

Working Group to Protect the Rights of Others (PRO-wg)

Teleconference 10 April 2007

18:00 UTC

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<http://gnso-audio.icann.org/pro-wg-20070403.mp3>

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

Attendance:

Kristina Rosette - IPC Chair of the working group
Mike Rodenbaugh - CBUC vice chair
Peter Olson - IPC
Lance Griffin - IPC
Kelly Smith - IPC
Victoria McEvedy - NCUC
Edmon Chung - gTLD Registries c.
David Maher - gTLD Registries c.
Michael Palage - gTLD Registries c.
Jon Bing - Nominating Committee appointee to GNSO Council
Avri Doria - Nominating Committee appointee to GNSO Council
Margie Milam - Registrar c.
Tim Ruiz - Registrar c.

ICANN Staff:

Liz Willams - Senior Policy Counsellor
Glen de Saint Géry - GNSO Secretariat

Absent - apologies:
Jon Nevett - Registrar c.
Jeff Neuman - gTLD Registries c.

Coordinator: The recording has begun.

Kristina Rosette: Excellent.

Glen, if you would be so kind to take roll, if you wouldn't mind, that would be wonderful.

Glen Desaintgery: Yes, certainly.

Kristina Rosette: Thank you.

Glen Desaintgery: We have Lance Griffin from the IPC; (Edmond Chen) from the Registries; Avri Doria, Nominating Committee; Peter Olson, IPC; Kelly Smith, IPC; Jon Bing, Nominating Committee; Mike Rodenbaugh, Business constituency; Victoria McEvedy, Non-Commercial Users Constituency; Kristina Rosette, the Chair who is IPC; and Tim Ruiz, Registrar.

Kristina Rosette: Okay.

Glen Desaintgery: Plus, Liz McWilliam - it is not McWilliam, just Williams, sorry and myself.

Kristina Rosette: Excellent. Welcome everybody.

((Crosstalk))

Woman: ...Irish not Scottish.

Kristina Rosette: I know that in the roll - the agenda I sent you (unintelligible) yesterday, I've indicated that we would start first by talking about TLD summary. But I think instead given that Liz has been high enough to circulate a revived survey and given our interest in getting that posted and made available as soon as possible that we should probably - that we should focus on that instead first.

So, has everybody received the draft survey by now?

Man: I got it.

Kristina Rosette: Okay.

Man: Yeah.

Kristina Rosette: Well, does anybody not have it, let's put it that way?

All right. In terms of the background, does anyone have any comments or questions?

Liz Williams: Actually, Kristina, I hate to be a (pill), but go through the header first because the header is really important.

Kristina Rosette: Okay, all right.

Liz Williams: It contains the information that everybody needs.

Kristina Rosette: Sure. Sure.

Liz Williams: So make sure that everyone is happy with that.

Kristina Rosette: Okay.

Return completed surveys by close of business, 24 April 2007. And I guess it will just be close of business on a rolling basis depending on where people are. Yes?

Liz Williams: Yup.

Kristina Rosette: Okay.

There's also a note for validation purposes only. Please identify yourself, and where appropriate any other contact information once you completed the survey.

The survey is not designed to meet strict data gathering standards but will be used to provide some baseline information from which additional work may be developed.

Survey results and comments will be kept confidential. Survey results and comments will only be used in aggregate form for the purposes of the GNSO's policy development process on new top-level domain.

Distribution will be through the GNSO constituencies, ccNSO members, GAC members, ALAC organization, and (ICANN) I guess the regional liaison? Are those...

((Crosstalk))

Liz Williams: Yup. And, Kristina, honestly I put that in today. I was thinking about how we would distribute this. And Glen can help me here.

Kristina Rosette: Uh-huh.

Liz Williams: I had thought also that you might wish to spread this (net further) with INTA list or anything else you wanted to do. My thought is that you're going to have a limited sample size to respond to get information because it's quite comprehensive. And I'm actually concerned that it's quite tightly written towards those who actually know what they're talking about. It doesn't address, for example, RegisterFly/Registrant.

Kristina Rosette: Uh-huh.

Liz Williams: For example. It doesn't address any user concerns as much as I would like it to. And that's why I put that extra piece that said the key terms and explanations at the bottom in the background, is really important.

Kristina Rosette: All right.

What did you have in mind in terms of - oh, for key terms and explanation, you...

Liz Williams: Exactly what you just sent.

Kristina Rosette: ...explained that we would just list the key terms and define them.

Liz Williams: Yeah.

Kristina Rosette: Okay.

Liz Williams: And I had put them as rights and protection mechanism Sunrise period, defensive registration, all the things that appeared, and then you've just sent that note to the group. And I was just going to pull that out to just make sure everybody was on the same page.

For example, I thought it would be very sensible to send this to Peter van Roste from CENTR. And CENTR is the Council of European Registries. And many of them have run Sunrise periods as their particular ccTLD community has opened up to broader registration for general name registration.

And some - many of those people don't - using their first language, and I think it's probably good an idea if we don't quite often use (unintelligible) to distribute surveys with their members. And there's nothing wrong with me asking Peter to distribute it to the CENTR list to get a broader spectrum.

And if you've used the .eu example in some of the tables....

Kristina Rosette: Right.

Liz Williams: But you haven't used other one. So I figured that it would be useful to use Peter as a resource there, which means that I would add distribution through CENTR, et cetera, et cetera, and wherever anyone else wants to.

Avri Doria: Yeah. I think it make sense just have a general ICANN community.

Kristina Rosette: Right.

Avri Doria: So that we can then do a certain amount of outreach to many places...

Kristina Rosette: Great. I mean, that was my only concern was then. And I think, Avri, you've hit it right on the head is that, you know, I have no objection at all to be distributed to them. I just don't want to run it to a situation where, you know, obviously we can't anticipate every organization that might be interested in participating that.

Avri Doria: Not at all.

Kristina Rosette: And I don't want to get into a situation where we're criticized for omitting someone even it was completely unintentional.

Liz Williams: In that case, you want me to just put - Avri, I couldn't quite hear you, but I think about what you said was ICANN (unintelligible) liaisons and other ICANN affiliated organizations?

Woman: Don't aren't the words they used, but they sound like fine words.

Liz Williams: I'm just guessing.

Woman: Okay.

Liz Williams: Okay. I'll make any changes as we go on.

Kristina Rosette: Will it be possible to get it posted on the public participation?

Liz Williams: Well yes, it will be. I spoke to (Carey MacAfee) today and...

Kristina Rosette: (Okay)...

Liz Williams: ...he's more than happy to help me do that. And then he would use that as material that he would send out. And he's giving me the instructions to how that would happen. So it's no problem.

A draft page has already gone up on the site.

Kristina Rosette: Uh-huh.

Liz Williams: And I can publish it as and when I wish. And (Karen) can help me do that tomorrow.

Kristina Rosette: All right, all right. I mean, I'm happy to have you send it to CENTR. Are there organizations that folks on the call would like to have specifically included or are we instead going to go with just the general reference to ICANN affiliated organization?

Does anyone have a preference?

With the alternative - with an alternative mechanism because I - the other thing I don't want to get into is just the situation where you're so busy responding to email question and copy the survey that you can't do your other work.

Liz Williams: Guess what, Kristina, I'm really...

((Crosstalk))

Kristina Rosette: I know and I'm optimist. I'm an optimist.

Liz Williams: Yeah. That's very sweet of you to think of me. You don't have to worry about that.

Kristina Rosette: Okay. All right, all right.

Liz Williams: And I'm actually very happy (unintelligible) I'm busy.

Kristina Rosette: Okay, all right. That's fine then.

Liz Williams: So don't worry about that.

Kristina Rosette: That's fine.

Liz Williams: The issue will be - and I've got - thought about - the issue will not be that I'm responding to email because I have no response to any of these. It's just send me the information then I collate it

What will be the issue is if we get a whole lot of responses and then we have to collate and organize the information.

Kristina Rosette: Okay, right.

Liz Williams: And I've got a plan for developing that.

Kristina Rosette: Okay.

Liz Williams: So don't worry about that.

Kristina Rosette: All right.

I think it's a great idea to have the key terms and explanation because I just pointed out even people who are familiar with this process aren't necessarily going to remember all of the term, let alone somebody who's not familiar with the process.

I'm kind of inclined, you know, I guess that we can start with rights protection mechanism. But I'm wondering whether it might be easier and faster to kind of start with the easy one first because that's the one that I think it will be difficult to phrase.

Does anyone - unless of course somebody has thought about how they would define or how would they propose defining rights protection mechanism.

Tim Ruiz: This is Tim.

Kristina Rosette: Okay. Hi, Tim.

Tim Ruiz: Just - actually quick question on a different topic before we get into that.

Kristina Rosette: Sure.

Tim Ruiz: On the very first question please categorize yourself on the survey.

Kristina Rosette: Uh-huh.

Tim Ruiz: Will that be, you know, multiple selections perhaps or....

Liz Williams: Of course.

Kristina Rosette: Yes.

Liz Williams: (Not) a problem.

Tim Ruiz: Okay, okay.

Liz Williams: Is that all right?

Tim Ruiz: I could - yeah, so that probably could be...

Liz Williams: Well, there's no reason for people not to be in a multiple of different groups.

Tim Ruiz: Right. No, I agree. I just think that maybe there could be parenthetical statement there or something that, you know.

((Crosstalk))

Kristina Rosette: ...check all that apply. Right.

Tim Ruiz: Yeah, just so it's clear.

Liz Williams: Check all that apply. Yeah. And then what I'll do is in reporting the information also we had 100 responses and we had 10 people that said they were in 1, 2, 3, 4, 5. All of these boxes just show (unintelligible) will be tagged. So for example, in Question 1, it will be

(unintelligible), it will be Box A, Box B, Box C, blah-blah-blah, all the way through, so that I can actually tag information correctly.

So, I just add it. And, Tim, if that's alright, will you check all that apply?

Kristina Rosette: Right.

Tim Ruiz: That sounds good. Thank you.

Kristina Rosette: Okay.

Well, let's start with rights protection mechanisms because maybe it makes sense to go ahead and do that.

I'm just - I hate to kind of go back the statement of work, but that might be the easiest way to do it. Mechanisms and adopted and implemented by existing gTLD and ccTLD operators beyond the current terms and the registration agreement, and (UDRP)...

((Crosstalk))

Liz Williams: ...It's not a definition. It's - that's an explanation. Sorry.

Kristina Rosette: All right.

Liz Williams: It could be assigned. But I think that - I think go back the other way, if we did Sunrise period first....

Kristina Rosette: Uh-huh.

Liz Williams: ...and then you did, let's be - if you were logical, if one - not you - if one was logical, you would do the grand broadest scope first which is a Sunrise period, yeah, and then you can look at any number of ways of handling a Sunrise Period. It could be one week, two weeks, ten weeks. It could be price, it could be complainant-driven, it could be UDRP-driven, for example.

If you look at rights protection mechanisms, surely there's things like under existing trademark law, under existing intellectual property protections that then our complainants then exercise their rights. That's a rights protection mechanism at its broadest definition. And then there's the Sunrise period which is about - and defensive registration is easy.

