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

27 February 2007

19:00 UTC

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http://gnso-audio.icann.org/PRO-wg-20070227.mp3

on page

http://gnso.icann.org/calendar/#feb

27 February GNSO PRO Wg teleconference 19:00 UTC

Attendance:

 Kristina Rosette - IPC Chair of the working group

 Kelly.w.Smith - IPC

 Lance Griffin - IPC

 Peter Olson - IPC

 Philip Sheppard - CBUC

 Mike Rodenbaugh - CBUC elected Vice Chair 27 February 2007

 Frank Schilling - CBUC

 John Berryhill - Registrar c.

 Tim Ruiz - Registrar c.

 Jon Nevett - Registrar c.

 Margie Milam - Registrar c

 Jeff Neuman - gTLD Registries c.

 David Maher - gTLD Registries c.

 Mike Palage - gTLD Registries c.

 ICANN Staff

Glen de Saint Géry - GNSO Secretariat

Abent- apologies:
Liz Willams - Senior Policy Counsellor

Coordinator: Thank you all for standing by. This is the conference coordinator. At this time the call is being recorded. Please go ahead.

Glen Desaintgery: Fine.

(Cristina), I will do the roll call.

(Cristina Rosetta):   That would be great.

Glen Desaintgery: We have got (Victoria McEvedy) who is from the Non-Commercial Users Constituency. Am I right, (Victoria)?

(Victoria McIvety):   That's correct.

Glen Desaintgery: Thank you.

Avri Doria, nominating committee appointee to the GNSO council.

(Kristina Rosetta), IPC Constituency.

(Frank Schilling), Business Constituency.

(Lance Griffin), IPC.

(Kelly Smith), IPC.

(John Berry-Hill), Registrar.

(Margie Milam), Registrar.

(Philip Shepherd), Business Constituency.

(Tim Ruiz), Registrar.

Mike Rodenbaugh, Business Constituency.

(Jeff Newman), Registry Constituency.

(David Maher), Registry Constituency.

And (Peter Olson) from the IPC.

As well as (Mike Pellage) who belongs to three constituencies but said in his statement of interest that he was on the working group in an individual capacity.

(Cristina Rosetta):   All right, excellent.

Before we get started, I noticed, if I'm keeping track correctly, that there's no one from ISP Constituency. I know that (Mike) had sent an email to the folks over there to encourage any volunteers. Is there anybody on the call who's got a good relation with the folks who head up that constituency and wouldn't mind reaching out?

(Mike):   Not the IPC but the NCUC you mean?

(Cristina Rosetta): No, the ISP.

(Mike): Oh ISP, sorry.

(Cristina Rosetta): Yeah.

(Mike): No, I had not sent a note to them.

(Cristina Rosetta): Oh okay, all right. All right.

The first item on the agenda is I thought it would be appropriate given that I know I will have at least one scheduling conflict in the future, if we went ahead and appointed a vice char. Someone who could assist in keeping the working group on track and also run the meetings when I'm not available to do so.

Do we have any volunteers for that?

Mike Rodenbaugh: This is Mike Rodenbaugh, I volunteer that.

(Cristina Rosetta): Excellent.

The next thing that I had put on the agenda. And the agenda is really more as a guide post; I don't view it to be written in stone. The next thing I put on the agenda was to get a rough sense of what we're hoping to accomplish and where we would like to be by the Lisbon meeting which is scheduled to start I believe on the 24th of March, which gives us roughly a little over a month.

And I was wondering whether anybody had given any thought to that. I have some thoughts, but before I went ahead, I wanted to see what everybody else had in mind.

Okay.

What I was thinking would be, a realistic, would be to have all of the individual summaries of the various processes and additional information pertaining to each of the TLDs in place and to the extent that it's (unintelligible) kind of rough conclusions as to where there tends to be unanimity in the sense of - with - for a particular type of process, all of the registries, (accept one), follow this, or everybody follow this, so that we can kind of get a sense as to where we are going with some of the more substantive issues. And again, to the extent that while we're going through this process, we can identify that this, for example, particular issue that came up regardless of what the protection mechanism is, regardless of how widely it was promoted, regardless of any number of factors.

What are everyone's thoughts on that?

(Philip Shepherd):   (Cristina), it's (Philip).

I think you're probably right. I think we do need to set realistic goals of what each workgroup can do. I mean, as you know, the work of this group, like another couple, are feeding into the TLD thing (and idea) that the timing will be the max as possible. But it's also doing other things from the consortium later. And I just think we have to be realistic in terms of what is achievable in terms of the work in front of the time in front of us.

(Cristina Rosetta):   I certainly agree.

Anyone have any other thoughts or suggestions where - what they think is achievable within the next month?

Right.

Why don't we tentatively plan on that? And this is actually a pretty good (lead and) I'm going to move some topics around.

One of the things that I've been giving a lot of thought to was, how do we organize this work in a way that is most productive and efficient for everyone in terms of their resources, in terms of their time, in terms of having an end-product that will be frankly most user-friendly for not only the members of the working group in order to arrive at consensus or lack thereof, depending, and then be in a position to make recommendations to the council.

One of the things that I was thinking that might be a good way to go about it, and we had touched about on last week, was to kind of drill down through, for example, the analysis of the existing rights protection mechanism by TLD, in the sense that each member of the workgroup, or in some cases, multiple members will be responsible for collecting and analyzing some rising information for the relevant TLD.

And that from there, you piggybacking off of the outline that Liz had provided that perhaps one way it will ultimately shake out -- and again, I could be completely wrong -- but one way that things will shake out is we can then kind of consolidate those summaries into, for example,

rights protection mechanisms that were more along the lines of kind of a notice basis, like for example the IT claims that were used dot-biz, for example, something to the extent that we can identify a clear division amongst the TLDs that one part of the ultimate report was focused on those.

