

**Uniform Domain-Name Dispute-Resolution Drafting Team (UDRP-DT) Drafting
Team
TRANSCRIPT
Monday 04 April 2011 at 1600 UTC**

Note: The following is the output of transcribing from an audio recording of the UDRP DT call on Monday 04 April 2011 at 16:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-udrp-dt-20110404-en.mp3>

On page ;

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

(transcripts and recordings are found on the calendar page) **Participants on the Call:**

Kristina Rosette - IPC

David Taylor - IPC

John Berard - CBUC

Philip Sheppard - CBUC

Jeff Neuman - RySG

Carlos Aguirre - NCA

Mary Wong - GNSO Council vice chair - observer as GNSO Council vice chair

Staff:

Margie Milam

Liz Gasster

Gisella Gruber-White

Glen de Saint Gery

Coordinator: Excuse me, this is the conference coordinator. Today's conference is being recorded. If you have any objections, please disconnect at this time. Please begin.

Gisella Gruber-White: Thank you. Good morning, good afternoon to everyone on today's UDRP call on Monday the 4th of April. We have Carlos Aguirre, John Berard, Philip Sheppard, Jeff Neuman, Kristina Rosette, David Taylor, Mary Wong. From Staff we have Margie Milam, Glen De Saint Gery, Liz Gasster and myself, Gisella Gruber-White. Zahid Jamil has informed us that he will be 10 to 15 minutes late on this call.

And if I could remind everyone to state their names when speaking for transcript purposes. Thank you. Over to your Margie.

Margie Milam: Okay, thank you Gisella.

I think the way we'll get started on this, since this really isn't a drafting team or work group, I thought the best - I proposed an agenda. It's on the notes. Essentially I'll provide a brief background of where we are and of the questions that we have for you guys and then we can close it up with any other business or questions that you may have. Does that sound okay?

Woman: Yes.

Margie Milam: Okay, great. So just to go through the slides, this is a slide deck that I presented at the San Francisco meeting. I'm not going to go through them all. I'll just go through the ones that are relevant to the work that we have before us.

Essentially, you know, we've been asked - Staff has been asked to provide - write an Issues Report on the UDRP. And on the slide I've highlighted the GNSO Council resolution that calls for the Issue Report.

And the reason for the group coming together was to really help me, as I'm the person drafting the report identify, you know, what the intended scope of the resolution is and how best to proceed with writing the Issue Report.

In San Francisco, we talked about conducting a webinar. That was one of the outcomes of the meetings in San Francisco where we could solicit information from a group of people that have a background and have dealt with the UDRP and really can help highlight the issues.

So that's probably the - one of the things we'll talk about today is how to structure that webinar, who should be invited, when it should be scheduled and if we get those questions answered, you know, we can go ahead and set it up.

So as you see on the slide here, this is the resolution from the GNSO Council that requested an Issues Report on the current state of the UDRP. And the resolution essentially highlights that the efforts should consider how the UDRP has addressed the problem of cybersquatting to date and any insufficiencies or inequalities associated with the process.

And it also identified the - whether the definition of cybersquatting inherent would need to be updated or reviewed. And so - and also it request that the Issue Report includes suggestions on how a hostile PDP on this issue might be managed.

So as I indicated in our meeting in San Francisco, this seemed to a be a really broad request because if I'm writing a paper on the current state of the UDRP, I could write, you know, volumes and volumes on just that issue alone. And yet, the resolution did have these two specific bullet points that were a little more narrow.

And so one of my questions as we'll get to later on today is, you know, at least from your input from the Councilors that are on the call, what did you intend and whether you think it should be a broader Issue Report that just covers everything associated with the UDRP or perhaps more narrow that would address, you know, specifically the issues that were raised in the resolution.

And so with that, does anyone have any questions or comments on the resolution?

Kristina Rosette: Margie, it's Kristina. I just wanted to let you know, I can't get into Adobe Connect. It's not playing well with our network security right now. So...

Margie Milam: Okay.

Kristina Rosette: ...I'll just let you know if I have questions as opposed to raising my hand.

Margie Milam: Okay. Anyone have any questions? Okay. Let's move on then to some of the slides that I went over in San Francisco because I think it will really highlight the issue that I have which is, you know, in the research that I've done, there's so much out there that, you know, it makes it difficult to really identify how to proceed with this.

And part of the question - the setup for this call is to see whether you guys have suggestions on how to format it or how to narrow the issues so that, you know, so I can get this Issue Report written and delivered to the Council quickly.

So I'm just skipping through these slides.

ON Page 6, this slide talks about the documents that I actually looked at to prepare my presentation. And one of the questions that I had for the group was whether any of you had suggestions on additional documents that I should refer to in preparing the Issues Report.

