

## **GNSO Protection of the Rights of Others (PRO) Working Group Teleconference**

**6 March 2007**

**19:00 UTC**

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The audio recording is available at:

<http://gnso-audio.icann.org/PRO-wg-20070306.mp3>

on page

<http://gnso.icann.org/calendar/#mar>

**Attendance:**

Kristina Rosette - IPC Chair of the working group

Mike Rodenbaugh - CBUC Vice chair of the working group

Peter Olson - IPC

Lance Griffin - IPC

Victoria McEvedy - NCUC

Margie Milam - Registrar c

Jeff Neuman - gTLD Registries c.

Mike Palage - gTLD Registries c.

Edmon Chung - gTLD Registries c.

Jon Bing - - Nominating Committee appointee to the GNSO Council

Avri Doria - Nominating Committee appointee to the GNSO Council

Eun-Joo Min - WIPO

**ICANN Staff:**

Liz Willams - Senior Policy Counsellor

Glen de Saint Géry - GNSO Secretariat

**Absent - apologies:**

Philip Sheppard - CBUC

Kelly Smith - IPC  
Tim Ruiz - Registrar c.

Coordinator: And the recording is ready at this time.

Glen Desaintgery: All right.

Can I do the roll call Kristina?

Kristina Rosette: That would be wonderful, thank you.

Glen Desaintgery: We have yourself, Margie Milam, Jeff Neuman, (Edmund Chang), Peter Olson, Michael Palage, Eun-Joo Min, Avri Doria, Liz Williams: from Staff and (VictoriaMcEvedy).

We have apologies from Tim Ruiz, Philip Sheppard and Kelly Smith.

Kristina Rosette: One of the things that - I don't know if everybody had the chance to take a look at the agenda that I circulated last light night - apologies for the delay in doing that.

But one of the things that I thought might be helpful is to talk about at least at the outset is whether there was an interest in meetings during the Lisbon meeting assuming that we can coordinate everyone's schedules.

I personally think it would be helpful but, again, I'd like to do (unintelligible)...

Liz Williams: Kristina, it's Liz here, I had set aside some time for the various working groups to meet at the - face-to-face at the Lisbon meeting.

Kristina Rosette: Oh excellent.

Liz Williams: So - sorry, sorry, excuse me, pardon me. I think that the face-to-face time as Avri will attest in the Los Angeles meetings a week and a half ago were very, very useful.

So if the group wants to go ahead and do that, Glen and I need to sort of (slap) that into the other groups in the meeting and I think (unintelligible) will meet for a couple of hours, the new TLDs Group will definitely meet the...

Woman: Who is group...

Liz Williams: ...who is group for meet and the reserve names group will definitely meet.

So - and there is many, many, many...

Woman: The (idea) and group for meet.

Liz Williams: Exactly. And there's lots and lots of overlaps.

So, Glen, perhaps you could advice Kristina sequentially what we could do because people are going to have to go from one to another rather than ramping at the same time because there's too much overlap between the groups.

Woman: Okay.

Glen Desaintgery: Would that be possible on Saturday and Sunday Liz?

Liz Williams: Don't you think so, Glen? I think it has to be then.

Glen Desaintgery: It has to be I think.

Liz Williams: Uh-huh.

Glen Desaintgery: So, if you could perhaps give me the preferred times, we could start looking on that.

Woman: Well, speaking for myself, well, basically I don't expect to be even be available, I'm Lisbon in two weeks Saturday afternoon. So - yeah, I don't know to what extent I can move that flight, but.

Glen Desaintgery: Okay. Well, we can perhaps (slot) you in then for Sunday.

Woman: Does that conflict with a - any GNSO council meeting?

Woman: When is the GAC meeting Glen? Because that's another one...

((Crosstalk))

Glen Desaintgery: The GAC meeting is at lunchtime on Saturday and just after lunch on Sunday. So (unintelligible) (22) half of (34).

Woman: Is anything currently scheduled for Sunday morning?

Glen Desaintgery: (Unintelligible).

Woman: Right. Right.

Woman: (Unintelligible) Kristina not.

Woman: So it's a good one to see.

((Crosstalk))

Woman: Sorry.

Glen Desaintgery: Can we say two hours?

Woman: I think that probably would make sense because I think, probably I would hope at that point where we're at the point where we can really start getting into the meet of the (unintelligible) analysis and working out the outreach and the constituencies in a more formal way. I mean, that's what I'm hoping that we got accomplished at that point, if not, before then so.

Woman: Kristina, I just looked at your mechanism summary forms that you've sent around today. Presumably you want something meaty to continue your analogy to discuss with the meeting.

What were you expecting to do with those forms then?

Kristina Rosette: With the ones that I've circulated today?

Woman: Yes.

Kristina Rosette: Honestly at this point it's really just so that we've got one consolidated (unintelligible) pile source of information about all the protection

mechanism and essentially in a format that is going to be easy to identify commonalities to identify variances...

Woman: Yup to...

Kristina Rosette: ...that type of thing.

I mean, that is really more of a mechanical idea. And you're absolutely right, it's really what I intended to cover. That the very (unintelligible) part of it, part of the mechanisms and not into the qualitative analysis. And obviously we'd want something different for the qualitative part.

Woman: I don't know how far - what progress you've made with (people volunteering) to these respective things, but because I unfortunately have not been able to make the call previously, but where you - I just hope that you can give me an update with the - where you are up to.

Kristina Rosette: We've allocated all the working group members. All of the TLDs that we'll be looking at were allocated.

The working group members last week for responsibility for preparing the summaries and once again into the more qualitative n: taking the lead with regard to - and we spent a fair amount of time last week talking about at what point do we start reaching out to the constituencies, what's the best way to do that, what is it they were looking there from them at a very, very high level.

