

**Transcription ICANN61 San Juan  
GNSO Rights Protection Mechanisms (RPMs) PDP WG Part 3  
Sunday, 11 March 2018 at 17:00 AST**

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Kathy Kleiman: Hi everyone, this is Kathy Kleiman, Co-Chair of the Right Protection Mechanism working group with Phil Corwin and also with Jason Schaeffer who will be talking about the URS practitioners' questions.

So the original agenda had said that we would talk about the URS practitioners' questions which would follow the URS providers' questions and the URS questions based on the documents. But we're flipping the schedule because some people have to cut out to talk first about our new Co-Chair.

We will miss J. Scott Evans greatly and thank him immensely for his work and his creativity and coming up with new solutions and new ways to do things. But it is time we've had three co-chairs and there's so much work in this working group we appreciate having three co-chairs.

So let me go to staff (Julie). You were going to tell us a little bit about the rules if you would. The rules for Co-Chair under our GNSO guidelines, our working group guidelines. So over to (Julie Hedlund).

(Julie Hedlund): This is (Julie Hedlund) from staff and so there are essentially a couple of sections in the GNSO procedures that address the rules for election of Working Group Leaders. One is from the Working Group Guidelines section 2.1.4.2 Election of the Working Group Leaders. That states -- and you can also see it on the screen and if you're in the Adobe Connect Room you can make it larger to read as well.

But I'll go ahead and read it so we have it. Unless a Chair has already been named by the Chartering Organization normally a Chair will be selected at the first meeting of the Working Group.

Until that time the chartering organization's liaison may fulfill the role of the interim Chair. A Working Group may elect to have Co-Chairs and Vice Chairs. Under extraordinary circumstances ICANN staff may be requested to perform administrative coordination of the Working Group until such time a Chair can be appointed.

Once selected, a Working Group Chair will need to be confirmed by the chartering organization. The newly elected Chair will act on a provisional basis until the chartering organization has confirmed the appointment.

If there any objections to the selected chair the Chartering Organization will conduct a vote to establish whether there is sufficient support for the selected Chair according to the voting procedures of the Chartering Organization. If not, the Working Group will be requested to reconsider their choice for Chair and return to the Chartering Organization with a new proposal.

In the unlikely event that the select Chair is rejected by the Chartering Organization, the Chartering Organization must articulate its reason for the rejection and the Working Group must be able to ask for reconsideration of the decision.

And staff will just note, just to be clear, in this case the Chartering Organization is the GNSO.

And let's see. I missed one last sentence, sorry, that was down on the end of the page. In the - okay. In the unlikely event that the selected Chair is rejected by the Chartering Organization the Chartering Organization must

articulate its reason for the rejection and the Working Group must be able to ask for reconsideration of the decision.

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And then we have also Section 2.2. And that is the suggested procedure to conduct elections. That may be nominations or self-nominations, statements of qualifications from candidates which sets forth the qualifications, qualities and experience that they possess that will serve the particular Working Group, vote by simple majority, notification of subsequent confirmation by the Chartering Organization of results of actions.

So those are the pertinent sections. Thank you Kathy.

Kathy Kleiman: Thank you (Julie). Phil.

Phil Corwin: Hi. Phil Corwin, another one of the two Co-Chairs of this Working Group at present. So the process just described was the one that Kathy and I and J. Scott Evans went through at the inception of this Working Group.

While we could continue with two Co-Chairs there's a great deal of work to do in guiding this Working Group and it's been extremely helpful to have three Co-Chairs and the two Co-Chairs have welcomed both the selection and election of a third person to join us in our duties. There's no deadline for this but ideally we'd like to put someone in as soon as possible if there's interest in the membership of the Working Group to - by someone to step forward and either put themselves in play or be - have a Group that puts them forward.

If there's an election in the Working Group that can be conducted by email very rapidly. The official confirmation of the election awaits the GNSO Council but the person selected and successfully elected could step in in interim capacity.

And I think the final consideration while the open Co-Chair slot is not designated for the trademark brand community, of course J. Scott Evans was

very well known in that community and there's - I wouldn't a concern but there's a - I think a hope in segments of the Working Group that someone with that perspective would participate in guiding the administration of this Working Group.