I did, you know, obviously look at the UDRP, there's a final report of the working group and these other documents that are listed here. It's interesting that in 2003 there was a staff Issue Report talking about the UDRP that never actually was acted up on and a PDP was never actually approved.

Jeff, you have a question or a comment?

Jeff Neuman: Yes, and I think I brought this up at the meeting over the weekend. There were a bunch of documents that were filed right around the time of the IRT report, either a meeting up to it or - and after it about a whole bunch of issues that intellectual property owners had with the UDRP, the current state of the UDRP.

Conversely, I think after the IRT report came out there were a bunch of comments filed by the non-commercial stakeholder group on some of the issues they saw with the UDRP.

I think looking at some of those documents would be really probably the best, most up-to-date issues that are out there, since that was only a year and a half, two years ago. Okay, that would be a good place to draw some information from.

Margie Milam: Yes, Jeff, I remember that from the meeting in San Francisco and I will do that. I plan to go through those documents this week to see if it highlights any other issues.

Any other suggestions for - you know, there's tons of documents. There's tons of decisions. There's, you know, INTA articles on domain abuse and, you know, cybersquatting, there's just so much.

That's part of the frustration I have as the staff person in trying to glean through all this material. So I don't know if any others have any suggestions on something that, you know, would be appropriate to look at.

The ICANN Paris Workshop which was in 2008 I believe focused on compliance issues primarily, so it wasn't really looking at the state of the UDRP as a whole but really focused in on registrar compliance related issues.

And internally I've been discussing with the compliance staff kind of issues of what they've been dealing with with respect to the UDRP so I'll have that information available, as well, in the Issue Report that I draft.

My question to the rest of you, if you have any other suggestions for documents that I should look at or does this seem to be, you know, a good approach to focus on these documents?

Jeff Neuman: WIPO just released - didn't they just release something - well maybe Kristina knows, but didn't they just release something last week, WIPO 2.0 or something? A document that I saw last week that they updated their FAQs and did a big release on increasing cybersquatting or increasing number of cases?

Kristina Rosette: Oh, their press release they came out and yes, I - to be honest with you, I was on travel for most of last week and haven't read it yet. But I saw something in my inbox. Let me see if I can find it.

David Taylor: Yes, this is David here. Yes, they did send it out. They do that pretty frequently anyway at the end of each year sort of highlighting what the state of the UDRP is and the number of cases, et cetera. So, yes, there is that that's well worth looking at.

I can send that to you if you want Margie. I've got a copy.

Kristina Rosette: Margie, it's Kristina. Has there been - you know, I don't know how this works given that there really isn't any contract or other document governing the relationship between ICANN and the UDRP providers, but has there been - is there any kind of reporting that's done or has any effort been made to get in touch with the providers to find out, you know, are there recurring issues that they are seeing that from a provider administration perspective should be dealt with?

Margie Milam: Kristina, that's a good question. And I don't know. I'm not even sure which department within ICANN is responsible for that, whether it would be the legal department or the compliance department. Clearly there's no contract so my guess is it's probably a compliance issue.

But I'll go ahead and check and see if we have some information because I'm sure there's been correspondence with outside (unintelligible) and others through the years and I don't know if they've, you know, consolidated that or had any sort of process for dealing with that, but that's a good suggestion.

Jeff Neuman: I think that's a good topic for the webinar, too, is to invite, you know, providers in and others to not even discuss all the issues in detail or give, you know, to just kind of lay out; here's what issues we think exist that may need some resolution.

Margie Milam: Yes, I think that's right. Let me just pull up the issues that I've highlighted so far. I did send them around in the link to the document, but these issue are the issues that in going through the documents that, you know, that discussed seemed to come up by, you know, providers, by, you know - in the webinar - I mean, in the seminar that we did in Paris, 2008.

You know, they're fairly substantive. And maybe this is the question for you guys, is, you know, do you see a logical way for these, you know, issues to be broken up and if so, you know, how. And also, whether, you know, from - as I write this Issues Report whether you feel that it should be something that should be dealt with all at once or broken up into subgroups.

And so I think I'll set the document so that it's not synced. You can flip through it yourself, but the slides from Slide 9 through about 13 highlight the issues that I uncovered in going through this.

And also as you look through them, for example, on Slide 9, I start with policy issues that really talk about how to, you know, address the policy issues or

enhance the policy. But there's also process issues and other issues that I've highlighted.

And so my question for you is do you have any suggestions or thoughts on grouping them or, you know, dealing with this issue as a whole or in subgroups? I think that would be useful to hear from you whether that's - you know, what your preferred approach would be with respect to that issue.

This is a quiet group.

Kristina Rosette: You know, Margie, I'm looking at the list, trying to - my initial reaction is to say that it would probably make sense to keep the process issues together and the substance issues together, but then I guess you could make the argument that there are certain process issues that are associated with independent substantive issues.

