
**ICANN Transcription
IGO Work Track
Monday, 01 March 2021 at 16:00 UTC**

Note: 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.

Attendance and recordings of the call are posted on agenda wiki page:

<https://community.icann.org/x/8AIACQ>

The recordings and transcriptions are posted on the GNSO Master Calendar

Page: <http://gns0.icann.org/en/group-activities/calendar>

TERRI AGNEW: Good morning, good afternoon, and good evening, and welcome to the IGO Work Track Call taking place on the 1st of March 2021 at 16:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now.

Hearing no one, we do have listed apologies from Osvaldo Novoa. He is a listed member; and Justine Chew who is an alternate. And Osvaldo's group did not submit any alternates at this time.

As a reminder, alternates and members, you will be promoted to panelists for today's call. Members and alternates replacing members, when using chat, please select All Panelists and Attendees in order for everyone to see your chat. Attendees will not have chat access, only view to the chat access.

Alternates not replacing a member are required to rename their lines by adding three Z's to the beginning of your name, and at the end, in parenthesis the word Alternate which means you are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click Rename.

Alternates are not allowed to engage in chat apart from private chat, or use any other Zoom room functionalities such as raising hands, agreeing, or disagreeing.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

As a reminder, the Alternate Assignment Form must be formalized by the way of the Google link. The link will be placed in all meeting invites towards the bottom.

Statements of Interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, all documentation and information can be found on the IGO Work Track Wiki space.

Please remember to state your name before speaking. Recordings will be posted on the public Wiki space shortly after the end of the call. As a reminder, those who take part in ICANN multistakeholder process are to comply with the accepted Standards of Behavior.

With this, I'll turn it back over to our chair, Chris Disspain. Please begin.

CHRIS DISSPAIN: Thank you, Terri, for the comprehensive introduction, as always. Welcome, everybody, to the second meeting of the IGO Work Track. Thank you all for making the effort to be here. Are we not using video on this call? Not that I mind, but it appears to be blocked.

TERRI AGNEW: Oh, I can turn it on, Chris. One moment, please. There you go. It's available now.

CHRIS DISSPAIN: Sure. I don't mind one way or the other, but it's nice to be able to see people if they're prepared to turn their videos on. If they're not, that's entirely up to individuals.

Okay. So, here we all are again. Number two. Let's move on to ... We've done the request for updates and statements of interest because that's part of Terri's introduction. And, Terri, do you have anything to talk to about meeting logistics other than what you've just done?

TERRI AGNEW: Thank you, Chris. So, I put most of it in my introduction, but just as a reminder, going forward it will be super important for members to use the Google form if you're not able to join. And reach out to one of your alternates in advance so they can join the meetings in your place and be able to type and raise hands and make comments. So, that will be super important to do that in advance.

Again, that link will be in all meeting invites. It will be towards the bottom, and I will add a Helpful Information section where it will be easily found. It will also be tracked on a Wiki space which is also in that area so you can easily see who's replacing who and the given time frame that they'll be replacing each other.

The other thing to remember that's also important for this format is to please change your chat to Panelists and Attendees. That's also super important so the chat can be tracked throughout the meeting. If you have any questions, please reach out to us at the GNSO secretariat.

Chris, back over to you.

CHRIS DISSPAIN: Thank you. And Paul McGrady just asked a question in the chat. "Is this the format we'll use for our calls?" I'm guessing it is. Paul, did you have anything in particular you wanted to say about the format?

PAUL MCGRADY: Nothing in particular. It's just slightly different from how other working groups use Zoom, but perfectly adaptable. I was just curious. Thanks.

CHRIS DISSPAIN: Well, yeah. But tell me what you think. Is there something you'd like to be done differently? I'm very happy to deal with that if you do.

PAUL MCGRADY: Thanks, Chris. No. This is just Zoom's webinar function rather than their regular chat function, so it just feels a little different. I don't think it will have any substantive impact on us at all. Thanks.

CHRIS DISSPAIN: Steve's hand is up. So, Steve, go ahead.

STEVE CHAN: Thanks, Chris. I actually just lowered it, but I didn't have a whole lot to add. This is the format that we use for the EPDP group where we have a situation where there are members and observers as well as alternates, of course. It just helps us manage the group better, given that structure.

In terms of participation of the meeting, I don't believe it should have any substantive effect. And so I think, like Paul says, it just feels a little different, but it shouldn't have any substantive effect on how the group operates. But we, of course, welcome comments. Thanks.

CHRIS DISSPAIN: Nope, that's cool. And Brian, just acknowledging your note in the chat that you have now finally, eventually, been confirmed as the vice-chair of the EPDP Phase 2. There are those of us who have questioned your sanity, but well done. I'm sure it will be huge fun.

Okay. If there's nothing else on the meeting logistics? Nope. Let's go to the tour of the table. Basically, where we left this last week was that some of us would come back with thoughts about how we could move this forward—how we could tweak, what we could do, what changes would

need to be made, how we could tweak the other recommendations without operating outside of scope or outside of the boundaries.

And so, if this is the bit of the call where anybody has any comments or suggestions to make or to bring up, should do so. So, please feel free to raise your hand and take the floor. It doesn't seem that anyone has anything to say.

Let me just say briefly that Yrjö, you asked for some background information, specifically the previous recommendations and suggestions from the last PDP. So, hopefully you got those. And if you wanted to, whenever you're ready, if you wanted to talk to those, that would be great.

Brian go ahead, please.

YRJÖ LÄNSIPURO: Chris, thank you.

CHRIS DISSPAIN: I'm sorry, Yrjö. Yes. You go ahead first. Sorry, Brian. Give me one second.

YRJÖ LÄNSIPURO: Can you hear me well?

CHRIS DISSPAIN: Yes. I can hear you very well.

YRJÖ LÄNSIPURO: Okay, yeah. I asked, and thank you very much for bringing them up front here on the screen. I just thought that it would be useful to review those options that were not accepted. Just if we couldn't find elements from there that could be usable. And at least option

six includes, of course, arbitration as an alternative to court proceedings. And, of course governments and entities with immunity, they do submit to arbitration so that we could take a look at option six as a starting point. Thank you.

CHRIS DISSPAIN: Okay. Thanks very much. We'll get back to that in a second. Brian, go ahead, please.

BRIAN BECKHAM: Thanks, Chris. Hi, everyone. So, just to prepare a little bit for this meeting ... To some extent, this retraces a little bit of the ground that we covered last week, but I thought it would be worth just sharing some of the high-level notes that I jotted down, mainly by way of, at least as far as my and IGO's lookback in the rearview mirror on this file over time, to get in front of us some of the overarching concepts that seemed to be at issue in the past.