A registrant registers a name in a TLD that it has no intention of using, and traffic is directed to a merit site, something like that.

Peter Olson: Or no size.

Liz Williams: Or no size.

Kristina Rosette: Right. Right.

Woman: That's exactly, Peter, yes.

Kristina Rosette: Right.

But then we have a definition of it? I thought we had a definition of it.

Liz Williams: Yeah, we did.

Kristina Rosette: All right. Okay.

Liz Williams: And I took it...

Kristina Rosette: `Okay.

Liz Williams: ...from the bottom.

Kristina Rosette: Number 17.

Liz Williams: Yup

Kristina Rosette: All right.

Liz Williams: Yup. Exactly.

Kristina Rosette: All right.

Liz Williams: So I'm going to just ditch that out from where it is and put it out into these key terms.

Kristina Rosette: Okay.

Liz Williams: (Right) now.

Kristina Rosette: Well, given that Sunrise period is the next one, has - I've sent out a definition of Sunrise period which I can read to get that easier for everyone.

And this is again completely proposed. It's really long, but I was trying to make sure it was broad enough to kind of cover all the various iterations.

Period of time before registration is open to the general public during which domain name registration is limited to owners of specifically delineated intellectual property or analogous rights for domain names that -- and this is where we can go with the words obviously -- match correspond to or identical to those delineated prior rights.

Of the TLDs encompass by the survey, the registries for the .info and .mobi gTLD and the .news ccTLD provided Sunrise period.

And then I'll get into more details about the .info and .mobi registries' restricted eligible intellectual property rights to registered trademarks or servers marks of national or supranational effect that had issued by registry specific deadlines and were enforced as of the Sunrise registration application filing date.

The .eu registry also included company names, business names, personal names, and then, Peter, you can jump in and fill that in, as prior rights so much otherwise eligible owners - and that should have eligible in there - of such rights could based as Sunrise registration.

I realized that's very long. But is it complete? Is it accurate? Can somebody think of a way that says it more (unintelligible)?

And I did actually try and go through the proof of concept report to see if I could find if somebody had actually defined it. Bizarrely enough, Afiliias never defines it, so...

Michael Rodenbaugh: How about in the first sentence, specifically delineated intellectual property, how about we just say trademarks?

Kristina Rosette: Well, but I'm trying to encompass .eu as well.

Michael Rodenbaugh: Right. You've got analogous rights right after the trademarks or analogous rights.

Kristina Rosette: All right.

Woman: You could say registered or unregistered on to some, you know.

Kristina Rosette: Right. Okay. I see your point, Michael. I agree with you because we're not talking about patents and trademarks. I mean patents and copyrights. We're talking about trademarks.

Michael Rodenbaugh: Right.

Kristina Rosette: And rights analogous, trademark rights. The owners of...

Michael Rodenbaugh: You just makes it look little cleaner.

Kristina Rosette: ...of registered...

Liz Williams: I'm tapping it into the survey so, Michael, would you please - Michael, will you just please read the text as you wish it to read, please?

Michael Rodenbaugh: Yes. Second line, domain name registration is limited to owners of trademarks or analogous rights for domain names.

Liz Williams: Yup.

Man: But it is broader than the trademark.

Kristina Rosette: Yeah. See, it is.

Man: I mean it is way broader.

Michael Rodenbaugh: Right. That's why...

((Crosstalk))

Man: So it's not really analogous. It's trademarks and other existing name rights.

Michael Rodenbaugh: Okay.

Liz Williams: I mean under English (unintelligible) and they're called unregistered, you know, registered marks, there's also unregistered marks (marked) protectable even though they are not registered. And I believe that a lot of the other several jurisdictions (unintelligible) same categorization. That's why you call them unregistered.

Michael Rodenbaugh: Yeah. I just think those are covered by analogous just because they're similar in concept.

Woman: Probably could be...

Kristina Rosette: Would it be correct to say analogous name-based right?

Michael Rodenbaugh: Analogous name right...

Liz Williams: I just don't think - I think we should avoid analogous because I mean...

((Crosstalk))

Michael Rodenbaugh: That's fine.

Kristina Rosette: Okay.

Liz Williams: ...you know, there is - we've got registered and non-registered rights here and I think it may be helpful to make that distinction.

Kristina Rosette: Well, .eu was really the only Sunrise that allowed for unregistered rights, right?

Man: Well, no, besides the unregistered rights which we have in names of organizations, they had a whole slew of geographical names...

Kristina Rosette: Right.

((Crosstalk))

Man: ...which each country could post in the Sunrise period to take out like no one could get Denmark .eu or...

Kristina Rosette: Okay. Right. No, no, I don't think...

Man: ...(Datamark .eu) or (Denamarker)...

Kristina Rosette: Right.

Man: You know, and all the languages...

Liz Williams: Okay. And I think there's some confusion. Obviously, I'm not being clear here. When I say unregistered rights, I mean trade names that appreciate to the commoner and the civil law that protects and the names used in trades. But they are not trademarks.

Kristina Rosette: Right. And what I was saying was that is was my understanding that the .eu was the only registry that has...

Liz Williams: Okay.

Kristina Rosette: ...not a Sunrise.

Liz Williams: Okay.

Kristina Rosette: And maybe I'm wrong. But what I'm trying to do...

((Crosstalk))

Liz Williams: But we should be working by inclusion...

Kristina Rosette: Right.

Liz Williams: ...it's not exclusion. We're trying to like, you know, get all of the best practices, right. So, do we want to be wide rather than narrow?

Woman: Yeah, (unintelligible) at least one that uses them, (unintelligible) on that basis.

Kristina Rosette: All right.

Woman: (Unintelligible).

Kristina Rosette: All right.

David Maher: David Maher joining.

Liz William: And, Victoria.

Kristina Rosette: Hi, David.

David: Hi.

Liz William: Hi, David, it's Liz here.

Victoria, would you mind just reading for me the text that you propose after the sentence, after the phrase which says "during which domain name registration is limited to owners of"?

Victoria McEvedy: Sorry. Can you give that to me again?

Liz Williams: Yes.

Where are we? I'm sorry.

((Crosstalk))

Liz Williams: Guys, what we've got though, would everyone - if everyone's in front of their email, just look at the note that Kristina has just sent about definitions for consideration. And, Victoria, if you don't have or whoever has it in front of them, just review that text and then read me what you want to put in for this key terms and explanations.

Remember, this is not a legal argument; this is to explain that they would have to fill in a survey.

Kristina Rosette: Right.

Woman: Oh, I get. It just arrived. Okay, sorry.

Liz Williams: Yeah.

Kristina Rosette: No, I'm sorry. I thought everybody had - I apologize.

Woman: I was just - I think (unintelligible) I was agreeing with Mike, I think that - so I'm basically suggesting that instead of analogous, you should say registered, non-registered.

I don't have the exact wording right in front of me, and I'm still now (unintelligible) Kristina, so I don't where we are really.

Liz Williams: Unregistered rights for domain names that match, correspond to or identical. Surely, we can choose one word out of the three, which are identical to those delineated prior rights?

Kristina Rosette: Right. I think that's probably most accurate.

Woman: I didn't see one.

Liz Williams: And if you wish, you could probably use the definition that we said (unintelligible) similar to a new TLD application which is the same or really identical to it.

Kristina Rosette: I would actually stick with identical because most of the registries were pretty strict about that.

Liz Williams: I'll just remove all those choices and...

((Crosstalk))

Kristina Rosette: Okay, all right.

Liz Williams: ...for domain names that are identical or delineated prior rights.

Victoria McEvedy: Okay. Is this some - is this lang - I'm sorry. I'm completely behind the (unintelligible) here. What is this language for? Where is it going? And why do we need to be precise? I'm just - I don't know even what the (6 is)...

Liz Williams: Okay. Victoria, if you look at the draft survey that I sent out earlier today...

((Crosstalk))

Victoria McEvedy: You know, I've got that.

Liz Williams: ...last week.

Victoria McEvedy: And I've got Kristina's (unintelligible) that just come through.

Liz Williams: Yup. If you look at the survey, you will see that I had suggested that some key terms and explanations are put in at the - in the background section of the survey.

Victoria McEvedy: Oh I see. Okay.

Liz Williams: Because your role, intellectual property expert, and you collectively, not you, Victoria, but you collectively speak in a language that is too detailed and too high level for an ordinary registrant...

Victoria McEvedy: So these are definitions. These are for the definitions.

((Crosstalk))

Liz Williams: ...definition.

Victoria McEvedy: Okay.

Liz Williams: (Unintelligible).

Victoria McEvedy: Okay.

Liz Williams: (Unintelligible) get in the survey.

Victoria McEvedy: All right. Sorry.

Okay. Well we - do we need to be really like it's not - do we need to be so - we're trying to give people an idea. I mean, they don't....

Liz Williams: Exactly.

Kristina Rosette: Right.

Victoria McEvedy: ...you're not drafting a statute, so we - I mean I don't feel we need to be, you know, terribly precise here.

Kristina Rosette: All right.

Liz Williams: Have the same token we probably should be careful that we don't say things that mislead people. So, we should be a little bit careful.

Kristina Rosette: All right.

Liz Williams: Peter, now, who's here for Afiliat. Anyone?

Now, the sentence that Kristina sent around that says the info and movie registries' (restricted eligible) intellectual property rights to registered trademark or service marks of national or supranational national effect that had been issued, Kristina?

Kristina Rosette: Yeah.

Liz Williams: Had been issued by registry specific deadlines and reinforced as of the Sunrise registration application filing date.

Kristina Rosette: Right. They - some of them had additional requirements about I think .mobi, for example. You also had to (unintelligible) by a certain date.

Liz Williams: Right.

Kristina Rosette: But that was just a road that I didn't think we needed to go down.

Liz Williams: Okay. That's fine. I've just amended the language. Okay.

(Edmond Chan): This is (Edmond). (Unintelligible), at this point, but yes...

Woman: Hi, (Edmond).

(Edmond Chan): ...that was the - that is correct...

Liz Williams: Okay.

(Edmond Chan): ...description.

Liz Williams: Thank you.

Let's skip to rights protection mechanisms. Is there anything other than Sunrise period in the need - introduction of new TLDs?

Kristina Rosette: Absolutely. I mean I think we need to be broader because we want people - I mean for one thing it's the whole IP claim process which I frankly have been (casting) about for definition of and have had no luck. So I'm hoping on the call has got one.

And I think it's intended to - at least in my view, it's intended to cover not only what has been done in the past but what other ideas people have with - in terms of mechanisms that we can accomplish this goal that's identified in the beginning.

Peter Olson: You know, one thing we've kicked around is the defensive registration, defensive removal. You know, once and for all, not so much process for active domainings but just removing them like they did with the .eu with all these geographical and geopolitical names. I just sent a link around with these that these were just totally removed from the pool of available names. I understand that this is something that the reserved names folks are working on as well.

Man: Yup, they're not at all considering this, Peter.

Kristina Rosette: Right. But the idea is that we want rights protection mechanism to be viewed very broadly because I for one am very interested in hearing what other ideas people have.