So with all of that, we strongly encourage members of the Working Group to talk among themselves or to step forward. And I don't know that anyone is in that position right now but we hope to see a name or names come forward as soon as possible so we can add a third Co-Chair to help us with the work of this group.

And I believe there's a timeline slide coming up which was also displayed recently in the council meeting about basically our timeline is to - we hope to deliver an interim report late this year or early in 2019 and a final report for council consideration mid-2019. The average - we have one 90-minute call per week of the Working Group. Members spend as much time as they wish to in preparation for that, reading documents that are put forward during the week, reading the email list and the exchanges on that.

In addition to that the Co-Chairs have a weekly planning call every Friday afternoon with staff of one hour duration and a bit more interaction with staff during the week.

So there's an extra - in addition to what a regular Working Group member would put in there's another two to four hours per week for a Co-Chair. And that's about - if there are questions about this the two current Co-Chairs are happy to answer them but it is a responsibility. There is some additional work involved but it's not crushing. And we very much would like someone to step up and fill the place that J. Scott vacated recently.

And are there any questions for any members of the Working Group about the process or anything else anyone wants to say? John McElwaine.

John McElwaine: So, John McElwaine for the record. Has there been any thought particularly anything coming out of Kathy's session at the GNSO Working PDP Improvements session this morning of maybe taking this opportunity to finish up our work with respect to, like, the Trademark Clearinghouse, PDDRP, and the claims notice.

And then basically take URS and UDRP and let's send this back, this charter back to the GNSO to have them give us that specificity that we were kind of talking about. So we could have the two Co-Chairs go on to kind of finish our role and think about doing sort of a process improvement on those other two items?

And, oh, by the way, with GDPR in the mix that could have some changes that we would need to have that group address in the future as well. So just some thoughts.

Phil Corwin: Okay. Well John let me just make a statement and I'm not quite sure what you're suggesting so I'm going to request a clarification. But right now we're very actively working on the URS and we have - as you know we have RFP out for assistance from a private contractor to assist with a survey to collect data regarding the Trademark Clearinghouse and Sunrise Registrations.

We don't expect that survey to be completed and the results back until July so we have now - there's not that much more we can do on Clearinghouse or Sunrise until we get the data survey back, which gives us kind of a clear running field for URS.

So that's our situation right now. GDPR I think we'll need to look into more about how that might affect use of the URS. It wouldn't clearly - I know Paul mentioned in the council session if there's a limited access to WHOIS data it might limit the ability to identify repeat offenders or people infringing a broad number of domains. It wouldn't so far as I know prevent a right holder from

filling a URS against a single domain or multiple domains identified as being in - providing a clear and convincing case of bad faith registration and use.

But we can look further about how GDPR might affect that and - get to you in a second - and of course we hope for some more clarity on the - which the interim GDPR model by the end of this week.

So having stated kind of where we're at could you explain again what you're proposing for consideration by this Working Group?

John McElwaine: So the proposal would be that we finish up our work on everything but the URS. I've always believed that the URS and the UDRP should be looked at together. I think they're very complementary and I think some of the same issues will be seen in both of them.

Again, GDPR could have some impact. We don't know what its impact is going to be. Could have some impact on even being able to file a URS or a UDRP. So I think after we have some clarity on where that comes out this group would be - this future group will be well prepared to take a look at those.

So again I think the proposal would be let's finish up our work on everything up to URS and move URS into the phase two, send the charter back to get the clarity that Kathy was talking about this morning, and hopefully then we could have a better process to work through all this in the future.

Phil Corwin: Okay, let me just ask a follow-up question then, John. Let me point out number one, to do - our current charter requires us to address the URS as well as consider whether all the RPMs and of course its most relevant for URS should become consensus policy in phase one.

So we would need a consensus within the Working Group to go back to council and request a change in our charter to be able to take that different path. So I just want to point that out as a factual matter.

Number two, what would you propose if we were to decide in the next week or two that URS and UDRP should be in phase two of this Working Group. What would you propose that we work on between now and the receipt back of the data surveys which we don't expect to receive back until July? What would we do the next four months if we're not working on URS?