I mean, obviously not very detailed at this point. The idea being that at this point, at least, members should start talking with their

constituencies informally about what they anticipate their ultimate views will be in terms of some of the more qualitative aspects.

Woman: Okay. Okay.

Woman: I mean, I, you know, I personally - my understanding is that - well, let me ask you this Liz, the compilation of all of the (subcomponents) that will go into the bigger report, is that handled by staff?

Liz Williams: Yes it is. And fortunately the (September 6) report had gone off today and I think that one of the - this is the trouble with having multiple elements of work going on. At the same time it's actually quite (difficult) to be working on multiple things at once that rely on each other.

So, if I got a sense from the group about what they expected to do with those reports then I should take it on and fill those charts in because we need to look at - and we need to look at everything across on the registry agreement as they stand.

(But that's a big) piece of work to the...

Kristina Rosette: Well, exactly. That's why we were seeing the - that's why the working group members were going to handle the actual completion of whatever...

Liz Williams: Yes, sure.

Kristina Rosette: ...(they decide) on.

Liz Williams: Okay.

Kristina Rosette: And really...

Liz Williams: And when can that be done by do you think?

Kristina Rosette: My understanding was - and again anyone on the call who recalls differently, please pipe up, but my recollection was that we anticipated having that completely finish before (Lisbon).

Liz Williams: Okay. So, we've got two weeks before Lisbon. So - it sounds terribly close.

What help does the group need before I'm sensing that it's a very big task and the group needs some help.

Kristina Rosette: I honestly don't know what help people needs. I think this is probably the time for anybody on the call who need...

Liz Williams: Speak up, yeah.

Kristina Rosette: ...to speak up.

Liz Williams: Uh-huh.

No help. I'll take this sign that everything is fine then.

Kristina Rosette: And the only thing that I can think of that we may need help on as we get a little further down the line is - and actually perhaps that we've initially there some quantitative factors that we've indicated in the statement of work that we will look at...



Liz Williams: Uh-huh.

Kristina Rosette: ...that may not necessarily be readily available information...

Liz Williams: Yup. Exactly.

Kristina Rosette: ...in terms of - kind of a (overall) number registration...

Liz Williams: Uh-huh.

Kristina Rosette: ...(unintelligible) registration, that type of thing.

But I would expect that -- and again, please, anybody who needs to speak up -- I would expect that everyone is able to identify the (relevant) policies and mechanisms and the like.

Liz Williams: Okay.

So, just go ahead and just let me ask who is doing what on the basis of your summary documents that you - those templates that you sent out today, how that's being divided up. Like who is doing what?

Kristina Rosette: Oh I - that was in an email - a post meeting email I sent around last week.

Liz Williams: Yes sure. Is everyone - that - I've read it and could we just quickly recap that because it's really important that we understand what we're doing to the Lisbon meeting, like how much time we need to a portion,

what we're going to cover, and then what we need to get finished between now and then.

Kristina Rosette: Sure.

In terms of responsibility for - essentially filling in what was identified in one - as one (seed) in the - (I think this is the outline) for the working group, we had allocated the TLDs as follows -- (dotAeroplank), dotBiz, (dotPi), (dotPat), Avri, (dotPulloutvictoria), dotDengatepeter, dotMilammargie, (dotInfojaf), dotJobs, (dotR), (dotMobitim), (dotMuseaumkelly), (dotMeandme), (dotProgram), (dotScavri), (dotTravelme), (dotPeteandpeter) and (dotUsjohn).

Liz Williams: Simply - so that makes it - a couple of people have got a few - a couple of people have got two but most people only got one.

Kristina Rosette: Correct.

Liz Williams: Okay. Cool.

So, is there any hesitation there that before the end of - before the next call next week, that that work wouldn't be completed?

Kristina Rosette: I have no reason to think that there shouldn't. I mean - and again, it really comes down to, you know, does any - do we care whether we have a consistent format or not.

I would go yes but...

Liz Williams: I care very much. I care very much because what we've done all the way through the new TLDs (unintelligible) is to collect the information in as consistent a format as possible to enable us to compare things.

Kristina Rosette: Great.

Liz Williams: And it's very, very important to be efficient especially this late in the process. And we've done that on public comment periods, we've done that on collect the information about (unintelligible), we've done it on (unintelligible) conditions with contracts, we've done it in (on all) different ways. So I'd hope that we don't diverge in that too greatly.

Kristina Rosette: All right.

Then the question becomes, does anybody have any addition, changes, questions to the forms that I've sent around?

As I indicated in the cover email, I tend to do these things in table format because it's easier for me to see them graphically. You know, the downside to working in tables in this way is that you end up coming at the very long or very short per state constraints and that this might be something that we would not want to do in a table form but essentially use the same category heading.

Does anybody have any strong feelings one way or the other preferences? Other ideas?

No? All right.

In terms of - and again, I just really brought the forms down mainly to keep, you know, without having to have something that would be kind of five legal pages. I guess American 8.5 x 14 pages rather.

In terms of going through the forms (I don't know if) everybody has gotten, if anybody (has looked at them), they can form pretty closely to (1c) in the statement of work starting with TLDL instability in which we would identify that category whether there were any eligibility requirements for the TLD in the first instance.

Obviously if (you've got a) sponsorship, a Nexus relationship or geographical connection as in with dotUS or dotEU, that type of thing.

And the next category was really just a very shorthand, you know, off the top. Obviously we're not going to be able to fit all the round pegs into square holes but each - to basically categorize the mechanism in one or four ways. Either it's a Sunrise type and (unintelligible) plain type, something else for there was no such protecting mechanism.

The next category will be the right basis requirements, what did you have to have. Did you have to own a trademark registration that that's issued on a national register, that's issued by a particular date, could you have an application, could you have a common (law rate,) that type of thing.

The next category (deals) with submission process and submission cost. And this mission process would really just walk through what was required.