Of course, this is all to recall under the assumption that we can still work within the boundaries of Recommendations 1-4. And part of that goes to, to what extent would this work be considered not creating a new mechanism if we're borrowing inspiration from the UDRP. My view is that we can comfortably work within that bounds without triggering that issue.

So, the issues that I had noted down that had come up in the past were the issue of the mutual jurisdiction. So, when a UDRP case is filed, the filing brand owner has to agree to submit to one of two mutual jurisdictions in case the registrant appeals the case. Obviously, one of the threshold issues for this working group was the concept of privileges and immunities for IGOs—so, what to do with that intersection of the court jurisdiction and IGO immunities.

The concept of meditation had been raised. That's often raised in talks about the UDRP Review which will be coming up, it looks like, in this year. So, if there's, let's say, an escape valve for the parties to avoid a case going to a decision on the merits, the question of trademark rights, the

question of the bad faith criteria. So, under the UDRP, there are four criteria which help panelists to understand whether a domain name has been registered and used in bad faith.

And one of the discussions in prior work for this topic revolved around, if you will, simplifying that to basically say the criteria should effectively center around if there's an attempt by a registrant to impersonate, in bad faith, an IGO as opposed to the more detailed criteria listed in the UDRP.

Another topic is the burden of proof. So, under the UDRP, the burden of proof is the balance of probabilities under the URS which is kind of a companion mechanism specifically created for new gTLDs. It's a higher burden of clear and convincing evidence, so that may be something worth looking at in terms of the burden of proof for the work in front of us.

A topic that often comes up is the panel composition. And by that, I don't mean necessarily the individual or individuals who would be deciding the case, although that is potentially something to consider. But in UDRP cases, in the vast majority of cases, they're decided by a single-member panel. In a few cases, the registrant typically ...

There are a few cases, and it is an option for the complainant itself to elect for three-member panel right from the beginning. But in a number of cases, the registrant will actually opt for that three-member panel composition. And so, that's sort of seen, I think, in some people's eyes to bring kind of a heightened degree of balance or fairness to the process.

Of course, that relates directly to the question of the appeals—whether the appeals will be heard by a one- or three-member panel, who those individuals would be, would you need three-member panels at first instance if you're going to have, potentially, three-member panels in the appeals side of things. So, again, just to get these topics on the radar.

Potentially, if there were an arbitration-like process ... And here, something to point out is [that] oftentimes, especially in the UDRP context, people use the word "arbitration." But it's important to bear in mind that the UDRP itself—and this was a design question when the UDRP was being

created, now over 20 years ago—was that this is actually an administrative process. So, it's not an arbitration ...

If it's an arbitration, that triggers certain provisions under international law. There are agreements about enforcing that across states. There are limitations on the grounds for appeal. If you will, it's a heightened process with similar boundaries. Whereas the UDRP is actually very much inspired by the arbitration model, but it's an administrative process.

One of the topics that comes up in arbitration is ... And the parties in arbitration cases are often free to agree to this whether that's beforehand through the vehicle of a contract, or when they actually start an arbitration on the substantive and the procedural law that would apply. I don't know that it's necessary to get to that level of detail here, but just to get that on the table.

And then one of the topics that came up in some prior discussions on this was the applicability of anything that a group such as the one constituted here would come up with whether, for example, that would be applicable only to registrations going forward or like consensus policies like the UDRP that would be applicable through the ICANN contract vehicle to all domain name registrations.

Obviously, the former presents the possibility of significant gaming. That's a problem that we see in the UDRP context. So, the UDRP requires both that the registration be shown to be registered at the time of registration and then subsequently used in bad faith.

A number of ccTLDs have actually combined that to just say [that] there has to be a showing of bad faith. So, something targeting the brand owner. And that ccTLD-type formulation, if you will, has tended in practice to be a little simpler and cause a few less headaches.

In the UDRP context, what we've seen is some cases where, let's say, a domain name was registered in 1999. And then a brand comes along two years ago and they become overnight Internet famous. And then there's blatant infringement on the website related to the domain name.

Unfortunately, under the UDP test, because the registration couldn't be in bad faith because it predates the existence of the brand, then that obviously, puts the brand owner in a position where they're not able to use the UDRP. So, that was a question that had come up in some prior discussions on this topic.

That was kind of a high-level overview of some things that I had jotted down looking through some old e-mails on the topic. So, I just thought it may be useful to get those on the table. I'm sure there are other things that people would have flagged in their own notes, but those were kind of a high-level summary from my perspective. Thanks.

CHRIS DISSPAIN: Thanks, Brian. I'm going to Jeff in a second, but forgive me. I just want to make sure I'm clear. Are you suggesting that these are topics we should be discussing?

BRIAN BECKHAM: I think that whatever output we ... If we sort of look into the crystal ball, if we ended up creating, let's say, some adjustments to the UDRP that address this Recommendation 5 issue, these are the topic that, in previous discussions, were some of the forks in the road that we would want to look at.

CHRIS DISSPAIN: Isn't Recommendation 5 all about what happens once a finding has been made?

So, let's let Jeff speak and then I'll come back. He's had his hand up for a while. I think he wants to talk to this very point. Jeff.

JEFF NEUMAN: Yeah. Thanks, Chris. So, just so I understand. I thought there was one narrow issue we needed to address, and my understanding was that the IGOs ... That there was

not a desire ... That the UDRP is the UDRP. We're not changing anything about the UDRP for IGOs except for one small thing which ... Well, it's not that small, but the only thing that ...

My understanding was that IGOs could not sign up in the case, in the very narrow case that the IGO wins the UDRP and the registrant then wants to—I know we say appeal, but I'll come to that in a second; but for now, let's just call it appeal—the decision to a court of applicable jurisdiction. And that would be ... Normally when someone files a UDRP, they have to consent to certain jurisdictions.

I thought the only issue—nothing else, nothing about changing the “or” to an “and” or any other criteria of the UDRP. That's not before this committee. I thought the only thing that's before this committee is what do we do about the mutual jurisdiction clause because IGOs are either unable—let's just say unable—to sign that because there are issues with sovereign immunity.

I think everything else you brought up is just completely ... That's for the UDRP Review to look at, not for us to look at. So, in other words, my understanding was the UDRP applies. Period. Right? The question is, what happens if a registrant, a non-IGO, wants to file the appeal? And the reason I'm reluctant to use “appeal” is because, technically, there is no precedential value of a UDRP decision once a registrant goes to court.

So, it's up to a court as to whether it wants to use the UDRP case as evidence. But in general, the court where the registrant files an action looks at it de novo—right?—from beginning, as if there was never a UDRP case. So, I don't think we even need to necessarily talk about standard of review either because I think we treat it like ...

