the second level. But we have some precedent set where there are exceptions provided there are not objections, for example, from the International Olympic Committee.

And so I just throw that out. We don't need to talk about that now, but there are ways of allowing for equivalent trademark holders of the term Olympic or Olympiad, for example, where as long as there's no objections and it's used in a way that doesn't create confusion it could be acceptable. But we don't need to go - delve into that now, but I wanted to point that out.

Jeff Neuman:     Yes. Okay, thanks Chuck. I think it's important, and I think that's going to be a much larger discussion when we talk about the second level. But I mean if people feel like it should apply at the first one - the top level too, then by all means let's address that.

Joy?

Joy Liddicoat:    Thanks. Did - just listening to the conversation - the discussion, it seems to me that there are a couple of themes emerging, and I'm just reflecting them back to see if it's helpful for the discussion. And possibly in terms of the joint discussion with the GAC.

The first is that there seems to be sort of a view on the one hand that there are some options about how to treat the names in the upcoming round. The first big option being to include the string similarity review, notwithstanding the terms of the guidebook.

And, the second being to treat some of the specific new applications on a case-by-case basis, particularly in relation to the IOC, which may cause more and different issues than the counterpart Red Cross, which we've barely said that - discussed. Which is not to say there aren't issues of course.

And, I'm just wondering with - it might be useful to you know, endeavor to engage with the GAC around you know, their range of options. Well, there may be others. And the - and get their response to some of those more detailed questions that we've got.

Jeff Neuman:    Okay, thanks Joy.

Let me go to Greg.

Gregory Shatan:    Hi, it's Gregory Shatan. I just wanted to follow on Chuck's comment. In looking at the Applicant Guidebook, point out that you know a string similarity review - if a superficial similarity or a first level review similarity comes up, that leads then to a string confusion analysis by a panel as I understand it.

And the standard for string confusion, I'll read quickly, is "string confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probably not merely possible that confusion will arise in the mind of the average reasonable Internet user near association and the sense that the string brings another string to mind is insufficient to find a likelihood of confusion."

So it seems to me that you know, the kind of protections that - or concerns that are being talked about in terms of slippery slope type of issues are already being dealt with here. And also in terms of kind of case-by-case review that in fact there will be a fact. In fact that there will be a kind of substantive review as to whether there is real similarity or merely a superficial similarity.

Jeff Neuman:     Greg, can you - and I'm just trying to digest that. Can you go over that again and just restate?

Gregory Shatan:  Sure. It's saying you know, since we - there is a - an actual review by a panel of string confusion. Once a string similarity is revealed by the kind of algorithmic first cut type of analysis, that there is a panel which is supposed to review these string similarities and see whether they in fact rise to the level of string confusion.

And so a string similarity review involves both an assessment of string similarity. And for those found to have a similarity, whether a string confusion exists. And if a string confusion does not exist, then it will be passed through.

Only if a string confusion exists will the applied for string be rejected. So something like Olymp - you know, not to you know pre-guess the result of a substantive analysis by a panel, but Olymp you know may well not be found to be confusing, you know visually or otherwise, with Olympic.

Jeff Neuman:     Right.

Gregory Shatan:  Even if there is a string similarity, and if - at the kind of algorithmic level.

Jeff Neuman:     Yes. So that's a good point and that delves into what Chuck had mentioned as well. So there are other factors.

                 First, it has to be found to be visually similar before you look at any other factor. So if it's not found to be visually similar, you don't even get to the next step.

Chuck Gomes:     I don't think that's true.

Jeff Neuman:     It is. With this point it is. (Unintelligible)...

Chuck Gomes:     You're telling me that it's - in the guidebook there's a prerequisite?

Jeff Neuman:     Yes. So...

Chuck Gomes:     To go to the panel it has to be viewed as a string similar - visually similar first?

Jeff Neuman:     Yes.

Chuck Gomes:     I don't think so.

Jeff Neuman:     Wait. Wait. Wait. Hold on Chuck. Let me finish.