In terms of moving on to the application verification authentication, that was really going to what happens once the application was submitted. If you're talking about Sunrise, was there a verification of the actual ownership of the registration if that was a requirement of the validity, that type of thing.

Training next to challenges, whether or not there was a challenged mechanism, just on a very simple year and no, the next column is dealing with, you know, what was the cost and who was the arbiter of that.

Finally, the channel - the challenge mechanism requirements in terms of, you know, the summary was really intended to go into what the challenger needed to show in order to prevail.

Turning next to the number of challenges and then (unintelligible) getting into the specifics - the successful challenges both in terms of (an overall) absolute number and successful I mean, that the challenger succeeded in obtaining the registration. And maybe that's something that we want to circle back and define.

Man: Yeah. And particular for the...

Kristina Rosette: Right.

Peter Olson: ...dotUE there's a lot of bad guys out there who are willing.

Kristina Rosette: Right. Right.

Well, what I was hoping we could do Peter is just went through all of this and then circle back...

Peter Olson: Okay.

Kristina Rosette: ...and go through to the extent that we have questions and I know that I had found just - while I was putting this together.

(Successive) challenges also want a percentage basis, total number of registered names overall for the TLD, number of mechanism registrations/claims overall. Well, I guess overall, it's something we can talk about as well.

And then, just to indicate what materials they ought to refer to in compiling it whether it was information found on the registry Web site, whether it's information that's made and put together by a participating registrar, whether it was information in one of the proof and concept reports made by the registry, that type of thing.

I mean, with the idea being that you would provide both the name of the document and enter the link to it so they'll be easily comfortable.

But, Peter, I do think that there are definitely categories in here that we should talk about in terms of what we mean by this. And in some cases, do we want to put date cutoff, that type of thing.

Peter Olson: Right.

Kristina Rosette: Going to what I categorize as Part A, does anyone have any questions about that or have any suggestions or points of clarification that they'd like to make?

Okay.

Peter Olson: This is Peter in Copenhagen. I think it was very clear to me when you run through it.

I must admit that it wasn't that clear when I read it the first time.

Kristina Rosette: Okay.

Peter Olson: But - so - I mean, things about the TLD eligibility, you know, wasn't based on geographic or sponsorship or whatever. That could - that would be a helpful - like a footnote somewhere or something.

Kristina Rosette: All right. What I may do - or actually, what would be great, if somebody could volunteer to do, would be to put together kind of a one pager cheat sheet to the extent that there is concern for anybody articulates, the comments to be effective. You know, the headings on themselves (unintelligible) not necessarily be clear, this is what it intended to cover. Could somebody do that?

Please?

Peter Olson: Hello, this is Peter in Copenhagen. I could give it a shot particularly if I get the mp3 file of this...

Kristina Rosette: Sure.

Peter Olson: ... - of the - this meeting.

Kristina Rosette: Sure. Sure.

And that's posted to just generally Glen, right?

Glen Desaintgery: Yes (unintelligible) is.

Kristina Rosette: Okay.

In terms of mechanism type does anybody have any questions or comments or concerns or would want to add, clarify information's of that?

Okay.

Is there anyone who thinks - and again, I was really just pulling this enlarged part off the top of my head. Are there any other categories that we should have? I mean, is other an adequate category? Is none - is there another way that we would want to identify that? You know, perhaps make clear none is excluding the terms of the registration agreement and the UDRP.

Peter Olson: This is Peter in Copenhagen again. In Denmark in one of the ones that I'm working on is, we have an auction...

Kristina Rosette: Right.

Peter Olson: ...which was part of it but there are the other.



Kristina Rosette: Right.

Peter Olson: Yeah.

Kristina Rosette: Okay.

(Cynthia): This is (Cynthia) from WIPO for dotMobi. A new process was introduced mainly that of a premium name...

Kristina Rosette: Uh-huh.

(Cynthia): ..., and that I would suppose could fall under but may also wish to consider specifying it separately.

Kristina Rosette: The premium names to that and I have some things I don't know, do that deal with names that were sub - corresponding to IT or was it really just premium names because they were the names that they - that (dotMobi) thought was most - are most valuable.

Woman: Oh then this stuff was...

Man: Based on generics.

Kristina Rosette: Based on generics.

Woman: Right. But there was a procedure where trademark owners could require some registration of those names in that list.

Kristina Rosette: Okay.

Woman: Yup.

Kristina Rosette: All right. Well, I know we can do - I believe Tim is doing that movie and he indicated he has the policies that he actually will be circulating something later.

Woman: Okay.

Kristina Rosette: So I'll just make a note that we might want to follow up with him...

Woman: Uh-huh.

Woman: ...about how do we include that.

Michael Palage: (Unju), this is Mike Palage.

It has - WIO completed all of those Sunrise challenges...

((Crosstalk))

Michael Palage: ...the premium names yes, I'm sorry.

Woman: The names have been completed...

Michael Palage: Okay.

Woman: ...and Sunrise challenges will probably be completed in about 10 days or so.

Michael Palage: Okay. Yeah, I was just looking at the premium name was last week and I think there was still a couple pending. So thank you for that update.

Woman: And maybe I could also use this occasion to - also in the assistance that I could provide with regard to the TLDs that WIPO provide us with the right mechanisms namely dotInfo, dotBiz and dotMobi. If the person responsible need any specific information then I would - I'll be very glad to oblige.

Kristina Rosette: That would be great. Thank you very much.

The next category was right basis requirements.

Do we - does anyone believe we need some clarification or perhaps refinement of that?

Man: Just say I want again right basis...

Kristina Rosette: Requirements. I know it's kind of awkward. I can't really figure out a cleaner way to do it.

The idea there is to, you know, through the extent that the (percentage) mechanism required the claimant or the person seeking the bene- the entity seeking the benefit of such mechanisms to demonstrate that they were entitled to them by virtue of the ownership of a particular right how that's needed to be done.