Man: Well I think I mean that's a great thing to ask people about because whether they think there should be a reserved name list for brands. I also think, you know, we could ask about registrant verification mechanisms, you know, other things that are outside of things that had already been tried. And then, of course, you know, post-launch, some sort of a suspension procedure for obvious cases of bad faith registration.

Kristina Rosette: But for purposes of a definition of rights protection mechanism, does anybody want to take a stab at that?

Man: I mean, it can include all of those things.

Kristina Rosette: I think we should leave it very broad. It's just, you know, a mechanism. And I would actually get back to kind of the explanation that's in the Statement of Work and just pull that in.

Tim Ruiz: Well we - this is Tim. Doesn't that kind of start to get to be suggested or - I mean if someone has these ideas they can offer them or share them in the comments, but we ought to be making suggestions about possible protection? I mean Sunrise defining that makes sense because it's something that's been used. But we start defining, you know, possible alternatives, then we're basically indirectly making suggestions, and I'm not sure that's a good idea.

Kristina Rosette: Well I was thinking more of broadly or, you know, kind of, you know, any mechanism intended to provide protections beyond, you know, and then the ICANN registration agreement existing to see resolution mechanisms for the protection of the legal rights of others during the domain name registration process, you know, previously implemented rights protection mechanisms include Sunrise registration periods and, you know, IP claim.

Liz Williams: Guys, we're spending way too much time on this. The really serious meat of the work is in the survey questions which I really need you to get to.

Kristina Rosette: All right.

Liz Williams: I'm anxious that this is a set of explanations for some key terms that help people send out a form. I'd really would like to say just a simple

two-line rights protection mechanisms that have been used in the past, include Sunrise period as defined above in the addition to existing UDRP provisions and existing to - in addition to sponsored and chartered limitations for domain name registration in registry agreements, and what Peter said about defensive removal of contested names.

Woman: I think include mechanism is a good way to approach...

Kristina Rosette: Yeah.

Woman: ...this and...

Kristina Rosette: Yeah.

Liz Williams: Okay. So give me to (take) somebody that someone's happy with.

Woman: I think the (take) you just gave looks pretty good.

Liz Williams: Oh, (unintelligible). You know, I was making that up. Okay.

((Crosstalk))

Liz Williams: But I'll fix this because I've got it now. It's fine. Keep going.

Man: We'll get a chance to see this in the writing before...

Liz Williams: Yup. Sorry.

Man: ...you know, we just...

Kristina Rosette: Does anybody have

((Crosstalk))

Woman: ... - oh, I'm sorry. I didn't mean to speak over you.

Does anybody have on hand the definition of IP claims for STOP challenge, and if not, is anybody willing to take that on to draft form and circulate it around short - immediately after the call?

Alright, I'll do it. Okay. What other definition you need, Liz?

Liz Williams: The only one was - you just added an additional one which I didn't get. I'm just trying to put them in alphabetical order.

You just said IP claim, did you?

Kristina Rosette: Uh-huh. That was the mechanism used by .biz. And I believe - I don't know who else who's actually used it.

Liz Williams: Mechanism used. I wonder if Jeff Newman is off (unintelligible), .biz to facilitate.

Kristina Rosette: All right.

Liz Williams: What about this then? So I'm anxious that we don't waste another overnight...

Kristina Rosette: Sure.

Liz Williams: ...because it's not half past 8:00 and time for me and I want to get this out first in tomorrow morning. And if ever - I can't keep amending and amending. How about IP claim definition which says this is a mechanism used by .biz to facilitate Sunrise period and to assist rights holders.

Kristina Rosette: I would say in lieu of the Sunrise period or instead of...

((Crosstalk))

Liz Williams: Instead of a Sunrise period to assist legal rights holders to protect their names. Yes?

Kristina Rosette: Yup.

Liz Williams: Okay.

And then so I've got five definitions to this. So first one is Sunrise period, second is rights protection mechanism, next is defensive registration Sunrise challenge and IP claim, and I'll put them in alphabetical order.

Kristina Rosette: All right.

Tim Ruiz: I'd like to back up on the one that you just ended with, and assist IP claim to protect the name (unintelligible) needed in there at all.

Liz Williams: Sure. So what should I say?

((Crosstalk))

Tim Ruiz: I don't think you should (put) anything. I think you should just end that (tab).

Liz Williams: This was a mechanism used by .biz instead of the Sunrise period, full stop. Is that right, Tim?

((Crosstalk))

Tim Ruiz: In Sunrise period, elsewhere it's defined, right?

Liz Williams: Yup, yup. (Done). Finished.

Kristina Rosette: Well actually no, you would just need to start up opposition...

Liz Williams: Oh.

Kristina Rosette: ...proceeding.

Liz Williams: Yup. But who's going to do that?

Kristina Rosette: It's - I would just basically use the Sunrise definition, except let me just put up really quickly, windows open, except what I would use instead is a dispute resolution process whereby an unsuccessful...

Liz Williams: (I'm going to tap it) as you tell me. A dispute resolution, yup, process?

Kristina Rosette: Whereby an unsuccessful .biz IP claimant...

Liz Williams: Yup.

Kristina Rosette: ...challenged the .biz registration of another on the ground that the other .biz registration...

Liz Williams: Uh-huh.

Kristina Rosette: ...violated (unintelligible) - the IP claimant claimed intellectual property rights.

Liz Williams: Yup.

Kristina Rosette: All right.

Liz Williams: Got it.

Kristina Rosette: All right.

Liz Williams: Anything else that anyone wants to add?

Kristina Rosette: And then moving - we can move into the questions.

Liz Williams: Yup.

Kristina Rosette: All right.

Does anybody see any in Number 2? I mean Number 1 I think we had all agreed on previously, is that right?

Liz Williams: That's right.

Kristina Rosette: Okay.

So Number 2, are there other TLDs that we should include? I'm frankly blanking on what it is. Oh, .name should be in there.

Liz Williams: (Unintelligible) I'm just catching up with you.

Kristina Rosette: I'm forgetting who did what.

Does anybody on the call who's done a summary not see their TLD listed in Number 2?

Woman: .cat.

Liz Williams: Yup, .cat is there.

((Crosstalk))

Woman: Do they have a...

Liz Williams: Yeah, they had quite. I haven't finished the work on it, but they really had quite an extensive...

Woman: Okay.

Liz Williams: ...three stages type of thing for various classes of folks. It wasn't even just rights protection; it was they had a whole state introduction.

Kristina Rosette: Sure. Okay.

Peter Olson: This is Peter Copenhagen.

I mentioned that .dk on the IDN with the Danish letters. There was a good Sunrise there but that was very limited to the Scandinavian countries. It's not really relevant for a big part., but I guess if .cat is there then perhaps that should be with it.

Kristina Rosette: Well .cat is considered a - is it an sTLD or dTLD?

Woman: S...

((Crosstalk))

Woman: (Unintelligible).

Kristina Rosette: Right. I think...

Woman: Right.

Kristina Rosette: I have no preference. I guess I'm just wondering whether there's going to be enough people who participated that are going to fill in the survey that it makes sense.

((Crosstalk))

Liz Williams: (We can) put it in other.

Kristina Rosette: Okay, put it in other. Let's see that.

Liz Williams: Just - who suggested that .name?

Kristina Rosette: I did.

Liz Williams: Yup, okay. So - and I was going to - you'll see that this chart is repeated a couple of times. And I'm just going to get it right once and then re-copy it where it should also go so we can have comprehensive information.

So if we can just wait a second., I'll just read what we've got. (Arab) biz, cat, coop, au, info, jobs, mobi, museum, name, pro, travel, tv, us and then other. Note that there's a mix there of sponsored and ccTLDs. Is that what you want?

Kristina Rosette: Yes.

Liz Williams: Right, okay.

And, Peter, if we catch the DK in...

((Crosstalk))

Peter Olson: It'd be another. I see that now, yeah.

Liz Williams: Yup, okay. Fine.

So is everyone happy with that list? It's quite comprehensive actually.

Kristina Rosette: All right.

Liz Williams: And that chart will be repeated with the - in Section 3 and 4 and other sections that refer to all of the TLDs.

Mike Rodenbaugh: Yeah, in that - in Number 4 and 5, it was little unclear to me whether you were going to have all those boxes or whether we should just say for any TLD in which you participated, please check the rights.

Kristina Rosette: Well Number 4 actually doesn't make sense because Number 4 is listing the rights protection mechanism as the boxes not the rights themselves.

Mike Rodenbaugh: Four has rights protection mechanisms and then five should say rights. I think you're correct. Or no, no, and it does say that...

Kristina Rosette: Right. And I'm saying that Number 4 doesn't make sense.

Mike Rodenbaugh: (Yeah, I got it). Yeah, it should say rights protection mechanism, the second (clause), not right. Right.

Victoria McEvedy: In Question 4 or Question 5?

Mike Rodenbaugh: Question 4.

Kristina Rosette: Number 4.

((Crosstalk))

Liz Williams: It should say (delete) protection mechanism then?

Mike Rodenbaugh: No, it should say, "Please, check the rights protection mechanisms you sought to protect."

Kristina Rosette: No, you use. You don't see to protect...

Mike Rodenbaugh: Yeah, yeah.

Liz Williams: You're right, you sought to use. Kristina?

Mike Rodenbaugh: Yeah.

Kristina Rosette: No, please...

Mike Rodenbaugh: You used.

Kristina Rosette: ...check the rights protection mechanism you used.

Mike Rodenbaugh: Right.

Liz Williams: Protection mechanisms you used.

Kristina Rosette: And I would also for Number 4 add none there.

((Crosstalk))

Kristina Rosette: In which you (unintelligible) okay, we don't need them, never mind.

Liz Williams: We don't need that.

((Crosstalk))

Liz Williams: It wouldn't answer that question.

((Crosstalk))

Mike Rodenbaugh: And do you - and did you mean to say for each TLD and then you're going to provide a box, or should you say - that doesn't really work...

((Crosstalk))

Mike Rodenbaugh: ...for any TLD.

Liz Williams: Yup, for any.

Mike Rodenbaugh: Yeah, same as Number 5.

Liz Williams: Uh-huh. Thanks, Mike.

Mike Rodenbaugh: (You're welcome).

Victoria McEvedy: So, is the text for 5 correct now, which it says for any TLD in which you participated rights protection mechanisms, please (unintelligible) the rights you sought to protect?

Mike Rodenbaugh: Yeah.

Liz Williams: That's right, isn't it?

Mike Rodenbaugh: Yup.

Kristina Rosette: Right.

Liz?

Liz Williams: Yup.

Kristina Rosette: In Number 4...

Liz Williams: Uh-huh.

Kristina Rosette: ...start-up opposition proceeding and Sunrise registration are two different things. And it's not clear as to whether there's two boxes or one.

Liz Williams: Just say that again, start-up opposition?

Kristina Rosette: In Number 4?

Liz Williams: Uh-huh.

Kristina Rosette: The start-up opposition proceeding is a different (creature).

Mike Rodenbaugh: No, preceding. Preceding. Start-up opposition preceding Sunrise registration.

Kristina Rosette: But they're two different things. You've got Sunrise registration and Sunrise challenges and then you have IP claims and start-up opposition proceeds.