                 At this level, yes. But you could still do a string similarity objection. You could file an objection later on. So even if something doesn't get kicked at - the first string similarity review done by the ICANN appointed panel looks for visual similarity.

Chuck Gomes:     Correct.

Jeff Neuman:     If there's no visual similarity, the string similarity panel doesn't do anything else.

Chuck Gomes:     We can do this offline, but point to me where that is in there. I don't recall ever seeing that.

Jeff Neuman:     Okay.

Gregory Shatan:  This is Greg again. It's a little more complicated than that, but it does say that the algorithm will be used as one of several standards. And that if there is a visual similarity - a higher visual similarity score suggests a higher probability that the application will not pass the string similarity review. The score is only indicative. Final determination of the similarity is entirely up to the panel of judgement.

                 This is Page 2-6 and 2-7.

Chuck Gomes:     Right. No. No. That's fine.

Jeff Neuman:     Right.

Gregory Shatan:  And so - and then the algorithm user guidelines and additional background information are all available to applicants. So...

Jeff Neuman:     Yes. So we could take that offline, but - unless - you know, and then maybe someone else got the answer. But the way I read it and the way it was explained during - and I even ask the question in - where were we? Dakar. It's got to be - at that stage, not at the objection stage where you could file an objection. But at that stage if it's not visually similar, there's no further string similarity review done. It's got to be visually similar first.

Not necessarily the algorithm. I'm just saying someone's got to determine that it's visually similar, so you - the panel wouldn't look at meaning or anything else. The panel only looks at visual similarity initially. If there's visual similarity, it looks at other things.

So let me go to (Steve) - and then Chuck, I'll find that for you in the guidebook. I'll send it to you.

Chuck Gomes:      Thanks.

Jeff Neuman:      (Steve)?

(Steve):          Thank you Jeff.

In the chat I had put up the question - I want to repeat it here and then see if we can get some assistance. The question that I raise is the panel reviewer for string similarity allowed to take into account external information at making her determination of likelihood of confusion?

For instance, would they be allowed to get a letter of non-objection from the International Olympics Committee so that it would let them definitively say that the one for whom confusion is a concern has indicated that they're not worried about the confusion between Olympus Airlines and Olympics?

So I'm asking whether the panel is allowed to take external information in? And if so, that provides a flexible point where the non-objection could be handled during the string similarity panel.

Jeff Neuman:      Okay. Does anyone know the answer to that question?

Man:              No.

Jeff Neuman:      All right, Margie and Brian, can we get an answer to that?

Brian Keith:      Sure.

Chuck Gomes:      (Steve) could you...

(Steve):          Because if you recall - I mean I pasted in the language on that. If the - if in general the amount of information and the considerations that they take in is unlimited, well then the panel would know that if the similarity was with respect to IOC, they would know that one possibility is that the applicant could show a letter of non-objection. They would find no likelihood of confusion for that reason, and that would allow it to proceed. Thanks.

Chuck Gomes:      Can I respond to that Jeff?

Jeff Neuman:      I think you're next in the queue, so yes.

Chuck Gomes:      Okay. (Steve), unfortunately - you know, and you think - I think Edmon Chung's the one that led the charge on this one. In trying to get staff to consider exceptions, that particular one wasn't necessarily mentioned. But - and they never would, which means that I think a string could be eliminated even though it might not create any confusion at all just because of the confusing similarity in the strings themselves.

                  So I - you know, I think that's a - I think that's wrong, and now the Board has an exception procedure for the cc's, but I don't think there's any exceptions like that, which I think is unfortunate.

(Steve):          And Chuck, this is (Steve). And Jeff if I may just respond to that?

Jeff Neuman:      Yes.

(Steve):          The business constituency is absolutely on board and agrees with Chuck's point of view. We didn't want an applicant to be thrown out on similarity when

the similarity was actually to an existing TLD they already - they were already controlling.