Man: Can you give an example?

Kristina Rosette: To the extent that for example - let's just say for dotMovie, that you needed to provide information, that you needed to own a national trademark register, and a trademark registration of national or...

Man: Okay. (I have that).

Kristina Rosette: ...community that's issued by such a date that - and so - and your name corresponded exactly. That type of thing. And obviously to the extent that there've been TLDs that have taken a broader view in terms of, you know, up and beyond national illustrations and certainly to the extent that - and I guess this is the point that I was thinking about for example - and Jeff, are you on the call?

Jeff Neuman: Yup.

Kristina Rosette: All right.

One of the things I was thinking about is, where do we want to out in - because one of the key points to me at the (claims process) was - is actually the fact that anybody going ahead with the right registration and whether the IP claim essentially had to acknowledge that.

Man: Right.

Kristina Rosette: And, you know, that doesn't really - we don't really have anything in here that would deal with that. I'm wondering where you would...

Man: I think...

Kristina Rosette: ...suggest we should put that.

Man: I have to put that probably in the submission process.

Kristina Rosette: Okay. All right.

Man: I mean, because, you know, and the rationale of how you conduct this was, there is no need to verify that you (unintelligible), you know, if there's a verification of an IP claim, anyone can file the IP claim but it's up for their - the applicants to actually look at the claimant receives...

Kristina Rosette: Right.

Man: ...and evaluate it for itself to see whether it's coming to merit, and then it needs to say, "Yes, I've got this claim and I still want to proceed."

Kristina Rosette: All right.

Do you think maybe that for the purposes of each (unintelligible) but for ease of reference later on, do you think maybe what we might want to do is put application - maybe revise an application verification authentication so that it would also encapsulate where the verification was required to be done by the applicant above and beyond the actual submission?

((Crosstalk))

Kristina Rosette: Okay.

Jeff Neuman: You know, it's kind of an acknowledge than - rather than a verification.

Kristina Rosette: All right. So - that we'll leave that in the submission process then.

Jeff Neuman: Yeah. And actually he's writing this up so he'll do he's half of that.

Michael Palage: I'm so glad you have that vote of confidence Jeff.

((Crosstalk))

Michael Palage: ...is the backup there to make sure...

Kristina Rosette: Right.

Michael Palage: ...that everything is accurate.

Kristina Rosette: All right.

Glen Desaintgery: Thank you Michael for that.

Kristina Rosette: In terms submission process, I was thinking not to let - kind of getting the mechanics although I guess we could get into that if everyone found that was relevant.

Not so much kind of the mechanics of, you know, you have to submit or (unintelligible), but I was thinking more along the lines of, you had a three month window to do it in, you needed to submit this information initially and upon further request be prepared to provide the information and verification, authentication power.

Unless, we think that there maybe some unique aspects in some of the submission processes that it might - may work singly no doubt.

Anybody?

Man: I think that's - I think it's right. I think we should compare the time periods for submission.

Kristina Rosette: And I would also include in that to the extent that there are requirements that - the application or claims be submitted by someone who had a particular nexus to the - whatever IQ right (unintelligible) that's where that type of thing would come in as well.

Submission cost is just pretty self-explanatory. I guess the only question would be where there was a huge step in the case of dotEU and (unintelligible) that there were others.

Where there additional cost for the verification for dotEU? Or was - it was all at the front end, right?

Man: Right.

Kristina Rosette: Okay.

Man: But usually there's two types of costs. Like there's cost for the processing of the verification, but then there's also TLDs required, a minimum registration period of a certain number of years. Some of them did but I'm not sure if all did. They're like, if you register in dotUS for example you had to commit to a five year registration.

Kristina Rosette: Okay. Then I think that's definitely relevant.

Turning now - well, before we move on to (Part B), we can (do) anything else that anyone would like in the (minutes).

Any other questions or comments for that - the first part of the form?

All right.

Application verification authentication process. This is really intended to really get to (unintelligible). First, to what extent it was done if at all, and if so, by whom and what it entails. So for example, to the extent that a registry would really not pass, that type of information would be included here.

But firstly if it was (unintelligible) one you have to - and we've got you for example, we have to (unintelligible) that type of thing.

Any other clarifications or points we would want to put in there?

Peter Olson: This is Peter in Copenhagen. This kind of has to do with the previous column as well. But one thing that was I think sort of lacking with the dotEU was the fact that there was no (fix) of period.

There was no mechanism whereby if there was a - if it's a minor problem with some of the documentation. And we remember this dotEU, this people, PricewaterhouseCoopers, they wouldn't accept it if it was stapled. Then they'd have all kinds of loops that you have to hop through, among other things that they couldn't staple the things.

And so if there's anything that went wrong, the 40 days was passed. And then, as part of the ADR and the UDRP type things, it has to work



- a lot of people try to file these things, try to fix them and they weren't able to do it.

And so my question is, has there been any other experience with these validation type things where they've been so strict as - under dot - like dotEU, or was there a dialogue between the validation agent and the applicant where they could, you know, file additional documents within the - a certain time period to fix the validation.

Kristina Rosette: I don't know the answer to that.

Peter Olson: No.

Kristina Rosette: But I do think you raise - and your question raises a good point. Mainly, that I think what we may want to do is add kind of another category for just other comments.

And I certainly think that it would be worth noting that - for example, for dotEU, that the verification requirements were interpreted and applied extremely strictly or, you know, obviously something a little bit more (graphically)...

Peter Olson: (You know).

Kristina Rosette: ...(unintelligible) in that.

But, because I think that's important to note and I know, you know, in some cases as much as - in as much was for example, I personally would like some registries to verify whether in fact somebody did have

trademark registration number 1, 2, 3, 4, 5, 6, you know, the other end of the scheme is dotEU.