Jeff Neuman: I mean I think it's - this is - so I think it's almost like, you know, kind of - you would have some sort of working group and then you'd have sub-teams of the working group that work on these issues separately and then come back ultimately with the working group reviewing the final product.

But it's probably a good idea to have sub-teams divided by the substance and the process. I don't know where others fit in, I mean, you know, the other issues on Slide 13 or maybe that's a separate subgroup in and of itself.

People can be on more than one subgroup if they want.

Kristina Rosette: Right, but I think that's going to be your real problem is that running them concurrently, simultaneously I think is going to be really challenging because I would imagine, for example, that - I'm assuming, I haven't spoken to any of them, but I'm assuming that representatives from each of the providers are going to want to participate if only because they have experience and can say well if you do this, then it's going to - you know, you're going to push the cost

up to this. Or, you know, this sounds really straight forward, but it's actually really complicated, that type of thing.

And I think as an - and I think that's probably true for other persons in the community, apart from the providers, and I think this is - having everything run simultaneously would make full participation very challenging I think.

Jeff Neuman: Yes, but it's harder to do chronologically or are you going to...

Kristina Rosette: I'm just wondering whether you want to break out the substantive policy issues in trying kind of group them, like can you group them into - Margie did you - have you seen anything that kind of grouped anything thematically?

Margie Milam: No. No, and I threw this list pretty quickly together prior to the Silicon Valley meeting. I didn't really spend time in trying to see if there was some logical breakdown of it.

You know, the issue that I have, you know, obviously with my background I understand the trademark issues and, you know, and they're pretty complex, there's, you know, a lot of legal issues associated with this, you know. I sort of wonder about that working groups and how much knowledge, you know, there will be, you know, within the working group to deal with some of these issues, you know, or expertise and whether the people that have the expertise will be able to participate because that's - it's - it really is an issue on some of these things.

But it does look like I have a queue here. Philip, do you want to - you were first in the queue.

Philip Sheppard: Thanks. I think just to say, I think if we just go back to the Council resolution and Councilors may have a greater feel for what was intended there. I mean, it was clearly a focus on addressing cybersquatting.

To my mind, that in itself is broad enough. So I would have thought if we had a focus on cybersquatting and substantive policy issues for that, as scoped for now, that would be a very good start.

And that might, you know, lead on to recommendations to other things, but I would have thought well that itself would be quite sufficient, and I fully support what we heard from Kristina earlier that I think this is a case where you would simply have problems trying to split it into too many parallel groups because of overlap and time commitments.

Margie Milam: Yes. I see that. I also have David in the queue.

David Taylor: Yes, thanks. I guess I would probably just echo really what Philip said because I was just looking through the issues identified by the community and then again that's the recommendation because, and maybe I'm wrong on this one, but it was certainly looking at the balance revisions to address cybersquatting if appropriate was going to back to that recommendation one.

So we're really concentrating on the cybersquatting angle. So then I see some of these issues here like the - you know, the language of proceedings, consent to transfer that is on Slide 11. I don't know where the consent to transfer really comes into the cybersquatting, so to me it seems quite a bit broad because there's a lot of issues here in there which if you start trying to do more than parallel or sequentially, we've got something which is quite difficult.

So I'd be tempted to be sort of more restricted as Philip was saying there and trying to get some of the early points you've got there and get those clear and thought-through and get the data on that.

So I think you can get a lot of data from the providers, and that's what we really need to do is have the data so we can make some policy decisions based on that and have the working groups work through it.

Margie Milam: Yes, I think that's a good observation. It looks like we've got, I don't know, John and Mary in the queue. John?

John Berard: Yes, thank you. I - you know, clearly cybersquatting which is the only stated outcome, if you look at, you know, the definition of the UDRP on the ICANN Web site, we certainly want to focus on that.

But if you take a look at it, as Jeff has pointed out, the comments that have come in over the last couple of years which have tried to without getting at the core of the UDRP process, nibble around the edges, the business constituency, for example, offering up comment that no new providers be approved until ICANN has some consistent contract; a mechanism to validate the capability of each.

But I do think that when we look at cybersquatting as a big issue, it naturally draws or there are other smaller issues, the substantive policy issues that draft that big one. Just looking at the first one you have there, the bad faith use requirements.

So, I mean, if the policy says bad faith and use, then, you know, some people have talked to me about the fact that UDRP decisions have spun on either and not both. And so question is, is the language of the UDRP clear and are the providers following the rule of the UDRP.

And another thing that I would really like to get at is, you know, compliance is an overarching issue for ICANN in a whole lot of ways. Almost every agreement that has requires some oversight and compliance and they do a varying job with each in terms of oversight compliance with regard to UDRP.