Another part of the report was focused on perhaps some of the issues - some of the more traditional or what I think of as traditional (Sunrise) mechanism, in other words, pre-registration prior to launch based on ownership of certain specifically identified IP criteria.

And then a third section would be additional measures that had been used or considered and for whatever reason had not been pursued, as well as perhaps additional measures that members of the working group in working through their various TLDs may come up with.

You know, I was - does that seem like a workable -- for lack of a better word -- way to go about it?

Mike Rodenbaugh: This is Mike Rodenbaugh.

I certainly think so. I would just say that I'm not sure necessarily that it will take a month just to put together summaries of what's out there. I think we should certainly try to do that within the first two weeks and then ideally have a call or two before Lisbon so that we could have more of a plan as to what we want to discuss in Lisbon.

(Cristina Rosetta):   Right, right. Well, I was certainly thinking that toward one of the things that I also wanted to talk to everybody about is that in terms of analyzing the quantitative and qualitative success, in some instances,

and perhaps in all, it will be necessary to go back to the original registry and consult with them to get access to the particular information that would frankly be required.

It may be that their statistics out there for example on the number of (Sunrise) registration in, I don't know, say, dot-movie, versus the number of registrations overall. But I don't know that. So part of what I was thinking that we could build in in the latter part of the upcoming months was, at a minimum, initiating the consultations with the registries to gain that information.

(John Berry-Hill):   Well, we do have on the task force itself -- this is (John Berry-Hill) -- (Michael Pellage) who coordinated the (Sunrise) program for dot-info, and we also have, you know, (Jeff Newman)…

(Cristina Rosetta):   Right.

(John Berry-Hill):   …run the program at dot-biz.

(Cristina Rosetta):   Right.

(John Berry-Hill):   So, you know, in terms of consulting experts, we have considerable expertise within the group itself.

(Cristina Rosetta):   Oh absolutely. And I know - I don't know whether it's gotten through. I know that (Jeff) had been trying to post this morning the dot-biz proof of concept report and it apparently got stopped by the filter because of the size. And I haven't…

Man: It got through to me.

(Cristina Rosetta):   It got through.

Man: Yes. And (Peter)…

(Cristina Rosetta):   Oh good.

Man: …got it, yeah.

(Cristina Rosetta):   Okay, good, good, good.

                  Did it get through to everybody on the call?

Man: Yes.

(Cristina Rosetta):   Oh okay.

(Mike):   Yeah.

                  (Cristina), this is (Mike).

(Cristina Rosetta):   Okay.

(Mike):   When you talk about success of the different programs, I guess successes in two eyes. Is it success in behalf of the registries it may or may not have gotten to? Is it success in the eyes of the rights holders? What are - I'm just - my question is, who - how would you determine success?

(Cristina Rosetta):   I don't think we're necessarily using an absolute exclusive standard in the sense that I think all of those factors need to be taken into account, and as indicated in the outline, these are issues that we'll need to talk about for each of - you know, what exactly were the problems that these were intended to accomplish? Did they do it? What - to what extent did a particular registry consider its implementation of a protection mechanism of success? And why? To what extent did for example IP owners consider a particular - protection mechanism to be a better one in terms of what their goals were?

And you're absolutely right, I mean there's no - at this point, I don't see that we're really committing ourselves. And in fact, I don't necessarily think at this point it would be a good idea to commit ourselves to saying, this is the only standard of success that we're talking about. And we're actually kind of looking at kind of quantitative and qualitative.

(Jeff Newman): This is (Jeff), if I can add just to (Mike).

The, you know, each one of us in this task force has some - or a lot - a number of task force have some really strong opinions on this. All of us - I think a lot of us have different, as (Mike) said, different definition of success, whether qualitative or quantitative.

For example, you know, as (Mike) said, some of the registries consider success to just get through, it could be considered as a necessary evil and if you can get through without being sued, that's success.

Other registries may think that if we made some money off of it, that's a success. Whereas even on the IP owner side, you know, not to put words on (Mike's) mouth, but I've read some posts where he doesn't - didn't use any process where an IP owner has to pay money for protection is a failure. Now, (Mike), I'm putting words in your mouth.

But what I'm getting at is it's really difficult to - we can easily get the data and you'll see like an approved concept put forth that I sent on behalf of biz, it's got probably every number you possibly want, broken down by Registrar, including the amount of money we spent in marketing, the launch of dot-biz, you know, the millions of dollars and how that's broken down between staffing. And so the numbers are there. It's going to be very difficult for all of us as a group to remain objective, and that's just what we kind of need to be.

(Cristina Rosetta):   Oh absolutely. I agree.

Man: (Cristina) - I think (Jeff) raises a good point and actually (Mike) posed a very good question. I mean, for me, the starting point I think would be (unintelligible) in each registry when we're asking for figures from them -- what was their objective in the (Sunrise) period? (Unintelligible) that we will get a view from the Registry. And they may change.

And then I think the second criteria you would want to look at naturally would be the external effective policy, i.e. the rights holders, and see if some sort of view in terms of their take on that can also be noted, which is for later analysis may be a third category to look at in terms of, you know, unintended consequences and those sorts of things which is a bit less tangible.

But I thought certain the first one should be the right question to ask in terms of the Registry's own objective and therefore their own evaluation -- followed by those the affected parties.

(Cristina Rosetta):   No, I think that's a great idea.

Is that, for Registry folks, is that something that you could reach out to the constituencies and identify representatives for each of the registries and have them provide us with the statement for -- I hate to use statement, that sounds so formal -- but to the extent even that there may be pre-existing documentation out there that would identify what their goals were, what they viewed to be success.

I mean obviously, you know, to a certain extent, part of everyone's answer, and I think we need to get beyond this, is fine with the (RSC).