((Crosstalk))

Kristina Rosette: ...there's such strict interpretations that - again, you know, I can certainly understand those arguments now. But I think it's worth noting simply because to the extent that we're trying to identify are there best practices out there that maybe something that we want to consider in our recommendations.

Challenge mechanism, yes/no, that's relatively straightforward. The cost in the arbiter - and when I say cost I mean filing fee, you know, I'm not talking about time required to prepare the challenge, that type of thing.

And again, I guess in some cases it should be arbiters.

Challenge mechanism requirements do prevail.

I have a lot of questions about how to freeze it in a way that was clear but I' be interested to hear what others thought we should be doing with this.

Man: Are you talking about the standard improved here?

Kristina Rosette: I'm talking about if I want to challenge - if I'm somebody who didn't get - and which is - I hate to pick on that movie but to get the most recent one, if I was someone who files a Sunrise claim or Sunrise registration application for a dotMovie name and I didn't get it and I think that the

person who did get that name is not entitled to it, under the policy that's been put forth by the registry, what do I need to show to win that challenge.

And I realize Peter, you know, you had brought up a comment earlier about people who might not otherwise have been perceived to have been entitled to challenges (unintelligible).

And I would rather that we not get into a qualitative - I mean, for this I would rather we not get into that type of qualitative. This is really just more of, you know, you have to show A, B, C, and D and the first person to file the challenge was the first challenge heard and if they won that was the end of it. That type of thing, you know.

And similarly, Jeff, if I remember correctly in the IP claim process it was the first party - the claim that was identified as first. And...

Man: Correct.

Kristina Rosette: ...I think actually (in) how that was ranked, that party had the first opportunity to challenge.

Man: We actually did it, we randomized it.

Kristina Rosette: You randomized it.

Man: Yeah.

Kristina Rosette: Right. But ultimately it was ranked. I mean, it was listed in...

((Crosstalk))

Man: ...so if five people submit a claim and we randomize the...

Kristina Rosette: Right.

Man: ...five people and then - that whoever was listed as number one has the first opportunity to challenge. If the (time period) pass it went out to number two, etcetera.

Kristina Rosette: Right. Okay.

Yeah. I mean - and that type of thing absolutely would be included in that.

Number of challenges. Here is the question that I had is, I don't know whether it matters whether we make a distinction. I know I wasn't actually thinking, well, do we want to put a time period, you know, a cap on that.

But to a certain extent the Sunrise challenge period of the IP claim, the (staff) process, and those all had built-in time periods, is that right? With the exception of dotInfo.

Man: With how they did yes.

Kristina Rosette: Okay.

Then maybe we don't need to worry about that because when we start trying to go beyond that time period then we start getting into, do we

need to be taking a look at EDRP proceedings and (passing the road that)...

((Crosstalk))

Man: ...even with this it took longer than a year because we did - tell me (unintelligible) that's like 21 day - yeah, three years pipe, is that right?

Kristina Rosette: Right. And that was certainly - be worth putting in for whoever is doing dotBiz and maybe other comments. You know, resolution of all, you know, dot proceedings require, you know, took one year from launch or however the appropriate worthiness.

Do you all think that's helpful information to have?

(Mike Rodenba): I think it would be helpful. This is (Mike Rodenba).

Kristina Rosette: All right.

Peter, now we get to successful challenges. This is where you raise your question.

Maybe - should we rephrase that so that it challenges one by the challenger? Does that make it clear?

Peter Olson: No, I was - dotEU is really weird. That's what I'm having the most recent experience with. It's the - it's says there's a whole lot of challenges against the registry...

Kristina Rosette: Okay.

Peter Olson: ...in the first one and then those are basically being mostly one by the registry. And then in the trademark challenges these are getting run by the bad guys who, you know, that typically the trademark owner against the (rove) trademark owner, then the (rove) trademark owner wins.

Man: Because they had a legitimate - the so called legitimate claim of right you mean?

Peter Olson: Right.

Man: And they (unintelligible) in fact one in the lottery or in the...

((Crosstalk))

Man: ...they were the first one yeah. They were in the land rush between the two trademark owners anywhere the first one. Yeah.

Man: Yeah. Yeah.

Kristina Rosette: Do we want to - and that kind of brings up another point in the sense that that type of (unintelligible) cut off could clearly go into rights basis requirements.

But do we want to create - do you think we need to create a separate column that would indicate for separate field category or whatever that would indicate whether the date cut off would tie to - and I think it's usually tied to the initial agreement with ICANN, is that right?

((Crosstalk))

Kristina Rosette: The admin, the date that you all pick, what was that? I know it corresponded to something and I'm forgetting what it was.

Man: The - you mean the date that the - for example like the date that the TLD application was published?

Kristina Rosette: Maybe that's what it was. Right.

Man: That's - that was for...

Kristina Rosette: Okay.

Man: That was proposed by (dotEU). Anyway, I'm not sure it was all the other ones.

Kristina Rosette: All right.

Man: Kristine, I mean...

((Crosstalk))

Man: I'm sorry, (I haven't) been finished and then I'll go.

Man: No, it's just (unintelligible) but the - yeah, the dates (unintelligible) one was where the submission of the original proposal and one was the signing of the contract.

Kristina Rosette: Okay.

Man: So we provide different parties to - just a bit.

Kristina Rosette: Right.

Michael Palage: And Kristine, this is Mike Palage, the original date used in the (Afilias) dotInfo date was the date that the application was made public via ICANN. So...

Kristina Rosette: Right.

Michael Palage: ...that was - there were attempt to prevent gaming.

Kristina Rosette: Right.

Michael Palage: Unfortunately as we (unintelligible) in other scenario is that was kind of a one off solution and it's been kind of hard to hold back the (gaming intent).