So that - Chuck is right, but when I look at the language in 2.5 of the guidebook, the operative verb is determine. The panel gets to determine whether two strings are so similar. The real open question is whether that determination permits the consideration of external information. I don't see how it couldn't. If it doesn't prevent them, then you have to believe the reviewer can take into account all available information in making that determination. Thanks.

Jeff Neuman:    Yes, thank you (Steve). And maybe what you're saying is that just like all the evaluators can take in information during the public comment period, or - you know, maybe that's one of those things. But I think we should get an answer to that. I think it's a good question.

(Steve):        Let's pursue the answer as broadly as we can to satisfy Chuck's concern as well.

Jeff Neuman:    Right.

                And then I'll go to the next question. I just want to just announce that this call was scheduled for an hour and we're over time, which I think is when we're having a good discussion. But I think we do kind of need to wrap up, so let's hear the comment from Joy and then see if we can kind of wrap this up and see where we are.

                All right, Joy?

Joy Liddicoat:  Thanks. Yes, does Greg have his hand up?

Gregory Shatan: That's a leftover.

Joy Liddicoat:      Okay.

Thanks. Just I mean I really appreciate Chuck and (Steve)'s discussion around these issues. And I think to be honest, I'm now, having listened to the discussion, of the view that increasingly the string similarity review process should not (unintelligible) for these applications.

I think that the - and my reason for thinking that is that the sort of increasing complexity that seems to have been loaded into that string similarity review, and it seems to counteract what was intended to be from all accounts, you know, the simplicity of simply having names that were ineligible for delegation and listing those.

And I think loading the string review eligibility - the string similarity review process with more burdens and barriers for not only applicants but also even for either the IOC or the Red Cross you know, would be counterproductive. And, I'm also mindful of you know, the time and the processes involved in doing so.

So at the risk of it being a rather circular discussion, I think this has increasingly made me uneasy about that as an approach, although I wouldn't want to rule out nonetheless discussing that as an option with the GAC. But I can see now that it may actually cause more problems than we're intending it to solve.

Thanks.

Jeff Neuman:      Okay. Thank you Joy.

And I think what I'd like to see is I'd like to see emails from people on the list about this particular question, because it seems like some people have gone back and forth and so now I'd like to see kind of emails to get a good sense from people where they are at this point in time.

I do also really caution everyone to think about - I know that there are certain examples that people are thinking about like Olympus cameras and Olymp, and I think we can deal with those. I want those treated separately though than people who apply for - you know, if you have Olympic on - or Olympics -- C-S -- on the O-L-Y-P - sorry, O-L-Y-M-P-I-C-S, and then you have someone who applies for Olympix with an X, you know, I want you to think about that example as well where there may not be a legitimate right.

So think about that case in your comments as well, because I think we're thinking about the one or two outliers for trademarks that may be similar, but I - you need to think about the marks that there may not be those legitimate rights as well.

So I do want to see comments from everyone on this issue to see where people stand, because it seems like some people have changed.

So I just want to say that the next call, before we get off this one, is - you know, we agreed on the last call to every couple weeks. We didn't do this two weeks the last time because the holidays were during that time period. So same time, probably the same phone number, but I guess we'll get those details - same Adobe.

And all this stuff by the way is on the Wiki. The transcript and the recording of the calls are all - well actually, the recording of the calls and transcripts are on the GNSO master calendar, but maybe I can ask that links be put on the Wiki as well for these, if that's - if we can do that.

And then again - so, I do want to start more of an email dialog. We do not have much time on the top level issue, and we really didn't get into the discussion of foreign translations. We stayed mostly on the string similarity. So if we can kind of talk about that online in emails, that'll be great.

Anybody else have any questions?

Great. Well I definitely want to encourage the online dialog, and if I don't talk to anyone before, I will talk to everyone in two weeks.

Chuck Gomes:     Thanks Jeff.

Man:             Thank you.

Jeff Neuman:     Thank you.

Man:             Thank you.

Man:             Thanks

Jeff Neuman:     Bye.

Joy Liddicoat:   Thanks Jeff.

Man:             Thanks Jeff.

Nathalie Peregrine:    Thank you. You may now

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