I mean one of the things that I'd like to know is as you state in number 2, cybersquatting definition differs from national laws, you know, there are a lot of nations, there are a lot of UDRP decisions that then get appealed to

national courts. You know, what happens in that case? I have not really seen a report that captures how many UDRP decisions are overturned.

And then, of course, if they are consistently overturned from a particular provider or mediator, does that disqualify that provider or mediator? I mean, where's the review and the compliance on that?

So those would be my points.

Kristina Rosette: But I think - just to tell up on John's comments, sorry, I think we need to be very careful how we do that and I can tell you from my experience that almost all of the UDRP cases that we handle that are appealed don't go to judgment.

So, you know, I would inclined to say that maybe what would be helpful and I'm happy to do it is put together a list of questions that I think maybe we need clear answers from the providers on before we start going down process issues, but I don't know. I thought I had a clear idea of where I wanted to take this and now I'm even more confused.

Margie Milam: Yes, you can understand my frustration in drafting this Issue Report. I have no idea where to go with this. . I mean, from a selfish standpoint, focus the policy (unintelligible) makes it more manageable, but, you know, I don't know if that was GNSO Council's intent or not, hence some of my questions.

Any other comments on this point?

Mary Wong: Margie, this is Mary. Can I just add to what others have said?

Margie Milam: Yes, go ahead.

Mary Wong: So I mean, I'm trying to think about it sort of from a higher level, looking at the list of issues that one way to do it is to - and it's not the easiest way, but at

least as a starting point is separate out what we in the drafting team identify as pure substantive policy issues.

But there are also those on this list that I think judging by what others have said, we sort of think could also go into more of a process issue basket, so that we've got two different categories, even if they overlap.

And what we probably need to do is prioritize within each category. And to that extent, I think having a questionnaire as was suggested or provided to answer would be useful, maybe getting some further feedback from those communities that Jeff identified as having expressed the latest interest in this exercise as to their thoughts on ranking those issues.

And finally I think one of things just working through the IRT process and looking at public comment and everything else is people would I think really appreciate some kind of data summary, whether or not they (equivocate) to the actual data but having it there in the Issues Report, I'm sure that's what you intend already.

But to the extent that the sources that we consult have data to the extent that the questionnaires, whatever they are, have further information and data, I think that would be very, very helpful. So two suggestions there. Thanks.

Margie Milam: So this idea of a questionnaire is really - I think is a good one. Is it something that would precede the webinar? I mean, we can talk now about, you know, what the structure of the webinar would be and who should be invited and, you know - if for example we were going to invite representatives of each provider, we could, you know, precede that with a questionnaire on things we'd like them to address.

What do you think about that?

Mary Wong: This is Mary again. I mean just my instinctive answer I guess is it might be more productive where the webinar is concerned, if at least we already had a questionnaire.

So regardless of whether we actually had the final issues or the final responses, if we already had a questionnaire of sorts, we at least know what sort of topics we might want to focus on and we could change the order of them or change the topics themselves as responses come back.

Kristina Rosette: This is Kristina. If I could get in the queue when there's a minute.

Margie Milam: Okay. I think I have David first and then Kristina.

David Taylor: Thanks Margie, yes. No, I certainly think and coming back to my earlier point we need the facts and the data before we can really do anything on this side and get a questionnaire to get out to providers and to get that information back, which they'll need some time to deliver this stuff and the discussion there about number decisions which are appealed.

A lot of the time, if you talk to the providers, they have no idea how many decisions get appealed because they don't know whether it actually goes through to a final judgment or not.

And a lot of complainants and respondents don't bother telling them, you know, the results of any appeals. So that side of things it's quite hard. I don't think they've got data to hand on that but it's certainly data which they could dig through all the decisions and try and find and get something to talk about.

So I certainly agree with Mary on that. I think we should do the webinar after we've got, you know, that questionnaire out because then we'll know what sort of results are coming back from each of the providers and we've got some good, you know, data to discuss.

And if we haven't got that, we tend to discuss the things where, you know, the (rogue) case of we've had this case here and I've had this and we've heard of this, et cetera, and you end up discussing something which possibly happens in 1 in 1000 cases.

So I don't think we should be wasting our time discussing that.

Margie Milam: Looks like Philip is in agreement on that.

Any volunteers to come up with a questionnaire or any objections to producing a questionnaire?

David Taylor: I'm certainly happy to help out with the questionnaire doing it. Not by myself, by any means, but certainly happy to.

Margie Milam: Okay.

John Berard: This is Berard, I'd work with David on that.

Margie Milam: Okay. David and John. Anyone else want to volunteer to help prepare a questionnaire?

Okay, I'll help you guys. I think that's actually useful. When do you think the webinar should take place?