(Jeff), I had a question -- we had talked a little bit about this in the last call -- are all of the registries required to complete and post these proof of concept reports? No?

(Jeff Newman):   Only the ones that were launched in 2000. I don't think - well, I haven't looked at the reporting requirement of this - the new sponsored TLDs…

(Cristina Rosetta):   Okay.

(Jeff Newman):   …like (Moby).

(Cristina Rosetta):   Uh-huh.

(Jeff Newman): And it may be included in their monthly reports, it may not be.

(Cristina Rosetta):   All right.

(Jeff Newman): But, yeah, info, biz. Org had some proof of concept reports too, although I guess it's really not relevant during the transition, there was no IP protection.

(Mike):   There was no.

(Jeff Newman): Right.

              So, but you have info, you have biz, you have name, you have pro…

(Mike):   (Unintelligible) the museum.

(Cristina Rosetta):   Right.

(Jeff Newman): Right.

(Mike):   And if you want, (Cristin), it's www.icann.org/registries/poc - in there, are all the reports, but as (Jeff) noted, except for biz.

              And I think pro is missing their proof of concept as well, but all the other registries' proof of concepts are there.

              That being said, when you read through them, they generally all say, you know, we think we did a good job, you know.

              Now, again, that, you know…

(Jeff Newman):   Just to correct, the biz, we actually (unintelligible) actually we finished it about a year later, we actually (unintelligible) not qualified whether it's a good job or not, but we definitely indicated the problems and (unintelligible).

So, just to correct the record, (Mike).

(Mike):   There you go.

(Cristina Rosetta):   Well, in order to get not only what the Registry considers to be success, Registry (unintelligible) what, for example, the IP owners (unintelligible) for example what the (unintelligible) you know, in many cases were things that the main point of contact for many IP owners, what they consider to be success, as well as some of the issues.

And I think frankly we need to do a little cross-pollinization, I mean I think it's important to find out, for example, from the Registry perspective, did they think - well, and again, I mean to the extent that you can identify particular areas in which you won't necessarily have constituencies or entities agreeing as to whether or not something was a success or not, that might be another way to go about it.

Do you think at this point - one thing that seems clear to me is that maybe what we need to be doing is to have the working group members from each constituency -- and again, registries I think obviously will have a bigger burden. But to come back in the next week with kind of, here's what we considered to be, hey, we consider this a success, yes, no, sort of, maybe, yes on something, no on the others, here's on what.

And also because we need to get this information as well, what the issues were that these mechanisms were intended to protect. As well as many issues that may have developed during the course of the implementation. And if we do it that way, that might be a more efficient way to (get). Some of the - all of the - much of the information possible at once.

John Nevitt: (Cristin), this is John Nevitt. How are you?

(Cristina Rosetta):   Good, thanks. How are you?

John Nevitt: Good.

I think it's going to be a lot more difficult to get an evaluation and we could probably be a lot easier, at least in the first round, to get what the different registries did for their (Sunrise) period, just as a factual basis…

(Cristina Rosetta):   Right.

John Nevitt: …and then probably follow up with the evaluation thereafter?

(Mike):   I agree with that, it's (Mike) (unintelligible). I do think we should get the constituencies starting to think about, you know, what are the principles that they're intending to address in this working group, you know, to the extent it goes beyond the obvious…

(Cristina Rosetta):   Right.

(Mike):   …especially.

(Mike Pellage):   And this is (Mike Pellage).

I guess my question (unintelligible) the registries are getting that having a list of homework handy to them. In addition to working with registries, I also obviously work with brand holders. And part of what I've done with a number of brand holders is actually, if you will, work with them to, if you will, maximize their opportunity to select their name -- not necessarily from a cyber squatter, but in number of cases, actually from another party that may hold a particular mark.

So what would be potentially helpful from the trademark owners on this call would be, if they could share with the group how they, if you will, engaged in mechanisms to, if you will, maximize their opportunities. I know a number of registrars offered limited (Qs) and things like that. So perhaps they could sort of share their expertise in that area as well.

(Cristina Rosetta):   Oh absolutely. And in fact I think this is probably an issue - an area in which all of the registries I think will have - I mean, I'm sorry, all the constituencies have something to contribute and should contribute. And to the extent that Registry folks thought I was putting everything (unintelligible) I apologize. I certainly think that, you know, the IPC and the Business Constituency need to come back with, you know, here's what we thought, here's why we thought it, here are things that we did that may not necessarily been envisioned by the system. That type of thing.

I mean, absolutely, (Mike), I think that's a great idea.

(Mike): I agree. I think at this point that it has to be pretty general until we get some of the factual information from the Registry to the Registrars.

(Victoria McIvety): Can I just jump in? (Victoria McIvety).

(Cristina Rosetta): sure.

(Victoria McIvety): I'm just wondering, and I'm new to the group, but I'm wondering, is it appropriate at this stage to have another perspective from, of course, the consumers and the non-commercial users and so forth? Or do you think that that would perhaps come at us further down the trek? Have we got rights holders plus Registry? I know that we're looking at Registry's, you know, actual experiences. Do you think it's appropriate at this point to balance that up or perhaps later in the process?

(Mike): This is (Mike).

I mean my comment would be I think that it's a fair assessment. I mean part of the problems that I've seen from some of the, if you will, users, is regarding some trademark owners that have trademarks (unintelligible) words and phrases.

One needs to look no further than the (unintelligible) fundraise launched where…

(Victoria McIvety): Yes.

(Mike): …there were over 200 applicants claiming trademark rights in the words "sex" and "hotel."

So I think in managing this process, we need to - we will find some balance so that it will withstand that further scrutiny later on in the process if in fact this report - when this report goes to the whole council.

(Cristina Rosetta): Right. And in fact, (Victoria), my initial inclination is that I'm certain that the non-commercial users constituency has some strong views on issues that may have developed out of these protection mechanisms.