In connection with dotMobi, dotMobi originally proposed in the original date as set forth in their application, however, to resolve of the delay by ICANN in processing their application they actually pushed back the date if you will to appoint - after actually the execution of the contract, but prior to the if you will influxes (bene-lux) registrations.

In connection with their premium name challenges, what they did there was not - they actually required a certain period of, if you will, a bona fide use of the mark. So there was a couple of different, if you will, triggering date in connection with the protection rate mechanisms involving the dotMobi process.



Kristina Rosette: All right.

Do you think - do we all think it's helpful to note those - to separately indicate what those dates were and what they were tied to? Would that be helpful or we're just at the point where everybody who was going to gain the system sis it with a (bene-lux) registration and until the use requirements kick-in they're just going to continue to use them.

Man: You know, I - the benefit of trying to go and dig - document each of the specific date, I don't know the value of it. I do think it is important to note that registries have, if you will, shown some flexibility to alter the date based on a number of concerns to one protect any. But I would say first and foremost is also to protect the rights of the community.

You know, specifically in dotMobi one of the things they were looking at there was - there was a lot of people that we think that should enter into the mobile space after their original application.

And the fact that it - if you will drove through ICANN's process for about 18 months, you know, provided somewhat of a, if you will, a potential disadvantage to members in the community.

So I think there are multiple reasons why they switched to both serve the community and potentially mitigate potential gaming.

So that's the problem I guess I have with trying to read too much into the date. There maybe various reasons why the dates were there and it maybe - I would recommend just sort of a summary of the different

dates. Not try to, if you will, create a comprehensive list that I think would be a limited value.

Kristina Rosette: All right. So more kind of a, you know, registries have used the following. They cut off corresponding to the following of that X, Y, Z, A, B C, that type of thing.

Man: That's what I would agree. Just keep it at a summary level.

Kristina Rosette: Yeah I know. I think, you know, the more that I think about it trying to go for each one and each day give me a headache thinking about it.

All right. I'm - then we get into the two columns -- that I actually have the most question to that myself -- and that is, total number of registered name and the number of mechanism registrations or (unintelligible) name.

And I guess one of the thing - and what this was intended to get at was, to what extent are the registrations was in a particular TLD occurring purely for the sense of purposes by, you know, IP rights owners in the sense that, if for example, you know, the closer the ratio is, then I think it's reasonable to think that one reason for that is that the TLD is being used - is viewed by IP right owners as relevant primarily for the (time) of purposes.

So I guess the first question is, is there any reason that we wouldn't want to have that type of information?

Woman: Uh-huh.

Kristina Rosette: And the next question is, if we do want to have it, do we want to use a date cut off in the sense that, do we go from the date that the TLD launch to the present, do we use, you know, from two years, do we pick whatever the most recent registry was to launch and kind of do one year from that date. There is a number of different ways to look at it and obviously whatever date you pick is going to affect the outcome.

Avri Doria: This is Avri, can I ask a question?

Kristina Rosette: Sure.

Avri Doria: I don't understand how you can tell that.

Michael Palage: Yeah that's - yeah. This is Mike Palage, if I could get into queue after Avri...

((Crosstalk))

Avri Doria: I mean, for example, I don't know what the criteria. I look at for example the dot (unintelligible) Sunrise and the (things) that are giving Sunrise the position that have nothing to do with (unintelligible) that have to do with, are you in a university, do you speak (unintelligible), are you one of the people that supported us. Things like that.

So I don't know what criteria - what absolute notion of criteria we could have that would allow us to (unintelligible) that out.

Michael Palage: I guess this is - are you done Avri?

Avri Doria: Yeah I'm done.

Michael Palage: Okay. Thanks.

And I - this is Mike Palage. I could build on it. I - I guess my concerns there are is, one of the things that we discussed previously are defense of registrations where one trademark owner wants to potentially block another trademark owner in - if you will secure any domain name.

So in that sense, is defensive, you know, how are we going to begin to sort of categorize those types of situations. I just think it's very dangerous from a methodology standpoint to actually read into any specific numbers.

Again, I'm just - some of the numbers that I've been putting together or if you will just extracting from the dotBiz summary was, there were 2.4 million domain name applications that we received.

Now, out of them there were - according to this there were 862,000 in which there was no IP claim and there was basically just a - there was no IP claim and they were eligible for domain name selection.

There were others where there were cancellations. I mean, it's just very hard to read into what is going on without actually talking to the registrant one on one.

Now, what would be helpful though and I think - I do think you are trying to get to an important data point here would be potential trademark owners providing their own statistics.

You know, (Mike Rodenba) who's on the call, you know, him and I had this discussion before where, you know, (up where) or 97% of his (marks) are purely defensive in nature.

So, those types of docu, you know, those types of documented records I think would be very beneficial as opposed to reading the tea leaves from numbers that may or may not be an accurate basis.

So...

(Mike Rodenba): Mike, I completely agree with you. We should try to do outreach to trademark owners and figure out those statistics. But, we also should have the raw numbers from the registries so we can take a look at and compare.

((Crosstalk))

(Mike Rodenba): ...IP claims there were for example. How, you know.

Michael Palage: And put it this way (Mike), those numbers are in my draft report right now that I was reading from.

So, I'm going to give you all the numbers you can but I think what I was just trying to caution with what Avri had started to say, you know, what are those numbers and, you know, just one look at them and say the glass is half full or the glass is half empty.

If in fact we're talking about defensive registrations, you know, it would help to know whether those companies that were seeking the register, you know, where they were with other people that had similar rights in

the mark. Kristine even you yourself I think at the beginning, you know, part of the service that you provide some of your clients is the ability to navigate them through these things to secure their rights.

So, that's what some of the good lawyers do, recognizing that there are multiple parties that sometime have the same rights to the mark perhaps in the different classes. So that to me, part of what I think is very important.