I think Jeff in San Francisco you indicated that you'd like to have the Issue Report completed by the next meeting which would be Singapore. So my assumption is the webinar should happen - should take place somewhere, you know, in between so that I have enough time to, you know, get the information that was, you know, received in the webinar and produce the report.

So I'm thinking early May, late April. What do you guys think?

Jeff Neuman: Yes I mean that's - this is Jeff. That's what I was thinking of when - that gives you enough time to get some stuff together and then the documents published in time to adequately review before the Singapore meeting.

With this questionnaire though I didn't quite understand where - will we be doing that in parallel? Were we doing that one first then the other?

Margie Milam: I think the web - the question there if I understand the intent would be - should be out fairly quickly. We're talking we're already now in, you know, first week of April.

So, you know, by next week I would think we have the questionnaire out and we schedule the webinar for late April. And the question is I guess, you know, who receives the questionnaire as John indicated and who else should be invited to participate in the webinar?

I assume we don't want just providers participating in it. And so that's a question to you all.

And it looks like I've got Philip in the queue.

Philip Sheppard: Yes just on the question of timelines. I mean I think it's absolutely right that we have an informed webinar and we attempt to structure it by this questionnaire.

Now if we're doing that, that means that the critical path is no longer in fact ours. But the response time from the providers or the people who are answering the questionnaire.

And I think that probably means you're going to be reasonably - it depends on your questions. But if we're going to ask them to do (unintelligible) of stuff

they may not have the hands, or more than we see from the YPro annual reports, etcetera.

You're going to have to give them sufficient time for that. So I would have thought attempting to do this and bundled it by Singapore is overly ambitious.

Margie Milam: So remember Phil this is a preliminary issue report that we're talking about in order so that people can file comments on it. And then draft the final one at some point following Singapore.

Woman: Whoa, whoa, wait a second. I didn't realize we were doing this under the new PDP rules.

Margie Milam: Yes I didn't either. I was assuming we were doing the old, you know, the old approach.

Woman: Yes.

Margie Milam: So I would have one issue report and that's, you know, that's this. And, you know, in the past we've done issues reports, you know, the Annex A said 15 days.

But, you know, I don't see how that's possible with this topic. But yes, I mean I - whatever the, you know, outcome is of the webinar I would just produce an issue report.

And then that's it and the council would then vote on whether they want to proceed with the PDP and how. And part of the issue report would talk about (unintelligible), you know...

Man: Right. So let me ask the question then, because it's kind of interestingly guttural reaction - the visceral reaction, I should say. You all think that it

wouldn't be better to have - put a paper out for comment and then have it improved upon and then voted?

You guys would prefer just to go straight to the vote?

Woman: I'm not necessarily saying that. I just think that there are components of the new PDP process that are from my perspective unresolved and problematic.

And I think we're going to end up going in circles if we try and apply that process in its entirety to this issue.

Man: Well again - no, I'm not saying that. I'm just saying just the idea just take the initiative where it's separate from everything else recommended by the PDP work team.

I thought it would probably be beneficial as a good recommendation to come out with a preliminary issues report so that we can all make sure we understand it. We can understand what's in there, comment on it and have a final one produced, so that...

Woman: So are you anticipating under that timing that the final would be ready by Singapore? Or that the first draft would be ready for Singapore?

Man: Draft out for comment by Singapore so that people can discuss it, can file their comments at some point after Singapore and get a final one after Singapore. I just think it makes sense because we've been stuck with some issues reports where groups have been just kind of scratching their head going okay, what the hell did that mean.

Plus don't forget we have to draft a charter at some point if there is a PDP. So it'd be nice to have a good concrete issue report that, you know, someone can take that and draft the charter and move forward with it.

So I just think it makes more sense to do it that way. You know, I'm happy to follow completely the bylaws and do it.

You know, it's going to go through. But I'd rather have something that we all can, you know, like -- a document that we all can know what we're doing.

Margie Milam: I mean I'm okay either way. You know, I would prefer to just do a final issue report.

But, you know, I don't know. I mean David do you have any - you have your hand raised. Do you have a comment on this?

David Taylor: No it wasn't specifically on that. It was more just following what had been said as well because if the issue's going to be what questions we ask and the amount of time it would take providers and/or anyone else to come back with meaningful data.

But obviously if we're asking simple questions, how many UDRPs are being filed, how many have been transferred, how many have been, etcetera, that standard and that -- we'd get that within 24 hours. It's if we're asking, which seems to be one of the fundamentals of, you know, the unpredictability of decisions, how many have been appealed -- that I think is a question which may require something more than a couple of weeks to get that information together if you're looking at several 10s of thousands of cases.

So I think we've got to be fair to whoever we're asking that we give them the time to give this, you know, give us the data back. So that seems to be one of the limiting factors on timing.

So I don't know whether that can be built into getting this done by Singapore.