(Victoria McIvety): Uh-huh.

(Cristina Rosetta): And I think it's critical for this report to be balanced and to be comprehensive to have those considered.

(Victoria McIvety): I mean obviously the constituency I'm sure, I don't know what their views are because I'm new to them, but will have views. But I'm just saying, is it appropriate even if - to perhaps identify as we are sort of, you know, rather than just hoping that the comment will add that, is it appropriate for us to go and get, you know, feedback because it's kind of what's happening at this stage.

((Crosstalk))

Woman: Yeah, I was going to say that it's actually essential to, from the beginning (unintelligible) that we need to evaluate the success (unintelligible) consideration should be part of that. So to me it strikes me as something that we should really be doing from the very beginning.

(Frank Schilling):   Yeah, (Cristina), it's (Frank Schilling), if I could just quickly chime in as well. And that's, you know, right up my alley.

You know, I think, you know, somebody asked what would be, you know, a definition of success? I think, you know, a definition of success would be to, you know, include some measure of balance that maybe didn't previously exist where, you know, there's some kind of a provision that's - at least a line that speaks to the potential for corporate overreaching, you know, in trademarks and generic words and phrases.

(Peter):   This is (Peter) in Copenhagen.

I think that this is very interesting because I would call it one of the failures of .eu. We're talking about successes here.

One of the failures of .eu was the fact that we made a system whereby it was totally open to abuse by the cyber squatter. I think that - I would expect that more than half, probably more like 70% of all the (Sunrise) applications, they were by false trademark owners…

Woman: Yeah.

(Peter):   …you know, who had purchased these (unintelligible) you know, instant trademark registration.

(Mike Pellage):   Well, I guess - this is (Mike Pellage).

I mean one of the things that I - I share your concerns on the attempts that some people undertook to maximize their opportunity to register a

trademark. I guess the hesitation I would have with this group is, you know, the (Benelux) is it's a nationally recognized mark. And I think we as a group need to at least exercise some discretion in talking in rather negative terms, saying that these registrations were fake.

(John Berry-Hill):   Right, yeah.

((Crosstalk))

(John Berry-Hill):   This is (John Berry-Hill) again.

I mean, you know, that's nothing new in for - just to give one example, in the dot-biz rollout, you know, a very well-respected paint company in the United States filed a trademark - for a trademark registration in a foreign country that grants them quickly on paints.biz and successfully took the domain name for basically the word "paint" from a domain registrant.

But, you know, it's more a reflection of the short-sightedness of some of these mechanical rules that have assumptions about, you know, people who own trademark registrations versus people who don't.

Because, you know, anyone with the right amount of money can buy a trademark registration somewhere and, you know, I think that that's something we need to look at going forward with respect to mechanical rules, because a number of people over the years in anticipation of (Sunrise) mechanisms have positioned with, as (Mike) said, perfectly valid legal documents in a number of countries, for the purpose of obtaining domain names.

(Peter):   I totally agree. And I agree that the - this is (Peter) in Copenhagen
                   again - that that's part of this process. And I think that also like paint as
                   you probably know is descriptive for paints (Class 2) but is, you know,
                   not descriptive for clothing or something like that.

                   The problem with .eu was that there was a whole group of people who
                   abused this (Ampersand) where they would like - if they wanted
                   (unintelligible) they would file an application for (NE Ampersand WS) in
                   (Class 13) or whatever.

                   You know, blatant, blatant abuse of the system.

Man: Or they'd apply for things that were completely unrelated, right?

(Peter):   Right.

Man: They can apply for (unintelligible) but for clothing. A good I'd like to go
                   around is the Yahoo Mail registered for (acetylene).

(Frank Schilling):   Well, clearly - you know, this is (Frank Schilling) again - clearly I
                   didn't (unintelligible) if we can protect the genuine rights of trademark
                   owners. But you're not going to get a valid system where everybody
                   says this is the (current) process, this is equitable, if generic
                   commercial registrars of generic dictionary words and phrases are sort
                   of held out wrongly, held out as cyber squatter.

                   You know, anybody - and there's a decade of case law that says any
                   registrant can register a generic domain name and use it within the
                   law. And as long as, you know, sort of commercial registrants are sort
                   of held out to ridicule as these, you know, as these cyber squatters,

you're not going to get an equitable situation where, you know, everybody's happy. I think you'd have a lot more respect and a lot more, you know, (unintelligible) of genuine trademark holders if there were some balance, you know, provided to generic commercial domain registrants.

(Peter): This is (Peter) in Copenhagen again.

I think that the - what we have to do is - hello? We have - we the (Sunrise) until now has been one where the trademark owners ended up with active domain name registrations.

What I think the trademark owners are more interested in really is a negative list, like a reserve name which could be pulled out if they wanted them. But I mean basically what they want to do is just make sure that other people don't take their names.

(Jeff Newman): This is (Jeff Newman), if I can get in the queue.

(Cristina Rosetta): Sure.

((Crosstalk))

(Jeff Newman): I think one thing we also need to consider here is kind of being lost in the shuffle, is as a registry, we don't want names locked out of the registry. Our goal is to have users, have people actually develop live Web sites.

To us it does no good for, let's say, Apple Computer to reserve apple.biz, have no one being able to use apple.biz when there could

be an apple farmer or small business that manufactures apples or farms apples or distributes them that could actually cover dot-biz site.

We cannot lose sight that TLDs don't want to be carbon copies of each other, and although trademark owners need to protect their marks, I completely understand that.

We are starting new TLDs to promote competition and to promote active Web sites, not names that are withheld. I mean it would be ridiculous to apply something like this to a keyword system, right, where, you know, I mean Yahoo, if I wanted new star, I could just not use it but I can - I could just have Yahoo for free or for a low price to lock out anyone else from getting that key. It just doesn't promote use of the system.