Man: Proceedings...

Liz Williams: Ah, okay. So, start-up opposition proceedings.

Kristina Rosette: And that goes with IP claims. So I think it does make sense to keep those next to each other.

Liz Williams: And then remove Sunrise registration.

Kristina Rosette: From there and move it.

Liz Williams: And then Sunrise challenge, (unintelligible) name, place name, other, and then insert another box.

Kristina Rosette: Right.

Liz Williams: Yup, got it.

Kristina Rosette: All right. Number 5, anybody thinks that there's something else that needs to be specifically identified?

Peter Olson: Yeah, this is Peter in Copenhagen. There's a whole slew of things in the - on the .eu. I tried to send this around but didn't really work. They had geopolitical names, government names, names which are reserved for use by the community and institutions, and a whole - there's three big lists, thousands of names of each that they will remove.

Liz Williams: Oh, Peter, are you referring to EU list where, you know, 25 from one country and two from another and three from somewhere else?

Peter Olson: Yes, but there's, you know...

((Crosstalk))

Peter Olson: ...27 countries and there's a lot of them, a lot of names. And they're on the list. It's in the (unintelligible) .eu that called block and reserved names. So, it's not just IP right. It's the...

Liz Williams: It's country names and geopolitical identifiers. Yup.

Peter Olson: Right, like the third (RYK) and the fourth (RYK) and all kinds of geopolitical concept that they removed. They didn't want anyone...

Kristina Rosette: Well, I guess if we're going to have government, if we're were going to, you know, provide a box for government to participate, we might as well put a box in there for what they would want to present.

((Crosstalk))

Liz Williams: So, if you look at Question 22, you might catch that one there, Peter, which says if rights protection mechanisms were used in the introduction of new TLD, should that process be standardized in new TLD, then you could write four example in the treatment of geopolitical terms and identifiers.

Woman: And can I just say it sounds like - but they send like proper reserved names.

Liz Williams: (Unintelligible) proper reserved names on the basis of ICANN contract, yes.

Woman: Are they really rights protection mechanisms? I mean, are they or not? I don't know.

Are we drawing a distinction here?

((Crosstalk))

Liz Williams: I guess the big - there's a big distinction in terms of ICANN contract, that's for sure.

Woman: Uh-huh.

Kristina Rosette: Right.

Woman: I mean, I'm just wondering. I mean maybe we need to just have to look at that. I know I've got all the (unintelligible).

Liz Williams: Kristina, I just need to come to one second...

Kristina Rosette: Sure.

Liz Williams: ...and just clarify the text to that one that you said. Start-up opposition proceedings...

Kristina Rosette: Uh-huh.

Liz Williams: ...Sunrise challenge.

Kristina Rosette: Uh-huh.

Liz Williams: And I missed the text of what you also said.

Kristina Rosette: I would also put - so that Sunrise, you need to make sure that Sunrise registration is included. And maybe what you want to do is create two columns so that you have Sunrise challenge and Sunrise registration next to each other because they were generally part - anybody who's got a Sunrise registration is going to have a Sunrise challenge. So they're kind of the front-end and the back-end.

((Crosstalk))

Liz Williams: Yup. Okay, got it. I just wanted to correct wording...

Kristina Rosette: Sure.

Liz Williams: ...put in the right order.

Kristina Rosette: Sure.

Liz Williams: All right. Sorry about that. I just missed it.

Kristina Rosette: No...

Liz Williams: Okay.

Kristina Rosette: And then Number 6, it seems pretty straight forward.

I would...

Victoria McEvedy: Can I...

Sorry, go ahead.

Kristina Rosette: No, go ahead, Victoria.

Victoria McEvedy: Yeah, look - well, just what I'm going to say - I mean if this is an appropriate place, I mean I've decided to, you know, maybe a strategic position not to try and perhaps add to the survey, (unintelligible) as we just touched on before. You know, we're kind of talking about existing, you know, (unintelligible) comments. We're talking about existing sort of phenomena here, you know, in the known world of protection mechanisms and so forth.

So, although I'm probably going to make a statement, a minority statement or something afterwards, just sort of pick up any other rights that I don't think are protected by existing, you know, perhaps reputational rights or, you know, sort of, I don't know, rights...

Liz Williams: But I had one for you, Victoria, on protection of the comments because that you had sent that text around, I think that was part of your suggestion in some of the updates that had come through from last week. And I think that's a phrase that is not generally understood and perhaps need more explanation.

Victoria McEvedy: What phrase is that?

Avri Doria That one might have been me.

Liz Williams: That was you, wasn't it, Avir?

Avri Doria: Yeah.

Liz Williams: Okay, thanks. I'm sorry, Victoria, I falsely attributed that to you.

Mike Rodenbaugh: I think that's just the unregistered trademark rights. Is that what you meant by that...

Victoria McEvedy: No, not really. I mean it cannot be exactly raised as the bigger issue of, you know. In fact what I'm saying - what I'm really trying to say here (unintelligible) well at all but, you know, this whole exercise is kind of like looking at the mechanisms that are being used in the past, all the ranges, I mean saying what do people think of them and there is space that people just say is there anything else you think we should do.

But it's not really the point of this exercise is to sort of, you know, and hypothesize on other possibilities (unintelligible) and, you know, after the comment on those which is one of the reasons I hadn't (inputted) in that way to the survey. So I'm just sort of making a marker here as to why I'm not wanting to change Number 6.

Liz Williams: I see what you're saying. Okay. Because you want a catalog of what's being done in the past rather than commentary on what could be done in the future.

Victoria McEvedy: Well it would just be such a vague exercise if we sort of, you know, sort of (add the things) and then (unintelligible) to make very generalized sort of remarks to them, you know. And even - and the

problem we have with the definitions would tell what a difficult exercise that would be.

Liz Williams: Kristina, if you don't mind, I just want to respond to Victoria's point if I can.

The issue that we've got, Victoria, is that as I said in the very, very beginning of the document about explaining that the survey is not to - is designed to make strict data gathering standards and it's used to provide some baseline information from which (traditional word) might be developed.

Now, there is nothing to say that the results of this initial work where people I'm using is not useful because the implementation plan may need to reflect other information that we need to get from other sources. And I'm just hypothesizing. But it could be well - we could well have it looked at for example, the survey that the (pro group) did yielded these results and the collation of X, Y and Z factors. And these things were not answered in that work and they could well be brought up.

And I think that's a really great opportunity for you and your crew to spell out how you think about these kinds of things. At the same time as being quite accurate from a relatively accurate fact base to provide more information for people from which we could more developed work for the implementation plan thinking that that is unlikely that any new TLD application process would open prior to January of first quarter of 2008, and that we have time to develop those pieces of work.

Victoria McEvedy: Yeah.

Liz Williams: But I understand why you're hesitant.

((Crosstalk))

Victoria McEvedy: ...is the survey the right place? I mean I'm hesitant - I mean I think that needs to be (unintelligible) I'll do that, I'll do - I have to do that around the minority report or something. But is - I just didn't really - I'm not sure if I really understood whether you think it will be appropriate to try and do that here.

Liz Williams: Look, I have to tell you in my experience, earlier and sooner is better than last minute and late.

Victoria McEvedy: But do we want people's comments on sort of new ideas?

Kristina Rosette: Oh, absolutely.

Victoria McEvedy: Right.

Kristina Rosette: I mean, I absolutely do. I mean I don't think there's a single, you know - the idea is not to kind of get everybody to respond with how happy they are with the status quo if they are trademark (centers) because, you know, just for the people whose positions I know, I don't think there are any trademark (centers) that are happy with any of these, you know, with these proposals in their kind of entirety standing alone.

So, to the extent that people have other ideas about how to do this and what it should cover and what it shouldn't, I absolutely want to hear that.

Victoria McEvedy: Okay. So we're asking survey response I think somewhere in that way whether they have any other ideas, right? But we should also be including somewhere in here not necessarily Number 6 with all of our other ideas and say, what do you think, have you got any thoughts on any of these like in - is that what - is that...

Michael Palage: Victoria, this is Mike. I - Palage.

Victoria McEvedy: Hi.

Michael Palage: I just joined late. But perhaps I could comment on what I think you're trying to articulate here on Number 6. And, Liz, and perhaps, you could provide your feedback.

I was just up at Afiliat some work and one of the trademarks I came across was a large pharmaceutical company that has (unintelligible) trademark for the word "diabetes." And I was trying to figure how that sort of fit in here to Number 6 and, Victoria, I think this is what you're trying to articulate. Because Number 6 is do you believe rights protection mechanism should protect rights other than those listed above.

And I think what's missing in this survey is, you know, should people be able to register commonly used words and phrases and, you know, use them in the manner in which they're intended or, you know, or are we going to allow these preemptive registration programs to, if you will, snatch these words from, if you will, internet stakeholders. And the fact that pharmaceutical company has a trademark in the word "diabetes..."

Victoria McEvedy: Uh-huh.

Michael Palage: ...I just find that problematic.

And I think if we don't address that, the integrity of this process will - it will come under attack because everybody is going to go and go to (Tunisia) and go to (Panalocs) and pick up these registrations and take words that should be out there being used by people to convey information and put it out there. And in some cases, it's just (unintelligible)and never used.

And that is not to me, consistent with what our objective is, the purposal expansion of the name space. We're not duplicating it; we're trying to expand it and provide new people opportunities to use, you know, attractive domain names that could be (hidden) logically.

I think that, and I don't know if I'm trying to put words in your mouth, Victoria, but I think that's what - I was (getting)...

((Crosstalk))

Victoria McEvedy: That's very helpful. Yeah, no absolutely.

Kristina Rosette: Well, but here is the thing, I mean we're not in a position to re-design trademark (law), trademark system. What I do think and maybe we can do is a, beef up Number 5 with other examples because this list is clearly under inclusive, but it was the list that came to the minds of people who actually happened to be at the meeting (that we made it). So, any additional ones are absolutely welcome. Maybe we need to

add another question, either at six or seven to indicate maybe there, you know, do you believe that there are any rights listed above that should not be prevented?

Victoria McEvedy: Good question.

Michael Palage: But, Kristina, I guess my question is, you know, as a trade - when you look at trademark law, trademark law exists to protect confusing use of a mark. But - and again, we're not trying to change trademark law here. But what we are doing is we are potentially creating sui generis protection where we are allowing somebody to come in and get something. We're giving them a priority right, and the question is if you look at the basis of trademark law, its about excluding others from confusing use.

So if I want to use the word "cars" to, you know, sort of describe the automobile industry, that would be acceptable. Now, if I wanted to use cars in the context of a musical group from the late 80s, that might could potentially carry confusion. But unfortunately, the problem with the Sunrise mechanism is you give them - once that person has the right, under the UDRP, no one can even attempt if you will get the name back. It's been taking off the market. And that to me as the person who conceived the Sunrise concept, that is what I struggle as far as how it's been (unintelligible)4826(getting).

Kristina Rosette: Okay. Okay. Okay. But I mean (Panalocs) are covered by the harmonizing directive. And (data mark) could be struck down as descriptive and generic.

(Peter Conning): No, no. No, no. This is (Peter Conning) No way.

Kristina Rosette: Well...