Woman: Well, what I think - I agree - I certainly see - I certainly agree that we shouldn't be (unintelligible) and I think in some cases, we don't necessarily need to do that and in some cases it would need to be - it would be especially inappropriate.

For example, in the example that Avri was giving, I mean, if for example the preventive - the protection mechanism registration were really not focused towards prior right (seminars), well then, I think we can take from that, that if it was - for example, if they were wanted for six categories and they were forced into queue, I don't think it's necessarily too much for (unintelligible) to say that you're - that there weren't really that many defensive registrations there.

And again, obviously you want to go to the trademark owners.

I guess another way to look at it is, and I think there's some strategies that (would work), but I have thought the somebody had taken a look at - to what extent registrations and particular TLDs were resolving to Web sites that were, A), active, and B), unique from whatever the Web site owners, dotcom, or other "primary" registration was.

And I don't know that those numbers are available in TLD wide. Is that right?

Man: I know some - put it this way. I mean, what you are basically trying to do - I think what you would want to is look at those names registered during a - during the trademark period and just look at a subset of how those names are being used. I mean, I know, you know, I think a lot of registries do track for internal purposes, you know, what the potential usage of, you know, their domains may be in the marked place, but as far as trying to break that out of a subset of names that were registered five years ago and whether that does or does not apply, I mean, you know, just look at some of the companies that were in business that are no longer in business.

And we're not talking to small businesses but some large multinational corporations that have gone bankrupt. So...

((Crosstalk))

Man: Yeah. Try not to take up. I don't know if anybody...

Woman: No I'm not. I mean, you know.

Man: ...repre - I don't know if anybody represents them or as I said, the former employer of ICANN's Chair of the Board.

So what happens is, again, what I'm trying to do here is make sure that when we get our data set, that we have a data set where we can make some really good determinations. And, you know, these numbers -

(Mike) as you asked, you want numbers, you're going to have numbers.

But with regard to having data that I would feel comfortable making more solid recommendations or determinations, you know, this is something where someone is going to have to come, you know, (Mike) and other large brand holders like themselves coming forward and saying, you know, I don't, you know, I do X percentage defensive registrations or something like that, I don't want this and nobody else has a right to these marks or something along those. That to me is a much more concrete foundation that we can make recommendations.

Woman: Sure.

Man: So that's what I'm just trying to do, look ahead to...

Woman: Right.

Man: ...make sure work isn't undermined at a later point in time.

Woman: Right. Right.

Now, I think that's a good point and I - if I remember correctly I think I have an Internet committee meeting on Thursday. And maybe one thing that's - (just picking up) on that, maybe we could get (INTA) to make available an online survey for its regular members, the trademark owners, to say, you know, how many domain names corresponding to your major brand have you registered and, you know, to what percentage of those are, you know, associated with active Web



sites that do not replicate, you know, whatever your primary Web site is.

I mean - and that sounds like the type of quantitative data that you think will be valuable to have.

Man: And the only other qualification I would add would be, in determining defensive, you know, if only a legitimate trademark owner could have rights to this would you still go ahead and register.

Because I do think there are, you know, companies - I mean, and just on the (GA list) there is a posting that - Jeff, I think (NewStar) 1-1, lost 1 on the UDRP or something like that. I saw that on the (GA list).

Man: Hey thanks for bringing that one up. Thanks.

((Crosstalk))

Man: ...would one right?

((Crosstalk))

Man: ...there were special circumstances in that case and - okay - well...

Woman: Don't put him...

((Crosstalk))

Man: ...I'll put it this way. (Mike) and Jeff, they're my friends and we each put each other on the spot and I'm not trying to put...

((Crosstalk))

Man: ...like what they did (with each other).

Woman: Noted.

Man: What I am trying to articulate is that just because someone says it's a defensive registry - if someone says it's a defensive registration, I think it is important to note, you know, are there or is there someone else that may have right in that particular mark.

((Crosstalk))

Man: In Apple records - back when Apple records and Apple computers where if you will in disagreement, they would both view themselves as having right and, you know, one might view the other as a defensive registration. That's the point I'm trying to articulate.

Woman: Rights claimant not rights holders (I think all the way it fit). I mean, that to claim the right if not having rights, so even at sense of you don't know that (unintelligible) actually has rights (unintelligible).

((Crosstalk))

Man: ...comments (Liz).

((Crosstalk))

Man: Except the - if you then go back to the Sunrise period where those rights were verifying some respects, right.

Kristina Rosette: Well, but, you know, and I think Mike Palage might be thinking (unintelligible) that I gave him. I mean I can tell you that it was very important to me that I file the very first dotMobi Sunrise challenge for AAA dotMobi on behalf of my client the American Automobile Association to makes sure that we bid out the American Arbitration Association.

Man: Right.

Kristina Rosette: You know, those - so yes. I mean, in a way that's the defensive registration for us, but in a way it's not.

Woman: Yeah.

Kristina Rosette: It has - it is in fact something that AAA wanted and (unintelligible).

Man: And as I said Kristine, there is the Delta - there's the (Aci).

Kristina Rosette: Right. Right.

Man: I mean, it's - again it's not - that the purpose of trying to articulate this is not to put any one company or their clients on the spot...

Kristina Rosette: Right.

Man: ...it's just trying to if you will make sure that there's some depth to the numbers that we're looking at and say that there maybe a basis for somebody's defensive registration.

Kristina Rosette: Right.

Man: And I think having that fair and balanced analysis...

Kristina Rosette: Sure.

Man: ...is really what the - the more we do with this working group the longer - I think the better chance of legitimacy as the output of this group will be when it goes to the council and, if you will, potentially to the board as part of the overall new TLD and other processes that we're working on.

So I just want to get it right at the beginning.

Kristina Rosette: Oh no, absolutely. I couldn't agree more.

I think the only thing that leaves us with then is references. Although I do think it...