It's very, very crucial from a registry standpoint that we're not each carbon copies of each other and that we actually have user domain.

Man: You know, there aren't that many names that claimed in the (Sunrise). I mean would it be so hard to have sort of, you know, a flash panel ensemble of, you know, experts who could weigh each, you know, (Sunrise) application, look at the intended use, look at the name and face value, and make a judgment call rather than, you know, sort of like a live ongoing (UDRP-ish) panel, you know, a three-person that reviews these - the names and just sort of gives them a sniff test, if you will.

Man: We're, remember, we're registries. We're not - we have technical expertise, right? We don't have expertise in intellectual property law. I mean each one has a lawyer probably that works for it. And we don't -

we certainly don't have the ability of registries to actually, you know, figure out when we get two applications, which one is actually going to use it, and we'd hope that anybody who actually does register actually use the name.

I mean, really, we need to kind of - we need to think of it at the macro-level, not necessarily down to the micro-level of how can we make sure, you know, intellectual property owners are happy. Because if that's the case, then it will not happen in this field.

(Mike):   I'd like to comment on that after -- I think (Tim Ruiz) is in the queue, I'd comment after (Tim).

(Cristina Rosetta):   Who's that, (Mike)?

(Mike):   Yes.

(Philip Shepherd):   (Philip) in the queue as well.

If I may too jump, all I really wanted to say, (Cristina), was a point of process really. As much as I hate to fight for a jolly good dialogue, I wondered if looking at your agenda, you are more on the planning mode for work rather than discussing substance.

(Cristina Rosetta):   Well, I am, and I think these are all really good important contributions, but I do think that we do need to set out at least for the next couple of weeks what the work plan is.

And what I'm hearing from everyone is there's really kind of two assignments I think for everyone and we'll need to allocate how to go about them.

But I do think that constituency members should go back to their constituencies. I realized that - and we should talk about kind of timeframe we want this information back. But - and registries obviously will be separate because it will be on a per TLD basis.

But I do think that for the constituencies, we need to have exactly the type of statements we've been talking about, from your perspective, what issues were these preventive mechanisms designed to solve? From your perspective, were they a success? If they were, why? If they were not, why not? If some were and some weren't, why were they, why were not others? What implementation problems came up, you know, and also just really looking into this outline because this is all really critical information that we have to have, and I think frankly that the best way to make sure that we get it is to go back to constituency level.

And I can certainly - is there somebody who'd be willing to kind of take a stab at drawing up a little kind of request for comment that could then be circulated around?

Man: This is - I'm just - you mentioned like a ton of questions there.

This would be - so I heard (Philip) initially say that he wanted, or whoever - I don't know (unintelligible) the person before that say that they wanted a list of the mechanism that each registry implemented

and some of the details behind that. And then you're asking for request for comment on the definition of success. I'm…

(Cristina Rosetta):   Okay, there are two things that are going to go on. And I guess maybe the first thing to do is let's talk about the TLDs because I think everybody needs to - everybody in the working group should be responsible or jointly responsible for analyzing the processes used by a particular TLD.

So, (Mike), you rattled that list off pretty quickly.

(Mike):   Me?

(Cristina Rosetta):   (Mike Pellage), yeah, (Mike P.).

(Mike Pellage):   (Mike) - what list did I rattle off?

(Cristina Rosetta):   The 2,000 TLDs. I got - I have - I think I have them all -- biz, info, coop, museum, aero, name, and pro.

(Mike Pellage):   That would be the correct.

(Cristina Rosetta):   Okay.

Man: I'd like to add to that list, certainly we need to look at .eu, .asia, .sex or .xxx, those proposals.

(Cristina Rosetta):   Well…

((Crosstalk))

Man:				…accumulating all the information that is out there, we need to get that information put into a document.

(Cristina Rosetta):	Well, and frankly we need to go beyond that. We need to do jobs where we travel.

Man:				Right.

(Cristina Rosetta):	And I think we need to circle back and talk about these TLDs that are in negotiations (unintelligible) because frankly I think it's more important that we focus on, you know, things that have launched, things that have already gone live.

				In addition to .eu, are there any other TLDs that you should consider?

Man:				I think dot-US…

Man:				Dot-US.

Man:				…(unintelligible) probably the first time (unintelligible) actually validated trademark (unintelligible).

(Cristina Rosetta):	Right.

Man:				I think we should also look at the policies in some of the, I don't even know what to call them, the sort of marketing CC TLDs .tv, .la, .im -- ones that are essentially not run as CC TLDs.

(Cristina Rosetta):	Right.

Man: I think the answer to those are pretty easy, that there was no process.

((Crosstalk))

Man: But actually there - I think there are complaint processes that they have adopted, that those registries have adopted, so.

Man: Right. Those are - well, we often need to separate difference between (unintelligible) mechanism like a UDRP after the fact or a launch mechanism. And I'm not sure what's in and out of scope for us.

Man: I think it's always in-scope. Any mechanisms designed to protect the rights of others, unless I'm wrong, but…

(Cristina Rosetta):   Well, I think the thing is that, you know, this URDP and the registration agreement are, correct me if I'm wrong for those of you who've been involved longer, and you know the consensus, how those will apply.

Man: They're not within CC TLD. I mean…

(Cristina Rosetta):   Right, right. Not - okay.

Man: (Unintelligible) might have mechanism of their own that we might learn something from.

                   I mean one of the things I was going to point out was that we've taken all these comments (unintelligible) discussion, a lot of these (unintelligible) you know, I mean at some point, you know, certain

principles hopefully will be drawn out from the comments as to these are the principles that we might recommend would be a good part of a good process to protect (unintelligible) but the end-result might be that that can't be done on the (Sunrise) like process during the launch. You know, the best way to protect might be after the fact. But I think it's valid (unintelligible) mechanism.