(Peter Conning): And if you register diabetes for SOX, it's....

Woman: That would be okay. Maybe.

(Peter Conning): ... registerable. Yeah.

Woman: Uh-huh.

(Peter Conning): Yes. But...

((Crosstalk))

Kristina Rosette: I think that registration would be challenged.

(Peter Conning): Oh, no. No, no, not at all. It could be challenged after five years for non-use. If they register them for SOX and (unintelligible) or something, but for the first five years it's very valid and (it's a problem).

Woman: No, I think the document is generic.

(Peter Conning): It's not generic for SOX. It's like...

Kristina Rosette: Can we just get - you know, I agree with a lot of what everyone has said, but it's really kind of beyond the scope of what this survey is trying to do. And while I've realized that many have raised the concern that this survey (seems skewed). I still think that maybe a good way to get it, the problem that I think you have is to add another question in

this five, six (theories) to indicate whether there are any “rights” that people think should be carved out, you know, should just be excluded. You can have the rights protection mechanism but it can include register trademark.

I mean would that accomplish some of the concern - would that...

((Crosstalk))

Victoria McEvedy: Well, I don't think that exact wording would do it. But I think that something including that wording might work. I mean I think we should give them some examples and insights, anything else, not - that shouldn't be pro - you know...

Kristina Rosette: Right.

Victoria McEvedy: ... - I mean I think it should be (two-factor equation). But I agree that it's a good mechanism.

Kristina Rosette: Well, then maybe what we can do is just - once we beef up Number 5 to be more inclusive, is just mirror those same categories.

(Peter Conning): Yup. I think you should give a question from Mike. I think he's right on the - hit the nail on the head.

But if I could add one thing, Mike, this is from the .mobi where we had both the Sunrise on the one hand and the premium names on the other hand going up at the same time.

Michael Palage: Uh-huh.

(Peter Conning): And what will happen is if you've got diabetes on the Sunrise list and diabetes .mobi on the premium (name) list then, you've got a problem. But that problem can get thought out, you know, with some mechanism, you know, whereby is that the people who wanted on the premium names can say no, that's a bogus (Panalocs) registration. We want to be able to sell that at a premium.

Michael Palage: No, and if someone - and for the interest of disclosure not - as my (intro statement) stated, not only did I work on the Afiliis Sunrise but I also worked on Mobi Sunrise and the Mobi on premium name challenge processes.

So, what I can tell you is there has been a constant cat and mouse game between registries trying to allocate these names to put them to good use versus people trying to gain the system.

(Peter Conning): Right.

Michael Palage: And that is I think one of the things that hopefully this survey might be able to bring is, is some of the gaming, as I said people putting ampersands in the middle of generic terms...

Kristina Rosette: Right, right.

Michael Palage: ...and stuff like that which is, you know, problematic because it attacks the integrity of their process. And to me, when we begin to attack that credibility, it really truly undermines the purpose of what we're trying to do which is protect legitimate trademark owners. And that's my concern.

Victoria McEvedy: And my (concern) is slightly than the trademark owners. But I agree with all of that.

Michael Palage: You take the high road; I'll take the low road.

Victoria McEvedy: Okay.

Liz Williams: Yeah, can you give me some text please?

Kristina Rosette: Does my proposal satisfy either of you somewhat? I mean would that help?

Liz Williams: I think we're going to have to spend a bit of a time on the language. But let's start - let's put together draft. (Unintelligible) we can do it now orally. I think we should do it on the list and just play with that.

Victoria McEvedy: By the way, I wanted to add one comment (also). At various points, the term to protect the comment was used, and this is exactly the idea that I was trying to point to with that, what Mike was speaking of. So, someone had asked before what had that meant in that whole list (unintelligible).

Michael Palage: Are you talking about commonly used words and phrases? Is that...

Victoria McEvedy: Yup. Yup, basically that the - I mean under the view that languages, at a certain point, and I know I've used this as (unintelligible) but I think it is. At a certain point, if we're not protecting natural language, then the dictionary ends up being the reserve or the protected word list, and because sooner or later they all will be marked by someone in some

way, in some variance with some work around. And so that's the notion that I was trying to include under protect the comment.

Michael Palage: Okay. I think, Victoria, and I'll defer to the chair here. But I think what Victoria says is we'd probably want to try to work this out on the list and let the chair sort of finish up...

((Crosstalk))

Kristina Rosette: Yeah. I mean I'm happy to do that with the caveat that we need to get moving. So, you know, we'll need to, you know, I think we need to put a time limit on this so, you know, 24 hours from now wherever we are is where we are, because I don't want to...

Michael Palage: Uh-huh.

Kristina Rosette: ...(unintelligible) glide much further. And frankly I find that these things people tend to be able to make better contributions when it's fresh in their minds.

Victoria McEvedy: Kristina, can I just ask a quick question?

Kristina Rosette: Sure.

Victoria McEvedy: Which of this one, what - and I'm asking you value-add question here. If you take another 24 hours to do it, then that's terrific. If you don't, then how much does that really make a difference?

Kristina Rosette: As opposed to 24 hours versus what, versus...

((Crosstalk))

Victoria McEvedy: Not doing it at all.

Kristina Rosette: ...doing it at all?

Victoria McEvedy: Not doing it at all.

Kristina Rosette: I mean, I honestly, I mean I'm happy to include it. But, you know, frankly, I don't see why we're not seeing emails better right now. But, you know, what I would like to do right now is off the top of their heads, anybody who's got things that they'd like added to Number 5 - I realized that you may have others, but if there are things that should be added to Number 5 right now, I think we should go ahead and add them.

And maybe what we should also do is move Number 8 so that it's closer to Number 6, or even combine them in such a way. Because, Victoria, the things that are listed in A, those are the types of things that you're - you know, I realized that that's not exactly what you have in mind, but it's certainly broader than just kind of registered trademarks.

Victoria McEvedy: Uh-huh. Yeah.

You have to - sorry. You'll have to bear with me a little bit because (unintelligible) quite an unusual list. So I don't - I can't think of (unintelligible) about these things because I haven't thought them through before necessarily, and nor do I have the practical sort of knowledge. So I'm afraid I will have to take my time after the call and - but I'm very happy to email you my comments afterwards.

Kristina Rosette: All right, why don't we just do that?

Liz, if you were to get kind of final cutoff at noon your time tomorrow, would that give you enough time in your day to get this wrapped up and posted?

Man: Noon her time is 7:00 East Coast time. That's kind of early.

Man: Oh, 6:00.

Man: Yeah, because she's in Brussels.

Liz Williams: Yeah, and...

((Crosstalk))

Kristina Rosette: Right, but that's 15 hours from now.

Liz Williams: ...I look at - frankly, I don't mind what the group likes to do. You just get it to me when you're ready in a form that you're happy with. I'd prefer you to be happy with the product than not. But the reserved name' working group is keying off its next part of work tomorrow, and I need to do some work in the morning for them.

It shouldn't be too much of a drummer. And I ought to be able to get it posted by the end of the day. However, Caveat Number 7000 for today is at 5 o'clock UTC, the reserved name working group two-hour conference call (begins). So, just take them into account.

Kristina Rosette: Okay.

Man: That's tomorrow, right, Liz?

Liz Williams: Yup.

Man: Okay, yeah. I'm just trying to juggle different calls. Okay.

Liz Williams: Yeah, join the club. That's why Glen has (unintelligible) calendar.

Man: Yeah, but you get paid.

Woman: Yes.

Liz Williams: Not much.

Just on Question 8, Avri, you inserted the protection of comment section there. And I put [what does this term mean].

Do you want to provide me with the definitions for that to go into the key term's piece?

Avri Doria: Okay. I mean Mike...

((Crosstalk))

Liz Williams: No, I think that's generic. Sorry.

Avri Doria: Okay. Mike said most of it, but I can certainly write it a sentence or two.

Liz Williams: Would you mind? I just want to put it into the key terms and definitions?

Avri Doria: I think that was the term generic - term generic and descriptive, isn't it?

Liz Williams: Yeah.

Avri Doria: It's kind of (unintelligible).

Liz Williams: Okay. Thanks, Avri.

Liz Williams: Kristina, if wouldn't mind, I just want to add a further (wrinkle) to 8, geographic designations. I thought -- and I'm not expert in this at all -- I thought geographic designations and appellations were controlled under the WIPO-2 (unintelligible). And in terms of ICANN contract or geographic and geopolitical identifiers reserved under contract. So I don't know what else we wanted to do there.

Liz Williams: Well WIPO-2 is not acceded to by a good majority of countries. And with regards to the ICANN contract, I frankly don't have the (faintest) idea, so I'll take what you said is true.

Man: All right.

David Maher: Liz...

Liz Williams: Yup.

David Maher: ...this is David. I don't think the ICANN contracts say anything about geographic terms, at least...

((Crosstalk))

(Luke): The new ones. The new ones - new, David, everything after .travel.

David Maher: Yup.

(Luke): We put that in there and - hold on, let me see.

Kristina Rosette: I mean because if something we've listed in Number 8 is already covered by reserved names, then you're absolutely right, (Luke), there's no point in looking at.

Liz Williams: It just gets people going down the right hole, they don't need to go down.

Kristina Rosette: Right.

All right, well, why don't we just put brackets around that and say, you know...

Liz Williams: Yup.

Kristina Rosette: ...if those words are used in reserved name categories under contract then we'll (take it out).

Liz Williams: Uh-huh. Okay. Thanks, David.

David Maher: Okay.

Kristina Rosette: Anybody have any questions to - oh, you know, Liz for 6 and 7, what I was thinking, instead of saying "if necessary," I would kind of change that to "If you would like."

Liz Williams: Yup.

Kristina Rosette: Only because necessary implies that...

Liz Williams: We don't want to hear from you.

Kristina Rosette: Yeah. And I don't personally think that's true.

Liz Williams: I'll just leave if necessary, just provide additional comments.

Kristina Rosette: Okay.

Liz Williams: Yeah. Uh-huh.

Kristina Rosette: And 9, 10, 11, 12, anybody have anything they'd like to change, add?

Liz Williams: Yeah, me, Kristina. Sorry to be a pest. The Question 9 is a very long way away from Question 4, so I would say that for each mechanism you've checked above in Question 4, please check below the capacity in which you are involved. I would suggest, just - for this logic sake that that question is moved. But I didn't think that I wanted to move it before you all have a look at it.

Kristina Rosette: No, I think it makes sense to move it. To the extent that we can group semantically related questions together, I think we should.

Liz Williams: Okay. Well I'll move that. Fine.

Kelly Smith: This is Kelly Smith. For 11 that provide more information, it's unclear to me what additional information we're requesting.

Kristina Rosette: Okay.

Kelly Smith: Either one or you're lost.

So, if we...

Liz Williams: We had a really bad time.

Man: Include one, two, and last one or something.

Liz Williams: Or you could have shared the cost or you could have been told to go away if you win. Did - Kelly, I'd be happy to take it out if you don't think it makes sense.

Kristina Rosette: Or maybe if so, provide any, you know, provide any additional details. Well no, never mind. I don't know how to phrase that.