If we come up with some second arbitration process instead of going through a court, that it should be no different. That it should be a de novo-type review just like it would be with the court. So, the registrant has all the same rights that it would have under the current UDRP.

And so, all we're talking about is a second arbitration-type proceeding in the very, very narrow case where the IGO brings a UDRP action, it gets decided under the very same criteria, and the

registrant then doesn't feel like it got a fair shake, for whatever reason, and then wants to go to this second process. I thought that's it. That's very narrow. That we shouldn't be talking about standard approved for. Shouldn't be talking about the "or" and "and" in the criteria or anything like that.

I am a panelist, as well, under the UDRP, but I just want to put that out there just so ... I think it's in my [inaudible].

CHRIS DISSPAIN: Jeff, thanks.

JEFF NEUMAN: Yeah, thanks.

CHRIS DISSPAIN: Jeff, thanks. I'm going to let Brian respond if that's all right with you, Paul, before I go to you. So, let's just have Brian respond first and then ... Otherwise, we just end up with this kind of route. Everyone just talking and talking. So, I'd rather try and get a debate and a conversation going if that's all right. So, Brian you don't have to respond, but would you like to?

BRIAN BECKHAM: Yeah. Thanks, Chris. I'm happy to. And I think that's ... I don't know that I would share that limitation. First of all, when we look back at the briefing note on this, we look at some of the issues that have been raised in terms of the scope of the work and the potential issues faced by IGOs and the problem statement.

And then we come down to, really ... I think the gist of what's in front of us is that this work track looking at ... I'll just read here from the briefing note. "A policy solution within the above framework"—and that includes the problem statement—"that is also likely to be acceptable to the

GNSO Council and to the GAC, such as to be a solution that can be adopted by the Board as being in the best interest of ICANN or the ICANN community.”

To me, that limitation sort of, sorry to put it this way, but that kind of puts our collective heads in the sand as to the problem statement that we’re tasked to address. And failing to actually think more creatively about a holistic solution, I think, misses the mark. And if we're only here to look at what happens in the case of an appeal. In case an IGO wins and a registrant wants to take that to court, then obviously that simplifies our work. But I think it misses the mark in terms of the issue that's been put in front of us.

CHRIS DISSPAIN: So if I may, because I think this is the crux of the issue, and I think that this is important. What do you think the problem statement is?

BRIAN BECKHAM: I guess I would put it ... And when I look at ... Just looking at what was just on screen, it said, “One of the potential outcomes of this work can include recommendations to modify the UDRP.”

I would say, broadly speaking, the problem statement is, “As drafted, the UDRP is not framed in a way that IGOs can use it.” And that goes not only to this jurisdiction issue, but some of the more substantive issues about trademark rights and bad faith criteria.

CHRIS DISSPAIN: Sure. So, let me just lay some of my personal cards on the table. Then I am going to go to you, Paul. I think everyone who knows me and knows how long I’ve been involved in this IGO stuff knows I’m fully aware of what the problem is, in the sense of the whole deck of cards, if you like.

Where I'm struggling is [not to not acknowledge] that that's a problem, but to acknowledge that that's the problem that can be dealt with in this particular work track. Not in any way to detract from the issue or in any way to detract from the fact that there's every possibility that we'll end up in a situation with the same, as we have with what we'll call Phase 1, the first half of the issue where you've ended up with conflicting G and GAC advice.

I get that completely, but I'm not entirely sure I get how to bring your larger problem statement into—even embracing, fully, Kavouss's admonition for courage, etc.—how to bring that into this particular work track.

But let me leave that there for a second. Let me go to Paul. And I'll happily come back to you afterwards, Brian. Paul, please go ahead.

PAUL MCGRADY: Thanks. So, I'm somewhere in between where Brian and Jeff are each coming from. And as I thought about the problem. I thought about a couple of things. Without making major revisions to the UDRP and without building an entirely new dispute mechanism, what can we do?

And I went to the text of the UDRP to take a look, and while there are some other major—or, I'm sorry—other minor adjustments we would have to make to the UDRP, it does seem that at the heart of the problem is the second and remaining sentences in paragraph 4K.

Because the way that the UDRP is written now is that if a registrant loses, if they file a court case in a competent jurisdiction—which I think everybody seems to believe is the location of the registrant or the location of the registrar—that results in an automatic stay. That the providers, then, will not ...

Basically, the registrar is meant to not transfer the domain name, and that leaves the IGO in the weird position of either submitting to the jurisdiction and having the fight there or choosing not to submit to the jurisdiction. And then the bad guy, the registrant that lost, gets to keep the domain

name because they're playing the game in the courts. Right? That's from an IGO point of view. Of course, the registrant may not be a bad guy and may have a different point of view.

I think that one of the first things that we should consider doing is simply excising, out of paragraph 4k, the remainder of that paragraph which basically takes away that automatic stay without waiting the 10 business days. When a domain name registrant loses, the provider immediately tells the registrar to move the domain name. The provider does that. The domain name is then moved into the control of the IGO.

And that shifts the burden to the domain name registrant to go find a court that has competent jurisdiction over the registrar to get that reversed. Right? And what we can't do is build out international law for a losing registrant to have a right to do that. In the U.S., a losing registrant would. They would be able to go under the reverse domain name hijacking portions of the Anticybersquatting Act and get that relief.

Not every country has that relief, but ICANN's not a super national legislator. Right? And likewise, we can't build out protections for IGOs to not participate in court actions where they might be sued and deal with the consequences of not participating. Again, ICANN's not a super national legislator. Right?

And so, as a result, if we eliminate that, essentially what the losing registrant has now under that narrow portion of the UDRP and makes some other adjustments, then we are eliminating basically what is a free injunction that the registrant has in their hands when they lose—so long as they file a court action.

And I think that clears up 90% of the problem because then, a losing registrant that's lost a UDRP to an IGO really, really has to believe in good faith that they should not have lost if they're going to go down that path to get that domain name back.

So, that's sort of initial thoughts. And I think it's more narrow than what Brian's proposing which sounds exciting, or by Jeff proposing which also sounds exciting. Thanks.

CHRIS DISSPAIN: So, Paul, thank you. I just want to sort of extract a couple of pieces from that. Then I'm going to go back to Brian. Leaving aside the merits or otherwise of what you've just put forward, which we can get to, I think that sits within what we talked about last week as tweakableness. Let's call it that.

We can argue the merits of it one way or another, and then there would be subsequent arguments to be had about if there was a subsequent jurisdictional claim made, what is the status of the finding that the ... It doesn't solve the closed circle of Recommendation 5 which is you go back to the very beginning again. But that's a separate point which is not actually that difficult to solve.