(Cristina Rosetta): All right.

(Jeff Newman): Well, this is (Jeff). I mean if I could just offer a different point on that.

I think in order for us to get any work done, I mean I really think that we just really need to limit it to the launch processes coupled with any dispute mechanism that's specifically tailored for the launch and put UDRP aside, because UDRP, as (Cristin) said, it's really a given. It's there. And to go back to the overall task force, looking at new TLDs, I mean they pretty much said that consensus policy should apply all the future TLDs.

So given that's the case and given that I don't want to get into a debate as to whether UDRP is good or bad. We should just accept the UDRP as a given and really only look at the launch process and any dispute that's specifically tailored at that launch process.

((Crosstalk))

(Tim Ruiz): This is (Tim).

Yeah, I don't know if (unintelligible) agree, (Jeff), I mean…

(Victoria McIvety):   Yeah, I don't think I agree either.

(Tim Ruiz):   I don't think I want to dispute the UDRP, what I want to do is consider the fact that the dispute mechanisms after the fact, whether it's UDRP or something else, could potentially be a better way to protect the rights of others and a launch process like (Sunrise).

(Jeff Newman):   I mean I agree with that, but again, I want to be careful not to (unintelligible) problems of UDRP.

(Victoria McIvety):   Would - can I just say, is that I bet something I would certainly like to take instructions and come back on and just to clarify that really, if you don't mind.

Man: Who's that speaking?

(Victoria McIvety):   That's (Victoria McIvety)…

Man: Right.

(Victoria McIvety):   …in CUC.

(Cristina Rosetta):   I've been trying to suggest that we should focus, at least initially, on filing the quantitative information that we need on the TLDs that have launched with regards their pre-registration, and to the extent that there had been dispute processes associated with that, (Sunrise) (unintelligible), that we should focus on those first before we start examining the UDRP. And I certainly don't mean to suggest that by doing that, we're eliminating consideration of the UDRP as possibly the

ultimate recommendation. But I do think that for now at least we need to focus on getting this initial group of information gathered.

(Mike Pellage): This is (Mike Pellage).

Who do we have on…

Man: Yeah, I don't disagree with that. I'm just saying that, you know, I don't want to not -- and I'm not talking about UDRP necessarily exclusively -- I just don't think we should exclude looking at all the mechanisms, all possible mechanisms (unintelligible) the rights of others that have been used. And there are mechanisms that have been used that are more after the fact than during the launch…

(Cristina Rosetta): Well, absolutely. And maybe a way to go about it is to have everybody in the working group volunteer be responsible for a particular TLD. And I have to think that we've got more working group members than TLDs. And the (folks) that aren't allocated to a TLD will go in the, you know, alternate host registration mechanism group.

Man: This…

(Cristina Rosetta): Does that sound workable to everybody?

Woman: Uh-huh.

Woman: Yes.

(Peter): This is (Peter) in Copenhagen.

I think you need - the extra people have to be able to help with the horizontal analysis I think. There's going to a lot of need for that, that analysis. I think also asking the questions to the people who are responsible for it.

(Mike Pellage): I'm sorry, (Peter), are you done?

(Peter): Yes.

(Mike Pellage): This is (Mike Pellage).

I guess I have a question to the macro level here. Who do we have on from ICANN staff on this call?

Woman: Just Glen is on.

(Mike Pellage): Just Glen.

I guess my question is a lot of these - the questions that were looking at protecting the right of second-level domain name registrants, this was something that we've actually contained in the original PDP. Okay? I myself even provided the responses last year to this.

So my question is, are we reopening what has already been, if you will, the work or precedent that has been undertaken through the existing PDP regarding second-level domains? Or are we really trying to look at the protection in the rights of others at the top level domain? Because in the, you know, the reserve names working group, we are looking at that at both the second level and the top level.

And I'm trying to assess here, are - everything that I have heard today on this call deals exclusively with the second level and I'm just trying to reconcile that because a lot of these questions should have already been answered about eight months ago. So…

(Mike): What do you mean, at the top level or the second level?

(Mike Pellage): At the second level. If you look at some of the questions regarding the PDT that were put out prior to I believe the Amsterdam consultation, (Mike)…

(Mike): Okay.

(Mike Pellage): …a lot of these questions were answered. How would you protection rights - you know, a lot of these questions were answered.

So I guess that's my macro level question, is, are we looking at protecting the rights solely at the second level? Or are we looking at the top level?

(Cristina Rosetta): I mean the statement of work is currently…

(Mike): Right.

(Cristina Rosetta): …you know, tilted towards the second level.

(Mike): Because the framework agreement for registry - about a framework agreement for registry operators. So it just sounds to me like it's after the registry that the TLD has been selected and the agreement and process are done, so the framework for that (looks like)…

Man: Thank you.

((Crosstalk))

(Mike):   …protection for registrant.

Man: I think that's right. I think at the top level, (Mike), that we've been discussing, you know, the task force level has been discussing different ways to look at trademark interest and confusingly similar strings and string contention. So I think that's happening separately from this group.

Woman: Right. And I do know…

Man: Exactly. And anyway, I think, (Cristina), it's whatever we do I think we just need to be very clear and be very focused so we can do achievable work in bite-size pieces, so the more we can…

(Cristina Rosetta):   Right.

Man: …you know, limit work so we can do something and produce results…

(Cristina)   Right.

Man: …use for learning and move on I think the better. So that's why I get to…

(Cristina Rosetta):   No, absolutely.

((Crosstalk))

(Jeff Newman): Yeah. And just so - just to add, this is (Jeff). And that I was kind of surprised I didn't see them lose email. But there was a paper done, I want to say 2003, by (Miriam Seferos), what you call…

(Cristina Rosetta): So it's somewhat strategy paper?