John McElwaine: Well we can take a little break - let's see the number of hands down, right?  
So...

Phil Corwin: And Kathy wants to speak and who?

Kathy Kleiman: Yes. There are actually hands in the Adobe Connect Room and...

Phil Corwin: Okay.

Kathy Kleiman: ...I think... yes, we've got Paul...

Phil Corwin: How about staff...

Kathy Kleiman: ...and...

Phil Corwin: ...determine the order...

Kathy Kleiman: Yes.

Phil Corwin: Okay?

Kathy Kleiman: The order as it appeared was Paul and then Susan in Adobe Connect and then Lori and then also Kathy and also (Ariel).

Paul McGrady: I'm going to put myself at the end of the queue. Thank you.

Maxim Alzoba: Maxim Alzoba for the transcript. Just small clarification about how GDPR might affect URS in case of multiple domains. If the case is filed against the party, for example, ten domains and it happened to be that one of those domains are registered for by not the person or company which registered nine of them. It will have to go into two different cases. And when registry and registrar gives you information like private person protected by GDPR station waive file a case with multiple domains is going to be troublesome because on the step two when somehow information is disclosed to URS provider under maybe new rules, it most probably will fall apart into a few different cases. Thanks.

Paul McGrady: So this is Paul McGrady. I'm not going to jump the queue. I love being council liaison. It's fabulous. And then I'm going to put myself at the end of the queue again when we talk about other things.

But just on issues that could come up with GDPR in the URS, you've raised a good one there. The ability to see all the different domain names that the respondent may have registered which may not be the trademarks that you care about right?

It's sort of to show that they have a pattern of bad faith. It's not clear at all at this point. We were just in the GAC GNSO session of the GAC says they've not really looked at the GDPR model yet but they're the ones that are supposed to building the access system right? At least under one of the options.

So it's not clear the timing when there will be access. There are just some basic issues like if ICANN says all this data has to be behind a privacy proxy service can a provider even disclose it? I mean can the registrar disclose it to the provider?

So we really - we don't have a lot of information on the URS and that's why I raised this earlier and so, again, I'm not suggesting that we adopt the McElwaine model but I'm just saying that's sort of - that's - when you hear about the GDPR angst those are some of the things that are coming out of GDPR that's making people nervous about addressing URS right now.  
Thanks.

Kathy Kleiman      Kathy Kleiman. You're catching us off guard. We thought we were going to talk about a procedure for coming up with a Co-Chair.

To John's point about - and for people who weren't there, there was a discussion earlier today at 9:00 a.m. with the GNSO Council and I'll just fill you in, you know, with my perspective.

On the broad question of PDPs and how to make them more efficient, more rapid and one of my solutions was narrower charters and pointing to our charter. And there were a number of people here with the discussion and which I appreciate but we were brainstorming.

And so I was - we were talking about the charter and broad it was and that in the future the council might consider narrower charters. I personally don't believe it's in my remit and I don't think this is the time to talk about it. That we take our charter and send it back to council. We do have councilors here. I would love their thoughts on this but this is catching us off guard.

Here I thought to talk about the Co-Chairs and then to move on with Jason Schaeffer talking about the URS practitioners' questions. Anyway, my thoughts.

Paul McGrady: Yes, so, again, Paul McGrady. Sorry to jump the queue. The reason why I think John's presented the model is because his model contains two Co-

Chairs, right? If we - I think what he's saying is if we push URS into phase two then we wouldn't necessarily have a third Co-Chair for phase one.

So that's the tie to discussing the Co-Chair issue. I agree that we've kind of gone off the reservation a little bit but he was - but John if I understand, you were tying those two things together.

So I think he's raising the issue of if our work is being done in the sequence that he thinks it should be done do we really need that third Co-Chair? If it's - if the work - if the charter is going to remain the same, phase one is phase one, phase two is phase two like what we know it is today then I think John would say yes we do need that third Co-Chair.

So that was the hook into the - how many Co-Chairs you need are tied to how much there is, right?

Kathy Kleiman: Okay but we do have the charter that we have.