The challenge as I see it is that, if I've understood Brian correctly, that whilst having itself is a very helpful small piece, it doesn't solve Brian's problem statement which involves the fact that the IGOs have to use this mechanism as it currently is in the first place. And unless I've misunderstood, some of the things that Brian was raising were things about going back to the very standing of IGOs in respect to the use of the UDRP and the need to make amendments to that in order to allow them to use it, in their view, properly.

Brian is that fair? Or have I misunderstood?

BRIAN BECKHAM: Thanks, Chris. I think, maybe, a couple of things. One is if we look, let's say, more narrowly at the issue that Jeff and Paul had suggested focusing in on, one of the things ... I suppose it comes down to a question, and I want to be clear I'm sort of reacting on the fly, but I would appreciate the indulgence of this of this group to circle back with my IGO colleagues and correct anything [inaudible].

CHRIS DISSPAIN: Of course. It goes without saying.

BRIAN BECKHAM: Okay. I think when you look at, for instance, Recommendations 1-4, for instance, there was one about this standing issue of IGOs. Typically, IGOs wouldn't actually go out and register trademark certificates in jurisdictions around the world because of the provisions of the Paris Convention. And so, the first working group sort of created a workaround, if you will, of how IGOs could prove that.

Maybe that's okay. It probably overcomplicates things, and maybe we say, "That's fine. We just live with it even if there's a more efficient way to recast that."

I think, just to be just to be crystal clear, when it comes to ... On the one hand, I suppose you could, from an IGO perspective, look at this mutual jurisdiction issue as kind of the core. And if we can thread that needle easily and come out with a recommendation from this group that works for everyone, great.

Of course, there is the thorny little issue of the conjunctive registration and use requirement which, to be sure, is going to be a fun topic and in the UDRP Review discussions.

That probably is something where I think you might have some hesitation if, let's say, the United Nations comes up with a program next year to deal with humanitarian crises, pandemics, whatever. Then a registration from five years ago starts flagrantly infringing that program and defrauding donors. That wouldn't be, I think everyone can agree, a great outcome, [and] that we tie own hands to exclude those types of cases.

But one thing, just to ... Maybe I should have said this more clearly in the beginning. Some of these were drawn from private conversations. But actually, most of the things that I raised earlier were things that came out of conversations with registrants and their counsel, and so these actually would be things that would ultimately make a more balanced and defensible mechanism where registrants had protections built in.

So, look, if it's in the cards that we steer away from that more holistic way of looking at things and we leave out some of those protections, that may be where we elect to go. I guess that puts the question of, do we need ... We, obviously, would need to agree on this, but do we need to ... I personally don't think we do, but I think ...

Not to put words in anyone's mouth, but I think what I'm hearing from Jeff—maybe others share this view—is that we're narrowly bound by this instruction from the Council. And so, if we wanted to address these broader issues to make this a more holistic and defensible system, we may need to go to the Council to ask them to make sure that we're coloring within lines, maybe with some slightly adjusted parameters with their blessing.

CHRIS DISSPAIN: Yeah. Brian, I think quite possibly something that we could consider once ... I mean, we've got a ways to go before we get to that point. But, yes, I mean it seems to me, for example, that it would be hard ... I'm going to go to Jeff in a second.

It seems to me, and I'm speaking purely from the position of chairing and not [asserting] any opinion. It looks to me quite hard to say that our work on Recommendation 5 can do anything in respect to the very start of an IGO submitting to a UDRP process. In other words, Recommendation 5, as Jeff has said, quite clearly deals with what happens post a decision.

I acknowledge that there are major issues for IGOs in using the UDRP as it currently exists. But I can't ... I'm struggling—and it's kind of what I tried to say in my notes at the very beginning of all of this in the call last week—to see how we can find a way of bringing in matter, that earlier up the chain stuff, if you will, about how you get in in the first place to this discussion. I'm open to any tweaks and suggestions. Just I, personally, at the moment can't see that.

Jeff, over to you. And then I'm going to go to Chris. Jeff.

JEFF NEUMAN: Yeah, thanks. As the GNSO liaison to the GAC, I want us to make sure that we understand what the GAC advice says and work based on that, as opposed to ...

I know that there can be additional protections, and I know that IGOs want additional protections. And I know that IGOs weren't necessarily happy with the acronym discussion and all of that, but I do think it's important to stick to what the mandate is from the GNSO, and look at the GAC advice.

And from what I see—and if Berry wants to put that up. What I haven't seen, and I can't remember seeing, is the small group proposal from the Panama ICANN62. So, I'm not 100% sure what that was referring to, but the way ...

CHRIS DISSPAIN: Jeff, that's a full-blown ... In summary, that's a full-blown mechanism for how you would create a parallel process.

JEFF NEUMAN: Okay. So, at the end of the day, the key concerns that I see in there are that the UDRP requires a trademark registration or common law rights, which doesn't exactly fit the IGO model.

CHRIS DISSPAIN: Right.

JEFF NEUMAN: Right. So, that's one thing that needs to be solved. And then the other thing is the appeals. Right? So, it's standing and appeals. But everything else seems to be that ... The GAC doesn't, at least according to their consensus advice, doesn't want to see something completely new. They want to see that it's modeled on ... It can be separate from, but it needs to

be modeled on the UDRP, and without any changes—if you look at previous advice from ICANN51, I think it was.

And so, I really think that for us to do any more than that is going into territory that the UDRP Review is going to go into. And we should let that run its course, but in the meantime, work on the two issues which are how do we make sure that the IGOs have standing to bring a UDRP-type action whether that's through WIPO or through arbitration form of the existing providers or whether that's some other panel/arbitration-type thing we set up. And also, then, look at the appeals.

But I don't think, at this point, we should be looking at the conjunctive “and” or “or” because, Brian, while I appreciate that, what if the U.N. establishes a program next year, the same thing can be said for trademark owners and others. That's a common problem, and I think the conjunctive needs to be looked at in the UDRP Review. But not here because I think that would not necessarily be appropriate for us to do, especially when there's going to be that review.

So, I really want to make sure that we're not making this too complicated. I mean, it's already complicated with the jurisdiction issue. But I don't think we should be looking at anything else. And I don't ...

Paul, I hear you on the 10-day appeal, but the GAC does advise that they don't registrant protections to change either. So, I think that would be a little bit beyond what we can do. And I don't see the different between why an IGO would need something that a regular registrant, at least for the 10 days ... I just don't see how an IGO is any different.