Jeff Neuman: Let me just - I'll state - this is Jeff. I'll state my opinion is that we should have a preliminary issues report that people should be able to comment on by

Singapore published for Singapore so everyone can discuss it, see what's out there.

Then have a comment period that closes a few weeks after Singapore. And a file report month or whatever, 20, 30 days after that.

That's - that would be my preference.

Margie Milam: Can you guys...

((Crosstalk))

Kristina Rosette: In IPC we haven't discussed that. So I can't commit one way or another.

We're having some calls about this in the next few days. So, you know, we can certainly raise that.

Jeff Neuman: Do you know of any potential objections to that? Or...

Kristina Rosette: I just think that there's probably - I think it would really be the timing of the public comment period in terms of, you know, are the dates going to be different if it's two versus one and so on and so forth. You know, I'm not - I can't unilaterally make that kind of decision for my - on behalf of the constituency. I just can't.

Margie Milam: Well Kristina the comment - I don't think there is a public comment period on an issue report.

Kristina Rosette: No but under what Jeff is suggesting there would be. So that's...

Margie Milam: That's right.

Kristina Rosette: That's kind of what I'm trying to kind of figure out.

Philip Sheppard: Philip here again. I mean just going back to what questions we ask and what data we're gathering I mean you got to bear in mind who is asking them.

If we're going to YPer, I mean YPer not the fastest moving organization. If the questions could all be answered by the YPer's secretariat we might have a relatively fast response -- that means weeks, not days.

If we're asking questions the secretariat themselves would need to cascade down to the individual panelists for responses we're then talking a process that may well take them weeks to months. So we need to be very cautious certainly that the timeline here is to my mind not of our choice.

It's very much going to be in the hands of those for whom we are gathering the data from.

Margie Milam: David do you have a comment?

David Taylor: Yes. I think what I would have hoped on this if we're doing the questionnaire we'd probably be going just for the data which the secretariat to the provider themselves can provide. Certainly if we were to filter down and try and get information through from panelists that ties in then with the whole sort of ongoing issues of, you know, sort of the jurisprudence of the UDRP, etcetera.

And there's a lot of paperwork. You've got the sort of consensus views and all that sort of things which exists which is being reviewed and a new version will be out shortly which is worked on by panelists over several years.

So I mean I wouldn't think we'd be delving into that at all because we'd be keeping away from the legal aspects, I would have thought. And looking more at the data which the - that providers can provide.

So hopefully it's something which we'd get, you know, in weeks is what it says. But I think it's something to be felt.

You know, time-wise I was just thinking if we asked them something we'd hopefully get it back within a month and hopefully a bit earlier. So I mean if we're looking at three to four weeks that would be feasible.

And then to have a webinar (unintelligible) can do the webinar before Singapore. So if we've got the data back and we run a webinar mid-May or end of May or something like that so that we've got the discussion out there, we've got some quite good in place, I would have thought.

And that would probably work.

Kristina Rosette: This is Kristina but I can get in the queue when there's a minute.

Margie Milam: Go ahead Kristina.

Kristina Rosette: Two things. First - well several things.

First, I think we should try and get the questionnaire out as soon as possible. And to that end I think we should just decide when we need responses.

And if providers want their data incorporated then, you know, not being unreasonable about it. But just making very clear that because of the timetable that we can only give them say, three weeks.

And that, you know, if they want to submit partial data, if they won't have data completed by that time then we understand. But I think it should be relatively - I think there are things that we just need to be clear about what it is we may and may not be able to ask if we're expecting to get data back.

The appeals thing for one thing. And that second I think we probably should go ahead and schedule the webinar so that it's not dependent on having received completed questionnaires.

Simply because a, I think that sets us up for some timing issues and b, I think they're not necessarily interdependent on each other.

Margie Milam: Kristina this is Margie. I agree with you.

I think that, you know, remember we're not doing research of the PDP. That a lot of the detailed stuff can happen if a PDP gets launched, right.

And then you can give the sufficient time for them to answer and all that, to gather the data. This is really the - kind of a preliminary step to help us determine how to proceed with a PDP if one, you know, it should happen on this topic.

So I could see those being, you know, not necessarily tied. If they want to address those issues in the webinar they can.

If they want to, you know, if they don't have sufficient data, you know, we'll just let them know that, you know, if the PDP proceeds, you know, we'll give them a...

Kristina Rosette: No, that's fine. That's absolutely fine.

And they may have insight frankly as to how best to group some of these issues.

Margie Milam: Right. That's right.

Any other comments? Okay so let's talk specifically because we probably have about 15 minutes left on who to invite to the webinar.

Obviously we'll send an invitation out to WIFO. Should we send it to all of the providers?

Kristina Rosette: Yes.

David Taylor: I think we have to, yes. David here, sorry.