John McElwaine: That's correct understanding of it but Kathy your session today was really eye opening and I thought it was a great point in that I think we could do a better job with... my suggestion would be premised, conditioned upon sending the charter back to GNSO to get some narrowing to it to help this group work in a more efficient way to tackle this giant problem.

So yes I think sort of a combination of those both. But Paul hit the nail right on the head.

(Ariel): Sorry. This is (Ariel) from staff just for an administrative matter. We do have a queue and it's reflected in Adobe Connect. The order is Susan, Lori, David, Paul, Philip, and Kathy and then there's also two comments on remote.

Kathy Kleiman: Do you want to read the remote comments as long as (unintelligible) ...

(Ariel): Thank you. This is (unintelligible) again. We have two comments from remote (unintelligible). One is from George Kirikos. His comment is perhaps having a Co-Chair from the Asia Pacific area might be useful as they could naturally Chair the monthly APAC call.

And then the second remote comment is from Paul Tattersfield. We need to be very careful if there are changes to be made to the charter. A change to IGO INGO working group charter send may result in a significant detriment to the amount of good we can do to recommended outcomes.

Phil Corwin: Thank you (Ariel). I'm just going take prerogative as Co-Chair to just say since we do have our presentation on practitioners let's keep the remaining comments brief because it's clear we're not going to decide this issue this afternoon. We need to tee it up better for consideration by the full Working Group in conjunction with the vacant Co-Chair position.

So I'll be quiet until it's my turn in the queue. Let's go.

Susan Payne: Okay. I think I'm in the queue now. So I'm just going to go. It's Susan Payne. I was trying to answer Phil's question about what might we do for the next four months if we were not working on the URS.

I oversee - this is not something that I particularly prepared so this is just off the top of my head. But I can see various things we could do.

One I did mention this morning which is I genuinely believe that we are not at the point where the RFP is kind of, you know, has been birthed and is able to go off and get its data.

There's an enormous amount of work that will need to be done to ensure that whoever is appointed as a provider -- and they're not even appointed yet -- has adequate guidance. The will undoubtedly craft questions and come back

to us. We would almost certainly want to review whatever they craft and have input on it.

I know that that is what's happened in extensive back and forward when INTA did their survey for example. And I was also partly involved in a different survey that INTA did on a totally unrelated matter. And it took many, many months of back and forward with the survey providers to ensure that they got a survey that was crafted in a way that was workable.

I think, you know, we're making big assumptions that there's nothing for us to do now that the RFP has been issued and I genuinely believe that's not true.

And I also believe that once that information comes back there will be lots to do. But as I say I think there's a certain amount to be done before the data is even gathered.

But there are other things that we could very usefully be doing in relation to the Trademark Clearinghouse. There are things that got raised and kind of parked on multiple occasions along the way. So for example there were some very sensible suggestions from people about let's look at the Sunrise dispute resolution process. We all kind of think that it needs a bit work. Let's do some work on it.

But that - no one wanted to address that. I was kind of like, no, no, no, now is not the time. But it's not clear to me why now is not the time.

We've also many of us said, you know, you know what, we don't think that the claims language is particularly - the claims notice language is particularly helpful. And I think Paul it may - I can't remember who it was who volunteered themselves to, you know, work with some other people and redraft.

But again, you know, we haven't done that. I think if we actually were to look at our outstanding questions not everything is dependent on the data response.

Sorry, am I shouting?

((Crosstalk))

Susan Payne: So well that was a quick comment, you know, off the top of my head.

(Ariel): Next is Lori.

Lori Schulman: Lori Schulman for the record. Keeping it very quick, Susan and I did not discuss the answer at all and I support everything that she says, particularly about the survey and I'll move along.

But this survey to get it done with the ambitious timeframe needs an extraordinary amount of work and collaboration. And I think if we don't laser in on that we're making a mistake.

David McAuley: Hi. David McAuley speaking for the record. It took me by surprise. I share Kathy's feeling. I'm also speaking off the top of my head and I wasn't present at this morning's meeting.