I see the standing requirement, which is what do they base the action on, number one. And number two is, what happens in the case where an IGO loses and a registrant appeals? Which, by the way, doesn't happen very often at all. It does happen, but it's not a huge ... It's not something that really happens too much. So, thank you.

CHRIS DISSPAIN: So, thank you, Jeff. I'm going to go to Kris in a second. Then I'm going to go to Brian. And Jeff, I'm going to come back to you after we've been to Kris and Brian.

And I'm going to ask you to think about this. Think about how you think you could bring the standing question into this discussion because I agree with you that it's an issue. But we need to figure out a way of bringing it in that's workable. So, I'm going to come back to you and see if you've got any thoughts on that in a little while.

Kris, over to you.

KRIS SEEBURN: Thanks, Chris. I'm with Jeff on this one. The reality is ... Well, I had a couple of things that has happened over the past week, over this weekend. I discovered by some research that many of the companies who actually registered a domain name is mainly a company that they register in their country. They don't already have a brand name registered, per se, or even with WIPO by whatever means, or whatever [inaudible].

So, if you cut that out, and as I said, we could actually still look at the arbitration model then you know let it go that way so that it doesn't complicate things. Because, really, when I looked at the UDRP and URS and everything, I said, it is going to be possible but then it's going to take ages, again, to go back to the drawing board and we start over again.

And what Jeff said, I'm pretty much in agreement with him. It's just too close a location, what happens after that. So, I still believe the arbitration procedure, tweak with what WIPO has. We can actually work it out.

But I know the Hague Convention and all the stuff very well. I spent so many years doing that. But it can be worked out very simply, and basically most of the countries of the world adhere to the same principle. Probably a few changes here and there, but if you look at the branding process, not many companies do that. They just register the company in their country of origin,

and they just go and register a domain name. That means there's no branding, there's no trademarks registered properly. And there are many of these that are lacking there.

So, there's a loophole on their side. It's not our problem per se, but we can actually solve a problem for IGOs if that is the case. That's what I wanted to say. There is a very vague [inaudible] in between.

I was just telling Terri just right now. I just had a question just two days back, actually. There's a [FOSSFA] group, which is the African open- source software group. They're called [fossfa.net] because [fossfa.org] was already a U.S. secured company, not a nonprofit making. But [FOSSFA] is a nonprofit making organization.

Now, after 10 years, there's this Chinese registrar that sent an e-mail to fossfa.net saying, "We have our client that owns that name." And then I checked all the databases. I couldn't find anything apart from ... Not even a company name that is registered in China called [FOSSFA] as just the acronym, perhaps. But I don't see how it actually matters.

So, in any case, that registrar would have an issue if they go through that process going from top to bottom. They'll be stuck anyway. And if it does pass that, it just goes through the arbitration that they did go through. Somewhere in between the lines, we have to give some level of, say laxity, to the IGOs [inaudible] IGOs.

It also concerns the nonprofit making organizations who have the same issue. So, they are also concerned by that. [inaudible] is also concerned by that. But we will have to, at someplace ... You cannot be a winner in all cases. We'll have to accept there is a defeat somewhere. There's no win-win.

But the only thing that we can have is a win-win situation if you want to put some conditions like using the last [inaudible] what we're talking about and using Jeff's ideas to say ... Now I said the same thing. I don't see that we [are going] to be able to go and change much of whatever is already written.

But the way out with an arbitration to [inaudible] properly with WIPO or whatever they have. [inaudible] and I still believe that could be a good workaround if we just get it right, point to the right direction, to the articles. And we see what we have there and what's changed in agreement with everybody and possibly the GAC, actually, whoever it is.

And I know, Kavouss, is actually a very not easy person, but if they can actually walk into this together, I think we've got away out without complicating things.

CHRIS DISSPAIN: Thank you, Kris. I appreciate that. Thank you. Brian, you're next.

BRIAN BECKHAM: Thanks, Chris. I wanted to respond to two things. One, Jeff said about the UDRP Review, and one Kris just mentioned.

Look, with all due respect, we're not here to solve the problems of NGOs/nonprofits/SMEs around the world who have gotten in off the ground and not obtained trademark registration certificates. We're here to address an issue that's been raised for IGOs. IGOs are organizations that are created by treaties. Right?

In order to start a business in, for example, Virginia where I'm most recently from in the United States ... I don't recall exactly, but I think probably you would fill out about a two-page form, pay 25 bucks, and then two days later you have your business registration number. That's an entirely different process from states coming together to create an international organization through the vehicle of a treaty.

So, I think it's just important to remember that we're not here ... Nothing against the good work that nonprofits/NGOs/small businesses are doing, but we're not here to unlock that problem of trademark rights for those entities. We're here to address the problem for IGOs which are different corporate creatures under international law.

In regard to the question that Jeff raised about the UDRP Review and the conjunctive requirement. First of all, the UDRP Review, we just came off of four and a half, almost five years of Rights Protection Review for what we called Phase 1 which included the URS which was like the little brother or the UDRP. Of course, it included other topics, and there were a number of reasons why the work took that long. But that was almost a five-year process.

And the UDRP Review, maybe it's quicker. Maybe it won't be. But it's a topic that, I think, is going to receive a lot of attention. It's the first consensus policy. It's been around for 20 years. There's been, just at WIPO where I work, we've managed over 50,000 cases versus, I think ... I'm not even sure if there have been 1,000 cases filed under the URS. We're talking about an entirely different PDP process when we're looking at the Phase 1 Review versus the UDRP Review. So, even if we set the timing aside, the GAC advice clearly says that the UDRP is not to be amended in doing this work.

So, I guess, maybe the issue in front of us is ... And this is something that I have to say I find a little personally frustrated because having worked on this topic for so many years, and having watched the prior working group unfold, I was involved in numerous conversations. Most of those, one-on-one conversations with people—whether that was liaisons or working group members or influential stakeholders—to try to get the GAC advice throughout the years on this topic in front of relevant decision makers. But for whatever reason, that simply was not accounted for.

So, maybe the question is there's just an intractable difference between the GAC advice that's in front of us and the limitations the Council has put on us. That's why I suggested earlier maybe one option could be, if the group agrees, to ask that Council, whether there's room to open that remit a little bit.

Otherwise, it seems likely that we're going to face the same situation down the road that we've seen a number of times in the past, which is that you have recommendations coming out of a GNSO policy group. Or maybe nothing comes out of here, and we're stuck with the prior group.

And then you have GAC advice that's conflicting with that. And the Board's put in the position of having to sort that out. I think that's precisely what we're here to address. I don't think it's an impossible problem, but we have to push through it. thanks.