((Crosstalk))

Kristina Rosette: I mean I think we should leave it open so that, you know, people can provide additional comments.

Liz Williams: For example, they could say, "Yes, we did win but it took a year," or, we really headed...

Kristina Rosette: Right, right.

Liz Williams: ...the people and that took us, you know...

Kristina Rosette: Okay.

Liz Williams: ...five months, and they still went to court and then - then they were really horrible to us or...

Kelly Smith: Okay. I'm trying to be sensitive to keeping short. But if we want to get those comments, that's...

Liz Williams: Kelly, I really do want to get those comments mostly because the burden of - and I used that term carefully - the burden of a Sunrise period on registrants and registries and registrars needs to be quantified.

Kelly Smith: All right.

Kristina Rosette: You know what? Can we change Number 11 to, "If you were a party in a STOP proceeding," because 11 as it reads now would apply to any dispute resolution provider that wanted to fill this out and they obviously are not going to win unless it's in their own.

Liz Williams: Just - which text do you want amended, Kristina?

Kristina Rosette: Change 11. Change "if you were involved" to "if you were a party."

Liz Williams: To a STOP proceeding?

Kristina Rosette: Yeah, yeah.

Liz Williams: Yup, if you're a party to a STOP proceeding (unintelligible). Should it be capitalized?

Kristina Rosette: (What?).

Liz Williams: STOP.

Kristina Rosette: Yes.

Liz Williams: Okay, thank you.

Kristina Rosette: Twelve, questions/comments?

Thirteen?

Liz Williams: Yes, 12, just be very careful here that we've captured this in terms of general terms in the recommendation for allocation methods for the new TLD string itself but not for registration at the second level.

Kristina Rosette: Right. So you're suggesting we shouldn't have it?

Liz Williams: Well, first come first serve is a bit tricky, that's the general principle. But the competitive evaluation which is really a dispute resolution mechanism has been included and then there's an (option) if complainants kind of agree. And we did that work in Lisbon.

However, this is a different thing so I just wanted to be sure that people who are not so involved with the details of this work did realize that

we're actually considering these things for the string resolution as opposed to registrations within a successful registry.

Kristina Rosette: Well in that case, for consistency purposes, slightly if we could add whatever the comparative evaluation language is...

Liz Williams: Yeah.

Kristina Rosette: ...so that you would then have (four options).

Liz Williams: Got it.

Kristina Rosette: All right.

Thirteen?

Fourteen?

I think here might be a good place to allow a blank space I guess through this whole series of questions. Now I don't know if we want to put that here or at the end because - and maybe we should put these questions at the end because these are really kind of the heart of matter and this is where I personally really would like you to have comments as opposed to just yes/no.

Does anybody have any feelings about that one way or the other?

Liz Williams: You know, are you saying from 14, Kristina?

Kristina Rosette: Uh-huh.

Liz Williams: I can just put it in another table that has an open comment box.

Kristina Rosette: All right.

Liz Williams: That's really easy.

Kristina Rosette: (Okay).

Liz Williams: Rather than move the questions around...

Kristina Rosette: Okay.

Liz Williams: ...I think just put in a box that says, "Provide any other comments."

Kristina Rosette: (Right).

Victoria McEvedy: Well you could then - sorry, just another suggestion.

Kristina Rosette: Uh-huh.

Victoria McEvedy: We could take the box with all the options from above and ask them which ones.

Woman: You make my life hard, Victoria.

Victoria McEvedy: So, you know, just cutting and pasting...

Woman: Yes.

Victoria McEvedy: Or is that not really necessary? I don't know. We probably - we may be asking that question now in a number of different ways and so it may not be necessary.

Kristina Rosette: Okay.

Victoria McEvedy: But do we - if we were asking them - oh well, I thought you have to ask it in 15, (I mean). I mean you couldn't (instead) of 14 to 16 offer them a check option - the check options that we had earlier.

Liz Williams: Victoria, on 14, I really want that question to be explicit and separated. If you do a checkbox for a collation of questions, we're not going to be able to spin out...

((Crosstalk))

Victoria McEvedy: Okay. Okay. I'm really just thinking of (unintelligible) do you want to ask them which ones?

And do you want to offer the option to check the box, the difference ones? It's just a thought.

Liz Williams: Okay.

Man: Fifteen? Is that (where you)...

Liz Williams: Yeah.

((Crosstalk))

Liz Williams: And that's a cut and paste on the Sunrise's STOP, challenge the...

Victoria McEvedy: Yeah, you could - it's like a menu there they can take like, you know.

Liz Williams: Right.

Kristina Rosette: Although I would definitely include other in that one. Okay, we have others.

Liz Williams: Yeah.

((Crosstalk))

Kristina Rosette: I'm sorry.

Liz Williams: When it should be - I'm just going to go back up. There was that question on, it says IP claims Sunrise registration, Sunrise challenge, premium name, place name, start-up, and something else - start-up opposition proceedings and other in Section 4 - Question 4.

So copy that (unintelligible) and put it into 15.

Woman: Is that four? Is it list of all the rights protection mechanisms? Is that...

Woman: Uh-huh.

Woman: Yup.

Woman: Yeah.

Woman: So we maybe - and we may be - and then (unintelligible) to 5 and 8, aren't we?

Liz Williams: Uh-huh.

And then I'll just put "Provide any other comments," a little box.

Kristina Rosette: All right.

Mike Rodenbaugh: Kristina, this is Mike. I was just looking at some - I just read through the surveys and I guess if you recall in Lisbon, I sent you a question instead of a list. Unfortunately, most of my questions didn't make it to the final cut. And I was just wondering, you know, just reading through this survey, it really kind of see pre-determined what the outcome is since, you know, what do you think, you know, there should be some other questions, you know, should operate - should registry operators be allowed to propose IP protection mechanisms tailor to meet their specific needs and those at the community? You know, I think having, if you will, some questions that are potentially show both sides, this just seems to be...

Kristina Rosette: Twenty-four is in there. That's in there...

((Crosstalk))

Kristina Rosette: ...24.

Mike Rodenbaugh: It's in - all right. We got that in 24?

Kristina Rosette: Uh-huh.

Mike Rodenbaugh: All right. I stand corrected. Thank you.

Kristina Rosette: I mean we did take there was a consensus in last week's call that some of them frankly pre-proposed the answer to such an extent that there was a concern that it would be huge and that frankly we weren't really able to come up with the different way to word the question.

So to the extent that you've proposed questions...

Mike Rodenbaugh: All right.

Kristina Rosette: ...that aren't included and, you know, you can suggest different ways to rephrase them, I think we'll certainly be open considering them.

Mike Rodenbaugh: All right. And as I said within the next 10 to 12 hours, I'll work on that.

Liz Williams: Mike, it's Liz here. Just double checking that, I keep everything and I think that I have (list) those questions that you've sent. So, if you want, on this version of the draft survey to add anything in, then please let me know as quick as possible because I have not got those questions.

Kristina Rosette: Liz, they were included in the version we discussed last week. I want to say there were like 30 something...

Liz Williams: Oh, I beg your pardon, sorry. Okay, fine.

((Crosstalk))

Kristina Rosette: ...those were the ones that we deleted.

Liz Williams: Okay, fine. Okay, sorry.

Kristina Rosette: No, it's okay.

Liz Williams: (Unintelligible).

Kristina Rosette: It's hard to keep track of all of it.

Eighteen, 19 questions?

Twenty?

Man: Twenty seems to me to be the answer is of course that they had to use a lot of resources, but it depends on which Sunrise. Certainly for the .eu, there was a big problem for most of the registrars.

Kristina Rosette: But I think it would be helpful to know what that was because I frankly...

Man: Yes.

Kristina Rosette: ... have no idea of other than kind of general, we had to write the code.

Man: Yeah. I think if - the question is how much did you have to spend on it or...

Kristina Rosette: Right and...

Man: ...how much does it cost?

Kristina Rosette: Right. And that was the question we really had a hard time with last week simply because what was a lot of time or a lot of money to a small registrar could be (eligibly little) for a big registrar. So, if anyone has suggestions about kind of objective characterizations or descriptors we could use, you know, I absolutely would like to include that.

Man: Okay.

Liz Williams: You probably could define a measure that was, you know, percentage cost of their start-up, and you could define a - this is low, this is high. So whether you're small or large, you've still got something that is an objective criteria, which is percentage expenditure of something against something.

I don't know enough about the category in the expenditures to know which would make a good number for that, but that's certainly a number that would work and, you know, 10% for little company, 10% for bigger.

Kristina Rosette: Right. No, I think that's a great idea. And I don't either.

Mike Palage, do you have - and I know that I'm actually looking in this, I'm thinking that maybe we should have this for registries as well. But (unintelligible) - I don't even know how to phrase it for registry.

Liz Williams: Kristina, how about this idea. Look at Question 19 and to take Avri's point, you could that exact chart of less 10%, 10 to 24, ladi-dadi-da, but you could do it as a percentage of your implementation cost for the new TLD. So Question 20 could read,...

Kristina Rosette: Oh.

Liz Williams: ...issuer registry or a registrar, was it necessary to do da-di-da-di-da. And if so, did you spend less than 10% of your implementation budget, 10 to 24, 25 to 49, et cetera., et cetera., et cetera.?

Kristina Rosette: That's a great idea. But I would also like to keep the yes open-ended question, you know, what's right...

Man: Right.

Kristina Rosette: ...so that we have a better sense of that.

Man: You know...

Kristina Rosette: So I think that's important.

Woman: Oh, yeah.

Michael Palage: The other thing you need to take into account there for that question is litigation cost, because that's something, you know, I just look in the Afiliat, I know in my dealings with Jeff at Newstar that the cost - the litigation cost actually (drag) out long after the actual launch of the TLD in some instances. So, that may be some - I just wanted to just raise that as a potential point.

Liz Williams: Mike, just a question on that one, I think that's a really important thing. It's not only legal cost, it's customer service cost, it's staffing up, it's writing of code, it's real estate, it's sitting people on desk with (unintelligible) (on their feet) answering questions from irritated registrants.

So, how about another question which says if you're a registry or registrar, was it necessary to do; yes or no? And then a new question which is thinking about the implementation cost associated with the launch of the new TLD, assist as a percentage of that implementation cost, how much it costs or something like that.

Kristina Rosette: Right.

Michael Palage: And just to - to just provide a little more depth to that particular discussion point, Afiliat, which was the first gTLD to use a Sunrise launch back in 2001, I'm going up to Afiliat next week to still, if you will, tidy up some remaining Sunrise disputes six years later. So...

Liz Williams: Not very efficient, (unintelligible), that wasn't a very good (act).

Michael Palage: Well, as I said, between Afiliat and Mobi, I know what works in the Sunrise, I know what doesn't work, I know how it's gained and as I said, hopefully - anyway...

Kristina Rosette: Mike?

Michael Palage: Yes.

Kristina Rosette: You've kind of answered the question that I have, but I just want to make sure that you did it in fact, is it for most part our registries going to be clearly able to separate out for example litigation costs related to the rights protection mechanism as opposed to litigation costs associated with other aspects of the implementation?