Margie Milam: Right so we're talking four? Three, four?

Jeff Neuman: Well we've got to make it clear and I'm not sure -- depending on how we set it up, if we set it up as like a question and answer maybe. But we can't have four speak.

That'll take up the entire webinar.

Margie Milam: So how do you suggest, Jeff managing it? Because it's difficult in a webinar to jump from, you know, panelist to panelist except through organized time periods.

Kristina Rosette: Couldn't we on the provider section have each provider identify what they would consider to be like the three or four, you know, for purposes of ensuring that the UDRP is as effective. And, you know, going back to whatever the language in the resolution is.

You know, what are the five areas that they believe are most worthy of attention and why. And limit each to, you know, five minutes -- five, six, seven minutes maximum.

And make it very clear that this is not a commercial for the providers. This isn't, you know, for certain providers to pursue grudges with other providers, you know, as we all know.

Because otherwise it'll turn out that way. And just make it very constrained as to what it is that we're looking for from them.

I think if you do that and you're very clear and precise about what they can and cannot do and what you expect from them I actually disagree with Jeff. I think it's possible to kind of, you know, have 20 minutes devoted to the providers and do it that way.

David Taylor: David here. Just to add to that I think, I mean obviously something like the COC will have a lot less data than WIPO because they've been around for a lot less time. So they can probably do the analysis in a couple of days of the number of cases which they've had to do on the UDRP.

And so again I wouldn't have thought necessarily that they'd want to spend the same length of time discussing certain areas. So it's between the providers.

They may well agree on how to run their own session. But we should probably open up and say all welcome to speak -- here's your set amount of time.

And try and get them together to decide how they want to do it.

Jeff Neuman: Okay so the providers would be one part of it. What - so do we - who else do we invite to get kind of different views?

David Taylor: I think we need to have several panelists in there. Sorry, David again -- from different areas.

So, you know, U.S., European etcetera panelists so we get a selection of them who've done a lot of cases, looked at a lot of cases because they've got the experience.

Liz Gasster: It's Liz. I've heard different people say, you know, UDRP is working, UDRP isn't working.

Maybe something that would help highlight what is or isn't working.

Jeff Neuman: Yes I mean I'm sure if you ask John Berryhill he would love to come and be on a panel. I mean he certainly has represented a lot of UDRP defendants.

So he'd be a good candidate to have, you know, to kind of express his views. I don't know if there's kind of the equivalent of who's done the most UDRP as a plaintiff.

I don't know if there's a practitioner that you'd put into that category.

Kristina Rosette: Well I mean the guy who does domain name - (Dwyer), I think has done - somebody has printed reports of the top 10 panelists in terms of who rule most frequently in favor of complainants and who rules most frequently in favor of respondents. And I assume that those are just kind of statistical and very objective in terms of somebody heard 30 decision and how they've ruled.

So, you know, we could certainly do that. I don't have an issue with, you know, I don't have any objection to John Berryhill doing it.

I just think that once we start getting into representatives of parties then things get sticky quickly I think.

Jeff Neuman: Yes I just - but I don't - I also don't want it to turn into WIPO and its panelists and, you know, everyone and its panelist because that's...

Kristina Rosette: I'm not saying that. And I completely agree.

If we're going to have panelists -- and I'm frankly not persuaded that we should. I'm on the fence.

That it needs to be, you know, one panelist from each provider. You know, I don't want this to be any provider gets an advantage over any other provider.

David Taylor: I'd agree with that. David here.

And Kristina I think one from each provider makes a lot of sense. And absolutely no objection either to (unintelligible) on the panel with him at that WIPO for 10 years conference so UDRP and they invited John Berryhill and he was excellent.

So no issue at all with John being on there. And the fact that WIPO invited him along to that via the 10 years conference I think underlines that they don't really see any - I don't see any bias in the whole thing.

Jeff Neuman: Who else was on the panel David?

David Taylor: I can't remember now to be honest. I know I was and I know John was.

And I'd have to look back and remember. Because it was a full day session so there was a lot of different speakers.

I can look it up now while we're online and come back to you and tell you if you want.

Margie Milam: Yes the link to their materials is on my slide. So you might be able to find it faster.

So but if you're talking about one panelist from each provider then that's another 20 minutes, right. Is that, you know, does that seem like a reasonable amount of time?

Or are there, I don't know, civil liberties or other, you know, viewpoints that - I'm trying to think of the people that objected when we were doing the IRT and the STI work. You know, we had the...

Jeff Neuman: I'm thinking if you have - it's going to be too much to have both the providers get 20 minutes and the panelists get 20 minutes. I think that's just going to be a little bit overboard for - I mean I think a lot of people will get kind of - you'll get those same types of complaints that you got from the IRT complainers.