But my initial reaction is that John's suggestion is creative but I oppose it. I don't see the commonality of URS and UDRP necessarily. I would like to have some time to think about it and I think the issue should go to the full group.

We need time to react. I mean I just first heard it. Thank you.

Phil Corwin: Oh I'm next. Okay. Quick comments. One, the Co-Chairs work for the Working Group so the Working Group based on experience and what they

see the path ahead in new developments wants to approach the council about a charter change I wouldn't oppose that. I think clearly we're not going to decide it today. We need to flesh out these proposals. I would hope that John would put his proposal in writing.

Paul, if you have concerns about GDPR I'd hope you'd put them in writing and share them with Working Group, talk to Maxim and other people who have similar concerns. Susan your ideas about what needs to be done to make sure that the data survey is done correctly.

So let's develop this and maybe not at the first call after this meeting but within the next few calls, tee this up for a full Working Group discussion including full email back and forth and see what the will of the Working Group is.

My two concerns, I can see arguments for and against combining URS and UDRP. I'm agnostic on it. I would hope that we could finish up the work we're doing on URS documents, practitioners and providers now because that's halfway done. I'd hate to lose that work product but I think we can finish that and then while we're preparing for this full Working Group discussion and I would want to see personally that we have a real agenda between now and the receipt back of the surveys because my experience with other Working Group it's not a good thing when a Working Group just takes a few months off.

A lot of momentum is lost, a lot of cohesion - it's not just pressing a button and getting right back up to full speed. So I think we'll consider it and the people who think we need to have a course correction please prepare some written materials to share with the full Working Group because we're going to need a full discussion to make sure that there's a pretty good consensus within Working Group to go back to council and request to them that they alter our charter from it is - from what we were given at the beginning.

Thank you.

- (Ariel): Just to repeat. Sorry, this is Ariel from staff. The queue next is Paul, Susan, and also Brian just noted to me that he will want to speak in the queue and then Kathy.
- Paul McGrady: Thanks. Paul McGrady. So it sounds like I asked (Mary) in the chat and she answered so quickly, thank you. There's no deadline to elect a third Co-Chair so we're not under pressure.
- So it sounds like we can talk through these workflow issues before, you know, necessarily putting out a call for interested people. If anyone's interested I would think they should go ahead and self-identify now. No harm in that.
- But we're not under any pressure. Sounds like there's a plan to talk through the workflow issues in the second call after we're back. And those of us who have been given homework assignments will do those things so that we're ready to have those conversations.
- Thirdly, George's note in the text should not - you know, which had already been read but let's acknowledge it about whether or not if we get a third Co-Chair geographically where should they be. I think that's a really interesting thought that's worth thinking about.
- And then lastly, just as we think about candidates and as people are considering doing this I know it's a extra amount of work. You know, I think Phil and Kathy are being modest when they say it's four hours a week. I bet it's more than that oftentimes.
- Phil Corwin: In addition.

Paul McGrady: In addition, oh yes. And so we understand we're asking for a super volunteer to fill this role. But for those that are around the table or listening remotely, please do give it some thought and if you have an interest then make that known either on the list or to Phil and Kathy, privately, that's fine too. And if you want to wait and see how the workflow issues work themselves out.

But one - I guess something to think about, I'm sure that everybody's interested in their - us maintaining that delicate balance. Right? We've had a balance of substantive interests. We've had three long-term ICANN people, three experts in this space.

And so this may not -- I'm not trying to discourage anybody from volunteering but if this is your first, you know, ten months at ICANN -- you may want to pick a different one to volunteer for. And so as you're thinking about whether or not you want to step into this role, think about the timing and whether or not you have the expertise and all that.

So I just wanted to sort of wrap up some of the themes. So that's all I had. Thanks.

Phil Corwin: Thank you Paul. And now Kathy and then Martin and I think...

Kathy Kleiman: Susan.

(Ariel): Next is Susan.

Phil Corwin: Who? Oh Susan. Sorry.

Brian Beckham: I'll just help us move things along. Brian Beckham for the record. I just wanted to respond to David's question. Without retracing many years of policy development going back to the IRT and the STI I think the relationship between the URS and UDRP is fairly self-evident. Even on ICANN's URS

Web page it says that uniform rapid suspension system is a rights protection mechanism that complements the existing UDRP.