CHRIS DISSPAIN: Thanks, Brian. I'll come back with some thoughts on that afterwards. I'm going to go to Jeff and Paul, and then Kris. I'm conscious, just so everyone knows, we have 35 minutes left. I'm happy to let the discussion roll on, but I need to finish on tie. I have another call straight afterwards, and I want to do a little bit of Any Other Business towards the end. But we can roll just for another 25 minutes. Let's go, Jeff.

JEFF NEUMAN: Yeah. Thanks, Chris. So, to address the question that you raised on standing. So, I am not, by any means at all, an IGO expert or even a Paris 6ter expert at all, but it was my understanding that under Paris 6ter Treaty, that there was supposed to be a list set up. They called it the International Bureau, I think, in that particular treaty.

Brian, where is the list of IGOs? And then Chris, that could be ... Okay, so the IB's WIPO. So, that official list can be what gives them standing to bring the claim. So, I don't know why don't know why that little tweak to the UDRP couldn't be put into there to just make it clear that, rather than trademark rights, an IGO could have standing if it's listed on that particular list.

CHRIS DISSPAIN: Yeah. The change would be, if I understand you correctly, the current recommendation is that 6ter gets you in the door, provided the panelist agrees on a case-by-case basis. What you're talking about is a tweak that would give you standing without having to get individual panelists to agree on a case-by-case basis. That would be a small change.

JEFF NEUMAN: Right.

CHRIS DISSPAIN: Some people might say a large change, but it would be a small change to, I think it's Recommendation 1. It might be 2. I can't remember which. That's what you're saying, Jeff. Is that right?

JEFF NEUMAN: Yeah. I think that's the simplest tweak to not put it in the panelists' discretion. And I don't know. Brian might know this. But I don't know if that's ever been tried, my guess is because of the mutual jurisdiction that no IGOs have done it. But maybe they have.

So, that will give them the standing. And then again, dealing with the very narrow issue of when a registrant wants to appeal. That's when we're talking about some other smaller panel that we set up rather than being able to go to court. I think those are [inaudible] tweaks.

CHRIS DISSPAIN: The appeal mechanism, yeah.

JEFF NEUMAN: Yeah, but I would [inaudible].

CHRIS DISSPAIN: Okay. So just to be clear, we've got a proposal. The suggestion would be a small tweak to whichever one it is, 1 or 2, in respect to standing. And then dealing with the winning of the claim and having the registrant have the right to go to their own jurisdiction, some form of alternative arbitration mechanism or whatever to deal with that.

JEFF NEUMAN: Right. But the problem with the standing in 6ter is that it doesn't really give someone a right. It basically give someone, or sends an instruction to the different member states not to allow registration of things that would infringe.

But Susan's got her hand raised, so I'm going to shut up now because there are much better [inaudible] than me.

CHRIS DISSPAIN: Okay. Let's go through the [questions]. But thanks for being so constructive and helpful on that. Paul, Kris, Susan. Paul.

PAUL MCGRADY: Thanks. I would like to defer to Susan because we've raised the 6ter issue, and I am not an expert on that. And then if you could come back to me to talk about the appeal thing.

CHRIS DISSPAIN: I think that's an excellent idea, and I'm sure Kris won't mind if I do that. Susan, you're up.

SUSAN ANTHONY: I fear that this is going to be on my gravestone. That is the only thing anybody [inaudible] say about me when I go. But 6ter [is a] thorn in my side and many other body parts.

I never understood the GNSO recommendations regarding 6ter. The GNSO stated in its recommendations, "We did not amend the UDRP," but they did by stating that 6ter basically is a basis for standing under the UDRP. People often [think of] 6ter as protection. It is not. People

often speak of 6ter as registration. It is not. It is a recordation if a member country decides to accept the application for recommendation.

And all it is—and it's not insignificant, I don't mean to suggest it's a nothing burger—but what it does is to help the examiner in the trademark office evaluate whether an application possibly should be rejected because of the similarity to a 6ter recordation. And we that routinely at the USPTO. The U.S. Patent and Trademark Office, through the U.S. government, submitted a very lengthy description of 6ter and what it is or isn't.

It must have been around the time of the Helsinki meeting because I remember a number of people in the GNSO applauded us for this. So, it's worth going back and reading if 6ter really does remain a mystery.

But when I first say the limitations, "Thou shalt not go back and change Recommendations 1-4" I went "Eww" because it's still a problem. But I am very interested in what Jeff has proffered this morning, and [it's] something I'd like to further evaluate. Thank you.

CHRIS DISSPAIN: Thank you, Susan. If I can just summarize, then, so everyone's clear. If I'm clear, then hopefully others will be clear. In essence, what 6ter does is provide guidance to a local, jurisdictional trademark office that there may be [international] [inaudible] granting the trademark locally.

SUSAN ANTHONY: More or less.

CHRIS DISSPAIN: Yeah. And are you saying that ... You said that you're interested in talking some more about what Jeff has said. Is that kind of like accepting that the recommendation

already effectively does make a change even though it says it doesn't. That's worth pursuing further? Or are you actually concerned about pursuing [inaudible] based on the fact that it's a misunderstanding in 6ter?

In other words, are you prepared to move slightly further on the existing change or not? You don't have to answer that now. I'm just ...

SUSAN ANTHONY: If I understood what you said, because you kind of faded in and out in the last thing.

CHRIS DISSPAIN: Sorry, my apologies.

SUSAN ANTHONY: At the first meeting, I blanched thinking that we are really bound in by the boundaries, and worried that we could not be as creative [as we] might be. And I do apologize for having to come in late to the call this morning, tied up in another call.

CHRIS DISSPAIN: That's okay.

SUSAN ANTHONY: But I had a different attitude when I came in this morning. I thought we should go ahead and explore what we think makes the best sense and push back against those boundaries. Although I take very much to heart what Brian Beckham said that it would be very frustrating ... I think this is what you said, Brian. That it would be very frustrating to put a lot of

work into one or more alternatives only for the GNSO Council to say, “Off with your heads! We told you no to begin with.” And then it would be for nothing.

When we went into this thought that we would have a working group for this, and I was very much working with Brian at the time on this, I thought we had said when we spoke with Keith that we needed to have a general understanding that we would be able to revisit Recommendations 1-4. That was what I always thought was the understanding. We could revisit. I know the GNSO Council does not want us revisiting, but that we could revisit.

What I heard in the last meeting was, “Thou shalt not revisit.” And I think that is an unfair impediment to the group, but I think if we were to go back to the Council now and say, “Can you bend a bit if we come up with something that requires you to bend?” I fear what the answer would be, but I also am concerned about putting in a lot of work that, then, is just rejected out of the box.

So, I guess this morning I’m on the horns of a dilemma. Is that a fair answer to your question, Chris?