So I - but I'm trying to think of a, you know, that's why I was trying to say if there are some notable UDRP plaintiffs' attorneys and some notable defense attorneys to kind of express what they think the issues are. I mean look, LEGO has filed a certain amount -- a huge amount of UDRP.

I don't know if they're the top filers. But you might want to have an attorney who represents...

Woman: They're not. And then that implicates Bruce as a board member from LBAR and IT. So I think we're probably better off not going there.

Because LBAR and IT files all their UDRP complaints.

Jeff Neuman: Interesting. Did not know that. So but I guess my point is if we could find a common filer at a common defense I mean that might be kind of interesting to get the perspectives of, you know, here's what they see are kind of the issues. And I mean that might be semi-interesting.

Woman: Maybe the way to go about it is somewhat differently and ask the providers to identify their top two, you know, filers and the two attorneys or firms that appear most frequently on behalf of respondents. And then we'll have a pool presumably of at least three or four names.

And then we can go from there. You know, if it turns out that it's, you know, just two names well then that's clear who we go with.

Jeff Neuman: Yes. And I think on both sides who is the top filers and who's the top defense...

Woman: Yes. No, that's a - I completely agree. I think we're saying the same thing.

Jeff Neuman: Yes.

David Taylor: I think that's good. I actually like the (unintelligible) with having the providers with a session but also with the panelists and not choosing panelists who are - because I don't think panelists are (unintelligible) respondent necessarily.

So I don't, you know, I think that's something which is set for us. And I think we can - we - my view, I like the idea of having panelists.

So I think we can learn a lot from them, having been to a lot of panelist meetings. They really do know the UDRP inside out probably better than most people around.

So they're good people to have separately but not there as being complainants' attorneys or respondents' attorneys. So I'd put, you know, the - if need be the John Berryhill and the leading complainants in another call so we've got another session of 20 minutes.

I quite like the idea of having (unintelligible) 20 minutes providers, 20 minutes panelists, 20 minutes complainants and respondents. And then you've got a very good discussion following on on that especially if we've got some flats back from the providers beforehand than anybody else about the actual specific issues.

So then when we do start discussing, you know, appeals and the need to put in place an appeal process which a lot of people want we can then look at statistically what the actual number of appeals would have been, the number of cases brought, etcetera to really discuss and find out where we can go. So I think that fits quite nicely.

Margie Milam: I have Mary in the queue. Mary?

Mary Wong: Thanks Margie. Actually I think David pretty much said what I wanted to say.

I think if we structure it that way it will provide a lot of valuable information to people who may not actually know some of the nuts and bolts as well. And I think it would be fairly balanced.

It may well be that coming out of that we might need to do another one with follow-up questions. But I think for now that sounds like a pretty good start to me.

Margie Milam: Any other comments?

Jeff Neuman: So we're talking about a webinar that's probably what, like an hour and a half, two hours?

David Taylor: Yes, I think so.

Jeff Neuman: Yes I think it's good to have. And I think maybe until we decide - we might want to continue it in Singapore or do another panel there or something like that as well.

David Taylor: I actually agree. I think it would be a lovely thing to have in Singapore.

I mean we have these sessions. And this would be one of the most interesting ones to have there if we can get all the people involved.

And whether we do do a second webinar or follow-up webinar or maybe we'll end up on timing that this is done then. I don't know. We'll have to see.

Jeff Neuman: Margie what else do you need from us?

Margie Milam: I think that's - I guess a question is should we schedule one more call perhaps next Monday? And I'll send kind of a summary of what we talked about today on the list.

And have the folks working on the questionnaire send something around in the next few days. How does that sound in terms of timing?

And I'll also propose in the e-mail a date for the webinar. So we'll start, you know, figuring that out as well.

John Berard: Next Monday same time's good for me. This is John.

Man: Yes.

David Taylor: This is David. I'd probably prefer Tuesday. I've already got six calls on Monday I'm picking up from 4:00 pm.

So I'm going to have difficulty finding a slot on Monday. But Tuesday would work for me.

Margie Milam: Is Tuesday better for you all?

Man: Tuesday works.

Mary Wong: Yes this is Mary. I can't do Tuesday morning up to noon Eastern time. But I should be good after that.

Margie Milam: Okay. I'll ask Gisella to send a Doodle around. And it'll just be one other call because, you know, didn't intend this to be an ongoing working thing.

But this is certainly useful. And, you know, we can decide after the next call if there's a need for another call.

Does that sound like a plan to you guys?

Man: Yes, sounds good.

Margie Milam: Okay great. Well thank you all. This was extremely helpful.

And like I said I'll follow-up on the list.

Mary Wong: Thanks Margie. Thanks everybody.

Man: Thank you.

Man: Bye bye.

Woman: Thanks everyone.

Man: Bye.

END