(Jeff Newman): Right.

(Cristina Rosetta): Yeah.

(Jeff Newman): That's had a bunch of the data in it and, you know, whether we take the conclusions or not is completely up to us as a group. But there was data in there.

(Cristina Rosetta): All right.

Man: What about the WIPO evaluation, (Jeff)? Does she include that? Remember WIPO, W-I-P-O, did a report?

(Jeff Newman): Yeah, that may have been cited. I personally don't like the WIPO of course because I think although it does a good job in providing the data, its conclusions are, well, it comes from a slanted view.

Man: So…

(Cristina Rosetta): Can we - I'm sorry. I don't want to interrupt everybody, but I want to make sure that we end the call with kind of assignments kind of going forward basis so that we can move forward.

If I - if we could, what I'd like to do is just - excuse me - run through the TLDs and have each person volunteer for one. I think in the interest of objectivity, if you were responsible for designing or implementing the policy for a particular TLD that you should not be the person to handle that quantitative analysis. And then we'll go from there.

(So Dep) is…

(Mike Coolidge): I'll do biz, (Mike Coolidge).

(Cristina Rosetta): Okay.

Info?

(Jeff Newman): I guess I could do info. This is…

(Cristina Rosetta): Okay. That was (Jeff Newman)?

(Jeff Newman): Yup.

(Cristina Rosetta): Okay.

Coop?

(Jeff Newman): Nobody wants the new coop…

(Cory McKezie): I'll do coop, (Cory McKezie).

(Cristina Rosetta): Okay, great.

Museum?

(Tim Ruiz):   I'll do .movie. This is (Tim Ruiz).

(Cristina Rosetta):   Okay, (Tim) will do movie.

Museum?

(Kelly Smith):   I'll do museum. It's (Kelly Smith).

(Cristina Rosetta):   Okay.

Aero?

(Frank Schilling):   I'll take whichever one's left, (Cristina). It's (Frank Schilling).

(Cristina Rosetta):   All right. I'll put you down there tentatively.

Name?

Man: Come one, (Mike), (Philip), step up.

Man: I was going to wait until the end and then go with the second after-the-fact policy, so that was more…

((Crosstalk))

Woman: Do we have a raffle?

(Cristina Rosetta):   All right. We'll circle back to that.

.pro?

(Lance Griffin):   I'll take .pro.

(Cristina Rosetta):   Who's that?

(Lance Griffin):   (Lance Griffin).

(Cristina Rosetta):   Okay.

.eu?

(Margie Millen):   So this is (Margie). I'll take that one.

(Cristina Rosetta):   Alrighty. Lucky you, (Margie).

And .cat?

Avri Doria: This is Avri. I'll take .cat.

(Cristina Rosetta):   Excellent.

.job?

Mike Rodenbaugh: I could take .jobs.

(Cristina Rosetta):   I'm sorry. I haven't recognized everybody's voice…

((Crosstalk))

Mike Rodenbaugh: Mike Rodenbaugh. Sorry.

(Cristina Rosetta):   Okay, Mike.

                     .travel?

Man: (Not much a) volunteer for this because there was no sunrise.

Man: I'll take that one.

(Cristina Rosetta):   Really, there was nothing?

Man: There was nothing.

Man: They just had the clarification where they had to match up the
                     company name.

(Cristina Rosetta):   Oh, that's right. Okay, well we'll leave them off for now.

((Crosstalk))

Man: Well no, actually. I mean don't - but don't you think you should include
                     them because…

(Cristina Rosetta):   No, no, you're right. Okay. So who wants to do that travel?

Man: Come on, (soap), there's no work there.

(Jeff Newman):   But I would do it. This is (Jeff). I'd do it but I was the backend, so I can't.

(Cristina Rosetta):   That's correct. All right, I'll do it.

(Kelly Smith):   Hey, (Cristina), it's (Kelly Smith). It's the same issue with .museum? Did they even have a…

(Cristina Rosetta):   They did, but it was more along the lines of .travel. I mean there was verification. I think they did do something to the extent that there was competition.

Now getting back to the - some of the other ccTLDs, we've got .tv. I don't even know if they had one.

Man: Normally they had sunrise. I believe they have after-the-fact policies.

(Cristina Rosetta):   All right. Well let's leave them aside. We still need somebody for .name.

(Peter Olson):   This is (Peter) in Copenhagen. I guess I missed out on the opportunity of (CCP) at least. We had a very interesting one in Denmark here, .uk, with the addition of IDN…

(Cristina Rosetta):   Yeah.

(Peter Olson):   …when we - with a - in a very unique auction system, combination of an auction and lottery. So I'd like to do that one if possible.

Man: I think it's (Swish) - actually that reminds me that we should probably also look at some of the ccTLDs that have released new TLDs, for example, always (unintelligible) .com, .pw and .com, .es until they launched at the second level, .pw and .es and they did involve or used sunrise periods in those. Same with Korea.

(Cristina Rosetta): All right.

Man: We're running out of committee members (and the like)…

(Cristina Rosetta): Exactly.

What about - we still need somebody for .name.

Okay, I'll do that one.

All right. Why don't we do this, (Peter), if you do .uk and .tv…

(Peter Olson): TV?

(Cristina Rosetta): Okay. (Peter Olson).

(Peter Olson): Yeah. Okay.

(Cristina Rosetta): All right.

The next thing that we need is a standardized format to just make everybody's life easier.

Man: Can we have, (Chris)…

((Crosstalk))

John Nevitt: (Cristina), sorry to interrupt, it's (John).

(Cristina Rosetta):   Yeah.

John Nevitt: Could you do a US because I'll…

(Cristina Rosetta):   Oh, I'm sorry. I completely forgot US.

John Nevitt: I'm happy to do that one.