CHRIS DISSPAIN: That’s a very fair answer, Susan. And thank you very much. I appreciate that. And I personally agree with you. But I would add, equally, there’s a danger of us doing a whole heap of work and then having the GAC com back and say, “No.”

So, at the end of the day ... Although that’s outside of the remit of the GNSO, obviously. But nonetheless, both sides of a similar coin.

Steve Chan has asked me if he can jump in now, and that’s fine. And then we’re going to go back to the queue. Steve, go ahead, please.

STEVE CHAN: Thanks, Chris. And apologies to Paul and Kris for jumping the queue. I just wanted to provide a little bit of context on Recommendation 2, at least per my recollection as it's probably been a little while.

But for Recommendation 2, in the initial report it was actually a stronger assertion. If I recall correctly, it was an affirmative statement that Article 6ter would serve as standing for utilizing the UDRP. And after public comment from, I believe it was the USPTO and perhaps others, it actually ended up being what it is now where it's not an absolute assertion of standing. But it ends up being what Berry is highlighting now. It's up to the panelists to determine whether or not it actually qualifies as standing.

So, like I said, I just wanted to provide some context from what the working group previous to this one actually already discussed, which I thin is in line with what Jeff was suggesting. Thanks.

CHRIS DISSPAIN: Yeah, it is. Thank you, Steve. Paul, over to you.

PAUL MCGRADY: Thanks. So, I had lots of brilliant things to say about the appeals mechanism, but I think the conversation has sense moved on. And I'll just throw my voice behind Brian and Susan's in saying that it sounds to me like we need to check with the Council on what the size of the ranch is so that we don't go off the ranch. Thanks.

CHRIS DISSPAIN: Thank you, Paul. Kris.

KRIS SEEBURN: Okay. Thanks, Chris. I agree with Susan. Actually, we did look at the 6ter stuff when I was spending my time with the Hague. [inaudible] because The Hague is under the purview of the [EU] [inaudible] go back to it.

I'm still lost a bit here on [one thing ...] Perhaps someone can clear me on that. If a government or any IGO actually goes ahead, doesn't need to register a company but they just create a brand for a [program], that's fine. I don't see any issues there because they're using it for whatever good reason or whatever it is.

On the other hand, if you have a company that comes in, in a particular jurisdiction. Let's say Nigeria. They're very good at that, actually. Or China, for the sake of [inaudible]. They register a company in that jurisdiction. Does that make them the owner of a brand? So, are we talking about brand? Are we talking about the domain name? Are we talking about the trademarks? We have to set a boundary here on what are we really wanting to get [out].

I do understand how governments work. It's just that if something happens, to get something new ... It's not a registered company but, obviously, [they'd have to] create a trademark around it and everything. They do that. They do the formalities.

But when it comes to individuals, the registrant who actually is trying to get a domain name, [you eventually] look at the list. It's not as ... Well, I shouldn't say it. It's kind of a mystery to me as well because I remember I was talking to a couple of the chief justices when I was in the Netherlands with the Hague. We were talking about that. The issue came up and we were talking about, "Where do we go if we face things like that? So, which one is what?"

We need to understand where we put the demarcation line and see what is really needed and what is really required. So, if we go the IGO way, I don't know what the GAC really wants. If I'm guessing right, they really want to say, "The government is ... The things that we're going to be doing, their trademarks or whatever registration that they want to do, we have to give them priority."

Personally, I don't see an issue there because it also, by deflection, helps other groups. It's a GAC issue, but if it [inaudible] there, it actually does help other individuals as well. But we just need to be sure what we're trying to [set out] here just like Brian said.

Okay. He's looking at it from a WIPO perspective, which is brand name and whatever. But what are we really looking at when it comes to the GAC? Is it just what they're trying to do? Is it their name? All of this goes together. We just need to understand those bottom-line issues.

CHRIS DISSPAIN: So, Kris, thank you. I appreciate your comments. I think I can answer your question. But before I do, I just want to give John McElwaine a heads up that if it's all right with him, I'm going to ask him a couple questions in a second.

I think the answer to your question, Kris, is a simple one which is that we are talking solely and only about a list of IGO acronyms. The names have been dealt with. All sorts of other issues have been dealt with, and as far as I'm aware at this juncture, at this stage, we are discussing solely and only the way to deal with—protection or otherwise—a defined list of IGO acronyms. That list had not been provided by the GAC.

John, as the GNSO liaison person, could we just get your feel for, if we were to decide that we can see that we may be able to do some work in respect for finding our way through this but we're concerned that it may be stepping outside of the boundaries and we want to confirm that—or rather get confirmation that we're not or we can—would it be us effectively, me effectively writing to the Council? Would we go through you? How would we do that?

JOHN MCELWAINE: So, we would be going through me. It would probably be, Chris, you as the chair with the concurrence of this group putting together a letter to leadership that I would then present to the GNSO Council in general seeking to expand or get further guidance.

I would caution in two respect here. Just mention something in two respects. Firstly, we just, as a GNSO Council, have addressed the issue of whether a charter that is unclear should be interpreted as allowing the working group to overturn existing approved policies at ICANN. So, I think it is important to get all of that out onto the table and request permission if that is a direction we're to go. Thanks.

CHRIS DISSPAIN: Thank you, and that's very helpful. I'm no sure that we'd be going that far. I think we'd be more saying, "To solve this, we think we would need to address the following." We're not there yet because I think we've got some more work to do about what actually doesn't need to be in the [tin], if you like. What actually needs to be in the request for being able to move further.

If I understand it correctly, and Brian, we can roll this forward to the next call. I'm going to go to Jeff in a sec. But, presumably, a question would be if we did make the tweak that Jeff has suggested, does that handle the top piece of the IGOs actually being able to get into the funnel in the first place or not? I'm not seeking an answer to that now. I'm just saying that would ...

It's pointless asking if we can do it if we don't know that this actually handles the issue. And there would be a whole heap of other questions like that.

Jeff, [over] to you.

JEFF NEUMAN: Yeah. Thanks, Chris. And I like the way that you said that because I'm trying to balance the concern that 6ter does not grand any rights. And we don't have to word it that way. We can just say that it gets you into the funnel and makes it clear that we're not stating that it gives you any rights. Because at the end of the day, you still have to establish the other two elements that the registrant or respondent doesn't have legitimate rights—I'm paraphrasing—and then the third element that the registrant registered and used the name in bad faith.

So, I think if we think of it that way and just saying, “It gets you into the funnel. It gets you standing,” but make it clear that we’re not saying that it grants you any substantive rights other than getting into the funnel, I’m wondering if that solves or helps with the concerns. And so, I’ll address that to Susan. And, of course, she’s got to think about it. But whether that kind of ... Because it wouldn’t change any of the recommendations. It wouldn’t change Recommendation 2. So, I’m trying to work within the bounds here. Thanks.