Peter Olson: And this...

Kristina Rosette: I'm sorry - Peter, go ahead.

Peter Olson: Yes. This is Peter in Copenhagen. I just wanted to add one thing about the last column there.

Kristina Rosette: Sure.

Peter Olson: And certainly with the dotEU, we've got a lot of good numbers. It was like 180,000 Sunrise applications and now there's like 2.6 - 2.5 million, 2.6 million. So there's some good ratios there.

But the one thing that was interesting I think, at least that there was a footnote with the dotEU somehow is the fact of these generic Sunrise applications. I will call them bogus trademarks registrations.

I mean, for (dotSix) there was like 280 - 281 Sunrise applications for (dotSix). You know, also based on, you know, various kinds of trademarks. So I think that, of those 180,000 it was probably at least 100,000 and a vast majority of them were related to generics trying to abuse the Sunrise system.

Kristina Rosette: Well, what I think maybe we might want to think about doing to provide us kind of with more - I guess what I'm think is, I think we should certainly include a section for, you know, other comments or remarks and I think...

Peter Olson: Yup.

Kristina Rosette: ...to the extent that we include information like that in our TLDs that we do sell on a very general level in the sense of, you know, (it made) - I guess, thinking upon the examples that you just gave Peter, making the observation that, you know, a number of registration - Sunrise registration applications were filed for, you know, what are often considered to be generic or, you know, and give an example.

I don't think we necessarily need to try and extrapolate what percentage it was or how many of this...

((Crosstalk))

Kristina Rosette: ...total. But I think it's certainly worth noting that.

Man: Okay.

Kristina Rosette: Because I think, you know, that certainly comes into something that we should be thinking about before.

I know we're out of time, I don't want to keep everybody, but I guess the very last question that I would have is, does anybody have strong feelings one way or the other as to whether we keep at this table or basically just turn it to a Word document. Each of this - each of the column had a section heading.

What's going to be easier for everybody?

Avri Doria: (Unintelligible)...

Kristina Rosette: I'm sorry Avri.

Avri Doria: I find (solely) in table in here.

Kristina Rosette: Okay.

((Crosstalk))

Kristina Rosette: Anyone else?

Man: And I'll select the table approach.

Kristina Rosette: Okay.

Man: Me too.

Kristina Rosette: All right. Excellent.

Then I guess Peter, if you wouldn't mind kind of circulating the glossary or the cheat sheet once you've had a chance to listen to the recording. That would be great.

Is it really - what I'd like to do, unless anyone thinks that it's really just impossible, is for everyone to be at least in the position where they've got an initial graph of their chart or charts for their TLD by next call.

Does anyone think that's unrealistic?

All right. SO that's what we will do.

((Crosstalk))

Man: ...like (me) - I mean, I obviously won't have statistics from the registry...

Kristina Rosette: Right. Right.

Man: ...in many cases.

Kristina Rosette: Right, Right.

Man: You know, how to (jump in) and sends out to registries by the next call would be a good go (unintelligible).

Man: What do you see (that you have) (Mike)?

Man: I only have dotJobs.

Man: Okay, that should be easy for you to get then.

Man: Yes.

Man: (Unintelligible).

Man: Neither will be easy. As you know, others will not be nearly as easy.

Man: (An A), (an A).

Man: But I'm going to take the large stuff later. I promise.

Kristina Rosette: Right.

Actually that raises a good point. I mean, do you think it makes sense to - I mean, is there any reason that we couldn't just - each person as necessary reach out to the (realm) of registry. Jeff, what is your sense as to how people would like to be contacted to the extent that we can't locate the information anywhere?



Jeff Neuman: Yeah. I don't think anyone will mind. I'll send a note out to the registry constituency list.

I think, you know, a number of them are on this taskforce and the others that aren't I - there was supposed -all - I think there's reporting that they're all supposed - at least the initial ones were supposed to indicate all of it and report it anyway?

Kristina Rosette: Okay.

Jeff Neuman: But I'll send another note to the registries and let them know that people will be contacting them.

And in fact, if you could send me the final - that list again of all the people that are responsible, I could send that list directly to the registries and they'll know who is going to contact them.

Kristina Rosette: Sure. Absolutely.

Woman: I'm going to be looking into the data (unintelligible) on (FT) on a ccTLD site so I'm not sure...

Kristina Rosette: Okay.

Woman: ...how easy a time we'll have with that. But...

Kristina Rosette: All right. Well, let us know if there's anything that we can do. I mean, just make a note on...

((Crosstalk))

Kristina Rosette: ...interesting for comparison, to see what happens.

All right. The last question that's circling down to the meeting in Lisbon, the - when I say Sunday morning I wasn't thinking like 7:00 am.

((Crosstalk))

Kristina Rosette: Is that kind of where people thinking we were going to be?

Glen? Liz?

I know...

Glen Desaintgery: (Nay, nay). I mean that's all right.

Kristina Rosette: I, you know, know that I have a toddler I am a morning person now but I will defer to everyone else.

Man: That's 9:00 am on a Sunday before the meeting start. In the first Sunday?

Kristina Rosette: Yeah.

Man: Okay.

Man: And the GNS list - excuse me Glen. You said the GNSO and the GAC is - that you said 2 to four, correct?

Glen Desaintgery: Yes, about that time.

Man: have they made a determination whether that's open or not yet? I know the guy got a call today.

Glen Desaintgery: I'm not sure if that - my determination was that that's compete the (unintelligible).

Man: Right, thanks Glen,

Woman: Right.

Woman: Well, as always, thank you everyone. I really appreciate all your work and participation and I will send a quick recap email out.

And in the meantime, you know, feel free to post any questions, comments, references, that type of thing.

Man: All right.

Woman: All right. Thank you.

Man: Thank you.

Woman: Bye-bye.

Man: Thank you.

END