Michael Palage: As far as legal costs, I mean sometimes they can, other times - again, when you look at Afiliis, during their first couple of years of operation, they did not have a "in-house General Counsel." So...

Kristina Rosette: Right.

Michael Palage: ...you know, some of the - you know, trying to compartmentalize these costs is not necessarily an easy thing to do, you know, particularly when you use outside counsel, well was outside counsel used on the dispute or was it used to in the corporate manner.

Again, depending upon the size of the registries, a lot of registries do not have dedicated in-house legal resources. They tend to, if you will, outsource that and trying, if you will, break those costs down and that situation can tend to be a little more complicated.

But I think with the percentages that had been done here, that something that hopefully most registries can, as I said, use a best guess effort to...

Kristina Rosette: Okay, all right.

Michael Palage: ...sort of compartmentalize it.

Kristina Rosette: All right. All right.

Liz Williams: Kristina, do you mind if I just wrap up that? So Question 21 now reads, "If you are a registrar or a registry, was it necessary to perform blah-blah-blah?" Yes and then, or no. And then if yes, what type of technical work or resources was required as a percentage of the implementation of the new TLD, less than 10%, 10-24, da-da-da-da-da?

Kristina Rosette: That sounds great. The only question I would have for everyone is, do we want - do we need or do we want to separate out registrars from registries?

Peter Olson: You can do that statistically by - they've already told you at the top...

Kristina Rosette: Yup.

Peter Olson: ...what they are.

Kristina Rosette: Yeah.

Liz Williams: Because (we) only want to do and this also for this question is to filter out registrants or anyone else...

Kristina Rosette: Okay. All right.

Liz Williams: ...who doesn't have any of that data.

Kristina Rosette: All right.

Liz Williams: Thanks, Peter.

Peter Olson: Yeah. My question there or my comment is I don't think anyone spent more than 50% on the defensive registration. No registry or registrant, I wouldn't imagine, of the start-up (cost).

((Crosstalk))

Man: It depends on what you're talking about. If you're talking about the implementation budget, then I could see where it could be 50%.

Peter Olson: Okay. Just leave it in there, that's easy, (I mean).

Kristina Rosette: Yeah.

Liz Williams: This is why the results will be secret.

Kristina Rosette: Oh, yeah. I - I'll be shocked frankly if anybody actually completes that question. But anyway...

Liz Williams: You're buying the (biz) if they do, Kristina.

Kristina Rosette: What?

Liz Williams: You're buying the (biz) if they do it.

Kristina Rosette: All right.

Liz Williams: So are you to 22?

Kristina Rosette: Yeah, 22.

Michael Palage: You would - do you mean to say standardized across all new TLDs at the end?

Kristina Rosette: That would work.

Liz Williams: Say that again, Mike, you (unintelligible).

Michael Palage: Standardized across all new TLDs at the end.

Liz Williams: All new TLDs. Got it. Yup.

I think you'll get pushed back on that given purpose and size and...

Kristina Rosette: Right.

Liz Williams: ...you know, reasons for using the TLD.

Michael Palage: Right.

Liz Williams: I think you'll get a lot of pushback on that.

Woman: (Unintelligible) bigger issue about...

((Crosstalk))

Woman: Sorry.

Michael Palage: Should we ask for explanation there?

Kristina Rosette: Sure.

Liz Williams: So then after no, put another box there.

Michael Palage: Yeah. If no, then why.

Liz Williams: Yup. Thanks.

Victoria McEvedy: Is there a lot of debate going on somewhere that I'm not really aware of that maybe someone can just elaborate here about the standardization of the whole process anyway? Is this a - should we - is this question - should we widen this question or...

Liz Williams: The context of the question, Victoria, is on Term of Reference 4 for the new TLDs about the provision of a base contract for our potential applicants and if standardized, our terms of the conditions would be known in advance for new registry operators.

Victoria McEvedy: No, no, I believe I understood the question. I'm just saying is there a wider debate? My understanding is that there's a wider debate going on in ICANN and there's - it's a controversial subject generally about whether or not these should be individually negotiated ad hoc every time. So, I'm just wondering are we tapping into that debate and is there - there should be - these are more (overtly), you know.

Kristina Rosette: So I think that was, you know, that's actually part of this, the statement of work is to see if there's at least in the outline to see to the extent that if the working group recommendation is that yes, there should be rights protection mechanism, yes, this is what it should look like. The next

questions is, you know, is there something that can be implemented across the board. So, I don't think we have any choice but to ask it.

Victoria McEvedy: No, no I mean I'm fully in support of asking the question. I was just sort of wondering if the question (unintelligible) begin with is referring to the more - to the wider issue, you know, saying, you know, that was all.

Kristina Rosette: Oh, so for example assuming that all, you know, TLD registry agreements will be standardized.

Victoria McEvedy: Well, you know, also saying, you know, under discussion is the possibility that they'll all be centralized, you know, and give people an opportunity perhaps to comment on that, perhaps - or just put it in context, that's what I was - it's not a big deal, but I think maybe no one has a view on those...

Kristina Rosette: Yeah. I don't think we really want to open it up to the people to comment on whether the registry agreement should be standardized. But if you think the context would help, sure, then we can put in an additional sentence (and apply it).

Liz Williams: There's only - there's of course one of other (wrinkle) with this, if the Sunrise period are - may will be just an implementation guidelines. So I don't want to preempt the discussion. And there's no presumption at all that it would proceed in this -in the way it has in the past. So, I'm a bit ambivalent about that piece...

Kristina Rosette: All right. Well then from that perspective, I haven't thought about that.

Liz Williams: What was that? Sorry.

Kristina Rosette: I haven't thought about it from that perspective.

Victoria McEvedy: Perhaps just the wording of the question could be clarified. I just think people might sort of miss - I just think it wasn't that clear about - well, it's not a big deal.

Kristina Rosette: Okay.

Twenty three.

Michael Palage: As for changing the wording on this...

Kristina Rosette: Okay.

Michael Palage: ...just as may be used in bad faith or may be used such as - is not really what I'm - what I was driving at anyway. I preferred to say...

Liz Williams: Yeah, Michael, I'm sorry I didn't understand the drafting of the previous question, so please (point it out).

Michael Palage: You didn't understand...

Liz Williams: The way in which it was phrased before was not quite clear. And it's - I tried to separate out bad faith and phishing and malware. So, if you can clean it up to your satisfaction, that would be good.

Michael Palage: How about this? Do you support a post-launch mechanism for registries to process requests to (suspend) domains that are evidently used in bad faith for a phishing or malware attack?

Liz Williams: Okay. For a phishing or malware. Yup.

Michael Palage: I'd love to repeat the question, let's say use in bad faith for Cybersquatting.

Man: Uh-huh.

Well, Cybersquatting is sort of an undefined term I think in a lot of ways. So then we'd have to (unintelligible) try to define what Cybersquatting is.

Woman: And are you...

((Crosstalk))

Michael Palage: (Not that are) evidently used in bad faith.

Kristina Rosette: I don't think you need both. I think if you're going to do phishing or malware attack, I don't think you need bad faith. And that maybe the better way to do it is to separate bad faith out into a separate question.

Man: Uh-huh. There you go. Evidently used in bad faith, period, or...

Kristina Rosette: Right.

Man: ...evidently used for phishing or malware attack.

Kristina Rosette: Right.

((Crosstalk))

Kristina Rosette: ...or in questionably, but I think we need to be, you know, clear that we're talking about, you know, every single person who will look at this domain and how it's used would degree that it's being used in bad faith, or every single person would agree that's being used...

Victoria McEvedy: Well, I think - I mean I think it really needs a little more clarification on that either because basically what you're suggesting really there is it's like - almost like an interim remedy on the UDRP like an injunction on the UDRP, pre the, you know, determination of whether or not there is bad faith like some preliminary determination that such an extreme example that they should be...

((Crosstalk))

Michael Rodenbaugh: So using the word "evidently."

Victoria McEvedy: But I just wonder we should clarify it because there's quite a dramatic suggestion given the current structure, and then just sort of we have to draw it, you know, so if they're (worth while)...

Michael Rodenbaugh: I agree. I'm just trying to start to take people's temperature on it. I understand that, Victoria.

Peter Olson: This is Peter in Copenhagen. I think it's a great question. I just don't think it belongs in this survey. We're talking about pre-rights launch - we're talking about pre-launch, not post-launch.

Kristina Rosette: Well, we're not talking...

((Crosstalk))

Liz Williams: And we're also talking about previous...

Kristina Rosette: Right.

Liz Williams: ...Sunrise period, not new TLDs.

Michael Palage: Mike, this is Palage. I mean based upon our discussions in Lisbon, I support what you're trying to do here based upon security and stability concerns, people that used the DNS domain names to do what you're doing is wrong, and there should be a mechanism to stop it. I guess it's sort of - I think the square peg in the round (hole) as Peter says, is this more of a security and stability question as opposed to protecting the rights of others. And I think that's where the potential disconnect here is, I agree with what you're trying to achieve; I just don't know if it necessarily fits into this survey as Peter was trying to articulate.

Michael Rodenbaugh: And I think we had discussed putting this in the survey and agreed on it generally last time or the call before last time. I don't understand what the harm is in asking the question. I think we also have agreed that we're not limiting our discussion or our report necessarily to, you know, recommendations up to the point of launch.

We certainly could consider recommendations post-launch for other mechanisms to protect the rights of others.

Liz Williams: Michael - Mike, just to be clear, this is a revision exercise, not a future one.

Kristina Rosette: No.

Michael Rodenbaugh: I don't think so.

Liz Williams: We have to - the survey is about describing what has happened in the past.

Michael Rodenbaugh: But our work is about how do we apply that experience to the future. So I just felt like since we're asking a survey, this is one thing that I would like people to be thinking about as a possible option, why not ask them about it.

((Crosstalk))

Liz Williams: Well I think that's fair enough given that we're asking other questions about whether - you know, we're asking for comments about other changes in future. I mean I can't see why we can't ask the question. I just think it should - the language ought to be clarified myself.

Michael Rodenbaugh: Okay.

Man: (Unintelligible) with the question being right there, and then the way it's kind of presented is that it implies - given everything else that's up to this point (have) implied that we're talking about names that have - that

are, you know, protected by some kind of intellectual property right or some other right. But yet, that isn't very - but yet, the way the question is worded, it sounds like it could be any string that might be using bad faith for phishing or malware. And in fact, you know, large - I won't say most - I believe it's most, but I won't say it's most, but I know that for sure, but a large number of names used for phishing or malware are not trademark...

((Crosstalk))

Michael Rodenbaugh: Well, I don't think it should matter whether they were corresponding directly trademark or not, the point is to get it down.

Man: But then that gets into then why would that question be here in this particular survey.

Liz Williams: Mike, I've got a solution for you if you like. If the sentiment of the group says leave it in - we leave it in, if the sentiment of the group says take it out, then I'll take it and I will produce a note for the final report that says these question came out and were discussed by the group, and we need further advice from the stability and security committee or some other discussion. It won't get lost, that's the point.

Michael Rodenbaugh: Well, I just, you know, if we're asking questions now, I actually thought we already agreed to ask a question along these lines, that's why we got it in here in our final review of the draft. I was just suggesting wording changes to make it more clear. I think Victoria and others are supporting the notion of least putting a question in with more clear wording, so let's just make it more clear.