CHRIS DISSPAIN: John and then Susan. And then I’m going to wrap this up to roll over to [inaudible].

JOHN MCELWAIN: This may be a question for Jeff, and forgive me if it’s a dumb question. But I’m failing to see a clear connection between the standing issue in [Rec] 2 and this working group or working track’s addendum to address a solution to Recommendation 5. So, if somebody could help me understand that better, that would be great.

JEFF NEUMAN: Can I [respond] [inaudible]?

CHRIS DISSPAIN: I think that’s precisely the point that we’re making, John, which is that in order for any recommendation that we make in respect to [Rec] 5 to be of any use to anybody other than simply to solve a problem that is five layers down without solving something that’s four layers above it. It means it’s a meaningless solution because whilst it ties a bow in the GNSO Recommendations—and that may well be all that’s required of us—what it doesn’t do is actually solve the problem.

But that said, I acknowledge completely what you're saying which is trying to find some kind of nexus between the need to solve Recommendation 5 and actually doing something to Recommendation 2 is precisely one of our challenges.

Susan. Susan, I think you're on mute. There you go.

SUSAN ANTHONY: Sorry. In answer to Paul McGrady's question, IGOs certainly may file trademark applications if they have a trademark. I thank Jeff for his clarification on 6ter. I understand what he's saying about [how] we have to find a way to get IGOs into the funnel. I just would rather than 6ter not be the way that we get them into the funnel because at the end of the day you basically are amending the UDRP which was all said we would not do until a later date. So, I have no problem getting IGOs into the funnel. I just don't think 6ter is the way to do it. I don't think it can be.

CHRIS DISSPAIN: Thank you, Susan. And just to be clear for those who may not have been involved in this from the very beginning, what Susan just said is part of the reason why we went with the small group, and various iterations of the small group came up with a parallel process. It was to say we can't put the IGOs into the UDRP because that's a trademark-centric thing that has been set up specifically to deal with these trademarks.

And it's not appropriate for them to go in there, and so therefore there should be a special— [inaudible] a better way of putting it—parallel process that was very, very specific and so on. And that solution was available and it's still available, I suppose. But I'm not sure that we can work on that because that's so far ...

Well, question. Is that so far outside of what it is that we're being as to do as to be a whole new set of parameters? To which the answer is, I think, obviously, yes. That's not tweaking. That's changing. And it very specifically flies against the thing that says, "There shall be no parallel

process.” I can’t remember which bit that’s in, but that’s somewhere. It says, “There shall not be a parallel process.” And so, I think that’s the challenge for us.

Now, we’ve got 10 minutes left. I’m going to go to Any Other Business to see if there is any other business.

Okay. Can I suggest the following? We’re going to convene again in a week’s time. Maybe some of us, you, could have chats. If you’re in similar time zones, that might be good. But maybe if Jeff and Susan could have a little chat about a few things.

What I’m keen to do is to try and get us—and it may be a real challenge for next week, but maybe for the week after—is to try and get us to a point where we have a clear understanding of what we would need to address in order to find a workable solution. There’s a very easy solution to Recommendation 5. It might not be acceptable, but it’s very easy.

You simply turn it around on its head and you say: If an IGO wins and a registrant goes to its own jurisdiction, and the IGO says to the court “We’re not bound by this” and the court agrees, then rather than following Recommendation 5 which says that everyone goes back to the beginning again, you do what you would normally do in an appeal situation and you say the person who won continues to win.

And so, the IGO continues to win. That’s a very simple solution to Recommendation 5, but it doesn’t solve the bigger problem. And it doesn’t solve what Brian has referred to as the problem statement.

So, I’m keen for us, if we do need to go back to the GNSO [inaudible] clear about why we’re going back to the GNSO. We need to be clear about what it is we’re asking. We need to be clear that if they were to say yes, that would enable us to solve the bulk of the issue and provide some recommendations or recommendation that are workable and helpful.

Whether or not the tweak to 6ter is enough, I appreciate entirely what Susan has said about not wanting to be 6ter. But 6ter is already there in the sense that it’s in Recommendation 2. And so,

whether it's a tweak to that or it's something else, I don't know. But it would be fantastic if we could ... And I agree with you, Jeff. I don't think we do agree on what the issues are yet. But I think with a little bit more work, we can get to agree on what the issues are.

Brian, if I could encourage you to try to, on behalf of the IGOs, to try to be as narrow as possible in the things that you think need to be dealt with. So, I guess there's a whole raft of stuff which could be dealt with in respect to UDRP. And you've had some pushback on some of the things that you've talked about. People have said, "Leave that to the UDRP Review." So, if I could encourage you, the IGOs, to be as narrow as possible in what it is that you think would need to be fixed in order for these recommendations to go some way to being useful and helpful with curative rights for IGOs.

And then if I could encourage everybody else to be open to the possibility that we do go back to the GNSO and ask whether we could widen ... "In order to solve the issue, here's what we would need to do." It doesn't mean we need solutions. It means that we need to understand that the questions are acceptable.

And see whether or not we can bring some of those thoughts to the call next week. Does that make sense to everyone? Does anyone have any question on that or anything that they want to bring up? Did everybody kind of understand what I'm suggesting we do for now? I'm taking silence and no hands as a yes. Okay.

Thank you, Jay, for your comment in the chat. I appreciate that. Anybody else want to [inaudible] before I wrap us up? No? Okay. Please, if anybody wants to ask me any questions, anybody wants to reach out to me about anything, I'm always around. I can always answer e-mails.

Kris, you're going to need to be quick, but go [ahead].

KRIS SEEBURN: Yeah. Just quickly. Let's just try to shorten this up because it's going to take too much time. And how confident do you think the GNSO will bend to that?

CHRIS DISSPAIN: I have no idea, and I don't think anybody. Even John who is the liaison wouldn't have the faintest idea.

KRIS SEEBURN: I'm very skeptical, seriously.

CHRIS DISSPAIN: Well, you may well be right. But let's at least see if we can get clear about what it is we think we would need to do to reach a conclusion. And that will be helpful. And as Paul McGrady says in the chat, it never hurts to ask.

Thank you all very, very much. I appreciate the collegial air in which we've been able to at least get as far as we have so far. And I'm very much looking forward to seeing everybody again, same time next week. Thank you all. Thanks, everybody.

TERRI AGNEW: Thank you, everyone. The meeting has been adjourned. I'll stop all recordings and disconnect all remaining lines. Stay well.

[END OF TRANSCRIPT]