(Cristina Rosetta):   Okay. That was John Nevitt, right?

John Nevitt: Yeah.

(Cristina Rosetta):   Okay.

                     Am I leaving any out that anybody feels really strong right now?

Man: Just so I think we should look at some of the ccTLDs generally -- es,
                     tw, kr -- and see how those are being done.

Woman: Yeah, I'll take a look at that (FD) while I'm looking at that tab.

(Cristina Rosetta):   Okay. Excellent, thank you.

Woman: Not that I know anything about it. I figure (we should get it).

(Cristina Rosetta):   Right.

Can I get somebody to volunteer to come up with at least for the quantitative aspect of this, some kind of standard format or, you know, even a spreadsheet for people to use?

Please. I think it's going to be much easier on the backend if…

((Crosstalk))

Man: Right. Don't we have a staff support? I mean is it not something that would work well for an ICANN staff - policy staff person to be doing?

(Cristina Rosetta):   I can certainly suggest it.

Woman: Yeah.

(Cristina Rosetta):   Okay.

Woman: It's kind of the (covered staff) is - it's always reasonable to ask them to pick up, you know, some extra help to help do this.

(Cristina Rosetta):   Okay. All right, perfect.

Next thing would be somebody to kind of simultaneously start coming up with kind of a list of questions or kind of a request for comment paragraph that we could distribute to the various constituencies that would give us some of the more qualitative analytical information. If there's somebody who'd be willing to take a stab at just drafting something for circulation.

Man: I mean not to jump ahead, (Christine), but perhaps we need to wait to see what some of the questions come back with regard to this step before we know what the questions may be. You know, seeing how the mechanisms work before we actually start formulating the questions.

(Cristina Rosetta):   We could do that. I - what I'm concerned about is I don't - I think that this latter part, the analytical qualitative part is going to be I guess more difficult. And I don't - I'm reluctant to leave that at least getting started on it for (unintelligible). We can certainly wait until next week and have everybody just kind of thinking about what the best way from their perspective it would be to go about getting this information.

Man: The thing I would try to offer to you is when - who is committee? Task force did one of their analyses where you had to sort of answer questions. It was rather hard. So perhaps you were talking about a spreadsheet where certain boxes could be picked or things like that.

That may be to provide a framework to get more feedback and to more quickly analyze the responses from people.

So that's what I'm saying is perhaps we wait until, you know, next week we look at some of our - the responses that we get back in connection with the different TLDs. That may provide a mechanism to set up a spreadsheet that you were just talking about. And that spreadsheet may be the basis for sort of people to sort of take boxes and move forward.

(Cristina Rosetta):   All right.

Man: Because reading through long answers and then trying to quantify that
               is very difficult. I mean I don't know who on this call, (Philip), you were
               on the who is call, who is task force, I believe back then, a couple of
               years ago. Perhaps you might be able to elaborate on some of the
               difficulties in quantifying the written answers to the survey?

(Philip):   Yeah, no actually my concern, (unintelligible) on me who is
               (unintelligible) although I have read the (unintelligible) I think some of
               the earlier stuff. Excuse me. I do some picking. We need as much as
               possible to have a data that is easy to analyze. And that's exactly the
               function of checkboxes evaluations, you know, scores 1 to 5, that sort
               of thing rather than pretext.

(Cristina Rosetta):   Okay. All right. (Unintelligible).

Man: What - may I just say while we're doing that working up that
               spreadsheet I think we could all go back to our constituencies and start
               working up our sort of general…

Man: Uh-huh.

Man: …experience and concerns, statements.

(Cristina Rosetta):   Sure.

((Crosstalk))

Man: Because that, you know, constituency work takes time, so…

(Cristina Rosetta):   Sure. No that's great.

All right. Well I will - and I'll send around a quick email to just kind of outline what we've just talked about and our assignment allocation.

Don't hesitate to speak up if I got it down incorrectly. And I'll shoot an email off to Liz to see if she can put together, you know, a very short form that we can use or just even kind of a descriptive, you know, what was the eligibility requirement, what were the right (pay-fee's) requirements, et cetera, to get that down to a very easy, complete project.

I think that's it. Anybody has…

Man: Quick question. Just on…

(Cristina Rosetta):   Yeah.

Man: …sorry. It's probably better to send that to (Denise) rather than Liz…

(Cristina Rosetta):   So you think…

Man: …who then might allocate it elsewhere, depending on staff reading.

(Cristina Rosetta):   Okay. All right, I'll send that to…

Woman: Sorry, (Cristina). Can I just get who volunteered for .museum and .aero?

(Cristina Rosetta):   .museum is (Kelly Smith).

Woman: (Kelly). And (Auro)?

(Cristina Rosetta):   (Frank), I think you volunteered by default.

(Frank Schilling):   That's right, you got it.

(Cristina Rosetta):   Right.

Woman: Thank you. Okay.

(Cristina Rosetta):   All right.

Well I think that's it. Thank you everyone. I think this has been a very - at least for me, I know it's been very productive and helpful, and I hope that's true for everyone else.

Keep an eye out for the email and I will talk to everyone next week.

(Jeff Newman): This is (Jeff). I just sent (out) a link to the evaluation report.

(Cristina Rosetta):   Oh, perfect.

(Jeff Newman): So it'll help whoever's got Aero, Biz, Info. For those initial, it'll help you tremendously I'm sure.

(Cristina Rosetta):   All right. Excellent. Thank you.

Man: (Cristina), congratulations on ending the call in 59 minutes…

((Crosstalk))

(Cristina Rosetta):   Can you tell I'd go by the hour?

Man: Yeah, (I'm glad).

(Cristina Rosetta):   All right. Thank you everyone. Thank you.

Woman: Thank you. Bye.

Man: Thanks, bye.

(Cristina Rosetta):   Bye-bye.

                        END