Liz Williams: Yeah, I'm very happy to go and I'm happy to comment on the wording after we get off the call.

Woman: Thanks.

Kristina Rosette: All right. Mike, here's your question.

Mike Palage: Thank you.

Kristina Rosette: You're welcome.

Does anyone have any questions or think that needs clarification? I think it's a really densely worded question, I understand it. I think it's clear. But it's people would have to think about it.

Man: Which one we're talking about...

Kristina Rosette: Twenty four.

All right. Twenty-six. Questions, comments, revision?

All right, 27?

((Crosstalk))

Kelly Smith: Yeah, this is Kelly at 26. Do we mean suitable or do we mean sufficient?

Kristina Rosette: Mike, what do you have in mind? I think that was your question.

Maybe he dropped off.

Michael Rodenbaugh:...to be suitable protection...

Woman: Did you mean like the only...

((Crosstalk))

Woman: ...I'm reading this as yes, that's suitable and there are also others that are suitable. Or are we getting to is this enough?

Woman: Should it be combined with 22 given that this...

Woman: The same question?

Woman: This is about a central - a geographic region rather than just general generic.

Man: Yeah. Kelly, what I was trying to get at was where I think the Sunrise works is in connect - it works much better where you have it with a defined database. For example, when .US launch used the Sunrise...

Kelly Smith: Uh-huh.

Man: ...I thought that worked well. It's scaled well, it was implemented, and that I think is what's key.

The problem that I've seen in doing global launches such as what Afiliis undertook and in part what Mobi did is trying to sit there and if you will have some mechanism to identify some registrations that are

in isolated countries. That is one of the things - that is what I was trying to articulate.

So, if you want to change suitable, I'm not passionate on that word. You know, if you want to change it, you can change it. It's just that that's the concept I was trying to (unintelligible) with this question.

Woman: Okay. If I can think of a better word, I'll just - I'll email the group.

Man: Yup. No objections to modifying.

Kristina Rosette: All right, 27, I think is going to confuse a lot of people, only because they're not going to be familiar with the trademark classification.

Man: Well then what to do is how it would be associated with the particular goods and services associated with the mark instead of, you know, how about that. And let's dumb it down for the average person, you know, because again I think as we discussed earlier, Kristina, I think what we're trying to do is look at if you will existing trademark law...

Kristina Rosette: Right.

Man: ...which goes back to the WIPO - the WIPO-1 recommendations which talks about not creating new rights in cyber space that did not exist in the real world. So I think, you know, associated with the goods and services - the goods and services associated with the mark.

Kristina Rosette: Or how about would a Sunrise registration process be A and then suitable or whatever we decide. Rights protection mechanism for a

TLD, if the TLD community is associated with the specific goods or services - you know, I don't even know what you mean by specific.

((Crosstalk))

Man: Well, somebody I think this - hold on, I'll have to go and look at my original question as I submitted them because I think...

(Margie): Kristina, this is (Margie). Maybe the example will help - yeah, you know.

Man: Yeah.

(Margie): Yeah. If you say, you know, cars or something, you know.

Man: Yeah, I mean here's - the way I originally - and this is the way I originally wrote the question, is the Sunrise process a viable IT protection mechanism where the charter or community of the TLD served can be associated with the specific international trademark classification.

So for example, let's just suppose I came up with a TLD called .medical, right? So what I was trying to articulate in this question is in connection with the TLD for .medical, only those registrations that would fall within that class would be eligible for registration. So that if I had a registration for diabetes using Peter's example of SOX, right, I would not qualify to register in that TLD because the community is the medical community and what I have is a registration for SOX, and that doesn't fit.

And that really is some of the gaming that we have seen to take place, people taking commonly used words and phrases and associate them with other goods as, you know, Mike Rodenbaugh could tell you - was it, Mike, different oils or something like that?

I mean, so that's what I was trying to articulate here is I do think the Sunrise is a viable mechanism when you have a community that is narrowly defined. So again, the travel industry, if you were - if you're providing goods and services in the travel industry, that registration would account. But, if you're a car manufacturer or a concrete manufacturer, you would not be able to avail yourself of the (unintelligible) to a priority right to registration.

Tim Ruiz:

And this is Tim. And I don't disagree with this question; I just wonder if what we - so that we don't get skewed results if we don't need a third option that says no opinion or something to that nature so that if some will not - no matter how we word this, some are not going to get it.

And instead of having them randomly select yes or no in order to feel like they've completed the surveys, they have other option, you know, no options so that if they don't understand it or maybe really don't have an opinion, we don't end up with skewed results because they either left it blank and we don't know if they just, you know, didn't see or skip it or that they're saying yes or no because they aren't taking a guess.

I think that's a pretty valuable contribution.

Kristina Rosette: Yeah. Yeah, that's a great idea.

Tim Ruiz: (Isn't that) they're all the general observation for several of those questions?

Woman: Uh-huh.

Man: Well I think that's what you were suggesting, Tim, not just only this one but some of the other questions as well, correct?

Tim Ruiz: Right, right, exactly.

Man: Yeah. I think that's really good.

Kristina Rosette: Yeah.

Liz Williams: Tim, I - could you just send me when you look through the survey, there's two things. One, Michael, I need to get the amended (takes) that you've just suggested if I want to agree to that.

And secondly, Tim, if you could just cross your I over each of the questions and say insert marker question that says no comment and just define 1, 3, 5, 7, 9, could do with an additional box that says no comment, no idea, from your point of view.

((Crosstalk))

Liz Williams: Thank you.

Michael, did we finalize your text there on 27?

Michael Rodenbaugh: I'm going to send it to the list and...

Woman: Okay, thank you.

Liz Williams: Okay. Thank you.

Michael Rodenbaugh: ...that way.

Kristina Rosette: All right. Eight - I'm sorry, 28. Should we change owners of common-law marks to owners of unregistered marks? Victoria, does that apply more accurately or you...

((Crosstalk))

Victoria McEvedy: I think it's a little wider. I think it's better, yeah.

Kristina Rosette: Okay.

Man: (Foresee the local interest).

Victoria McEvedy: Yeah.

Kristina Rosette: Okay, yeah. So let's see that then.

Liz Williams: So it should be owners of unregistered marks versus owners of business names?

Kristina Rosette: Correct.

Liz Williams: Yup, thanks.

Woman: I think using instead of common-law marks.

Kristina Rosette: Right. So it should be owners of nationally registered trademarks versus owners of unregistered trademarks versus owners of business names.

Liz Williams: Right. Yup, got it. Thank you.

((Crosstalk))

Liz Williams: Thanks, (Kelly).

(Kelly Smith): Sure.

((Crosstalk))

Victoria McEvedy: Although often the unregistered marks are business names. I just - I don't know if it's - is there a distinction here?

Liz Williams: Not today, Victoria.

Victoria McEvedy: I don't think there's a distinct - I mean to my mind there's no distinction between those two groups, so I don't know - I don't really know (where that came from).

Maybe Peter has some - maybe Peter can comment to that.

Kristina Rosette: All right.

Do we need - does anybody think that we need to have kind of a blank box at the end for any other comments that, you know, please provide here any other comment, do you think we should consider?

Man: Why not.

Woman: (It doesn't hurt).

Kristina Rosette: All right.

Liz Williams: And that means we have (a neat) of 30 questions because we've added in an extra one.

Man: That's the one that - I asked for an extra one as well.

Liz Williams: Yeah, exactly.

Michael Rodenbaugh: (Unintelligible). I'm guessing about 30. (Okay).

Kristina Rosette: All right.

Liz Williams: Thanks, Mike.

Kristina Rosette: Realistic - what's the realistic deadline for everybody to kind of post additional revisions and get the dialogue going? I know they we're running up against, you know, some reserved - the reserved names working group meetings, there's a counsel meeting on Thursday which I think is a two-hour one, is that right?

Liz Williams: Yup.

Kristina Rosette: So, you know, ideally I'd like to have everything done before that counsel meeting Thursday morning. Does that - is that workable for everyone who's on the call?

Kelly Smith: It is for me. Kelly.

Man: It is for me.

Woman: Yeah, for me.

Kristina Rosette: Right. Does anybody need more time, let's put it that way?

Avri Doria: What time does that (unintelligible) for us to have things to do for that?

Kristina Rosette: The call is 8:00 am East Coast time on Thursday morning. I have no idea where you are, Avri. Sorry.

Avri Doria: So you want the questionnaire to be released by then or...

Kristina Rosette: No, no, no.

Avri Doria: ...you would - or just all the comment before that meeting?

Kristina Rosette: Just that whatever Liz has by that point is what goes in. So in other words we...

Avri Doria: Uh-huh.

Kristina Rosette: ...to the extent that people have suggestions that they've been discussed and agreed on or revised and agreed on by that time.

Woman: Liz, I don't know if you're making changes real time as we discuss them, but...

Liz Williams: Yup.

Woman: ...(can we send) a further draft just so...

Liz Williams: I can. Just - would that help everyone? I'll be making changes as we've gone along and I put square brackets in questions where, you know...

((Crosstalk))

Woman: (It'll help). I don't want to kind of (see) an email (unintelligible) change when I've forgotten we've already discussed on the call.

Woman: Well, that would be great.

Liz Williams: Okay. I'm going to send that around in a minute.

Woman: Thank you.

Liz Williams: And there was one other definition that we needed to put in, Sunrise da-di-da-di-da-di-da. Just bear with me one second just when I quickly run through it.

Okay, anyone else want to make any changes before I send it?

Okay, on its way in about (unintelligible).

Man: You had my suggestions?

Liz Williams: Yup.

Kristina Rosette: Right.

Liz Williams: But I just need to finalize wording. And it's 28 and 29 for you.

Man: Okay, I've set them to the entire group so, you should have them.

Kristina Rosette: All right. Well, thank you everyone. I very much I appreciate it. I think this has been a really productive call and I think it's really going to reflect in the survey.

Man: And next week we can talk about something else, right?

Kristina Rosette: Well I hope so, otherwise there's just going to be a recording of me sitting here and I'll have my assistant running in to push the button.

Woman: Kristina?

Kristina Rosette: Yes?

Woman: Not Kristina, everyone, the deadline to having this back is what because I'm going to add this to the note because there are some people who are not on the call.

Kristina Rosette: That basically we need to have to you final agreement on any proposed changes by - I don't even know whatever 8:00 am Eastern Standard Time is on Thursday. I don't know what that is in UTC.

Woman: Probably noon.

Kristina Rosette: Is that noon 1:00 TC - UTC or 1?

Woman: Is it noon UTC Thursday, the what, the 12.

Kristina Rosette: Yeah. So that gives everybody a day and a half, roughly.

Woman: Cool.

Kristina Rosette: (Unintelligible) would be better everyone, but I realized...

Woman: Uh-huh.

((Crosstalk))

Woman: Okay.

Kristina Rosette: All right. Thank you, everyone.

Woman: Thanks. Bye.

Woman: Thanks. Bye-bye.

Kristina Rosette: Bye-bye.

Man: Bye-bye.

END