So I just thought I'd put a little bit of clarity on that question. Thank you.

Susan Payne: Yes, thank you again. Just quickly and it may be that this isn't the time for the response to be done but one of the things I wanted to just mention -- and Paul's, you know, made a few comments about considerations for people in sharing the group and, you know, someone would be joining, you know, the existing two Co-Chairs.

But I think something we should also think about is, you know, if both of our current Co-Chairs have had quite significant job changes since they were appointed to Chair this group.

And I think a number of us are perhaps not quite so familiar with what your new roles and responsibilities and priorities are in your new roles. And Kathy in particular, you've only just changed your role and I'm not sure that everyone in this Working Group is even aware of your change in role.

And so I thought it would be very helpful for all of us to understand, you know, for both of you what your current roles are, who your employer is and what their agenda is in terms of this Working Group. And how easy it is for you to continue to be a neutral Chair bearing in mind the responsibilities you may have to whoever it is you're now employed by.

Phil Corwin: I'll give a quick response now. Actually in my new role it's actually easier for me to be a neutral Chair because previously one of my clients was the Internet Commerce Association where domain investors are sometimes on the receiving end of UDRPs or URS.

My current role is Policy Council to VeriSign which is the largest registry operator. I advise the general council on policy issues and coordinate with

the rest of the policy team. My boss and I have had conversations with Lori. She knows about VeriSign's commitment to the UDRP and hope that the UDR becomes a more effective and efficient tool while maintaining the balance between the parties to dispute.

And my employer has been fine with my continuing time commitment to this Working Group. So that's my role. It's my job in a nutshell. And I believe that in my administration, my joint administration of this Working Group with two Co-Chairs and now with Kathy I have always striven to be neutral and to serve the Working Group and not push it toward any particular policy outcome.

And I of course will continue to do that.

Kathy Kleiman: I believe I'm next in the queue and I'm actually going to make the comment I was going to make and then I'll go back in the queue to address Susan's question.

Okay. So regarding the UDRP URS, I just wanted to share historically that the question was already raised to the council and in fact I'd like to ask staff how we dig out - not for answering now but how we dig out the discussion that the council had when people said we should do the UDRP first and we were told no.

You know, as part of the charter and through the charter we were told no, no, the URS is part of the new gTLD mechanisms and we were, you know, you are going to do - phase one will be the Trademark Clearinghouse and the URS.

So this is an issue that has been raised before the council. And, you know, we do have our marching orders. So just historically this has been addressed. Whether we want to ask them to readdress it is a different issue.

But if we can pull up some of that background I think that would be really good.

And I like what Paul said. You know we are looking for a third person and involvement and there's a lot of work here. And the management, the administration, the kind of thinking about the next steps in the organization and the coordination. So we'd love a third person. But it's not insane amounts of work. But it's, you know, sometimes we all do insane amounts of work. The amount of work volunteers do in this Working Group is extraordinary. Thanks.

(Martin) Hello. (Martin) for the record. First of all to address the URS and UDRP question I always assumed that it was - the reason to have them divided is for operational reasons so we can address the new realm of new gTLDs. That's why we separate it. And regardless the consideration if they are complementary, which they are, that was the functionality to have them separated. If that hasn't changed then I don't know why we should address again the question if we have to put them together or not.

If we (unintelligible) to remain would be URS inside so we can close that, send it, and let the new gTLD happen. Then I don't see the change there.

The second one is the timing for the third Chair. I know we don't have a time limit for that but this - I mean in the same - in the same expression of Paul I found that contradiction (unintelligible) things. He said we don't have a time limit. We don't have to hurry.

But the third Chair's going to have a lot of work. So that means we do have a reason to hurry up with the third Chair that needs to share the workload on the two Chairs. So yes we don't have a legal timeline to elect a third Chair but we do have an operational need to have a third Chair, because of workload.

So I would encourage to sort of take into consideration that I'm not just limit forever or we're going to lose Phil and Kathy over workload.

And the last one is I don't understand fully the need for review of the chart. I'm not opposing this. I'm just saying at least the councilor and a member of the group I don't fully understand exactly why we need it. Maybe we do. I just want to state that my head is clear at least, he hasn't made clear the need to send again the charter to the council. Thanks.

Phil Corwin: So we're done with...

Kathy Kleiman: I said I would address...

Phil Corwin: Oh. Kathy has a further comment.

Kathy Kleiman: Sure.

Phil Corwin: And then I'll do the segue.

Kathy Kleiman: So Kathy Kleiman again. And a number of people have changed positions while we've been in this Working Group. And often people just go ahead and update the statement of interest.

It turns out we've forgotten in the agenda to add update the statement of interest. And I apologize. So I do have one. And that is - and others at the table may have them as well.

But, you know, statements of interest have been duly updated. As you guys know I'm a Co-Founder of the Noncommercial Users Constituency. You've known that, you know, since the beginning of time.

So I do go way back as do many people at this table. We go way back in our discussions and negotiations. And J. Scott and I went way back - went back

to the original - the special drafting team that was created after the World Intellectual Property Organization finished their draft and it came to ICANN. We were on the final drafting team of the UDRP together. That's how far back we go.

So I was - an attorney that was running the Internet Law & Policy practice of Fletcher-Hill and Holder and we founded a public interest group, the Domain Name Rights Coalition which had been duly, you know, entered in the statement of interest.

And it's basically committed to the same goals as, you know, the Noncommercial Users Constituency to ensure fair and balanced discussion and ICANN's multi-stakeholder process including the inclusion of noncommercial speech, noncommercial rights, fair use. Well just the kind of balance that hopefully we've, you know, I've been part of inserting into this process for a long time.

But I try to keep my role always as Co-Chair -- I try to, it doesn't always work -- as Co-Chair and as a participant separate. But now I feel that there's a role for education, for example and research. We need more. They're always looking for more stuff in the process, so... Anyway, hopefully DNRC can provide some of that but I'm not sure it changes anything.

So does anyone else have an update...

Man 1: Maybe you can....

Kathy Kleiman: ... to a statement of interest?

Paul McGrady So I updated my statement of interest -- this is Paul McGrady for the record -- to reflect that I'm now the council liaison for this PDP. I was the (unintelligible) for Sub-Pro before but after the last council meeting I'm here

now. And so, and then I also did some other modernizations like titles at work and things like that so nothing exciting.

Kathy Kleiman: So who are all the council liaisons now to this group? Are you solo or...? I thought...

Paul McGrady: Solo.

Kathy Kleiman: Okay, thank you.

Paul McGrady: It was (Heather) but because of her duties as Chair it's too much so - and then it gave me a chance to get away from Sub-Pro.

Phil Corwin: Okay, so thanks for...

Michael Karanicolas: (Unintelligible). While we're updating our statements of interest it's been updated on the Web site but I can also say I'm also now involved with the DNRC with Kathy but again that doesn't really change my engagement very much. I'm still noncommercial participant and the values that I - the values and basically perspective that I bring is essentially the same.

Sorry that was Michael Karanicolas for the record.

Kathy Kleiman: Are you going to update the statement of interest? Zak do you have an update? Sorry to put you on the spot.

Zak Muscovitch: I do not have an update because I updated it some time ago when I first joined the Working Group but I'm Zak Muscovitch. I've taken over (unintelligible) as general counsel for Internet Commerce Association and so that's my participation here. Please don't make comparisons with me and Phil. There's - those shoes are too big to fill.

Phil Corwin: True to fact they're only 10-1/2 and they're narrow.

So this is Phil, summarizing. There is an open Co-Chair position. The process is open for groups to put a suggested candidate forward based on whatever criteria they think are relevant or for a member of the Working Group to self-nominate and put themselves before the Working Group.

Several members have suggested changes in our course forward which would require some modification of our charter and consent by council and they have agreed to prepare some written materials in that regard as well as in regard to GDPR considerations and alternative work we could do if we - in the next few months if we make that decision. And we look forward to receiving those submissions.

I want to thank (Martin) for pointing out something that's obvious. The reason URS was put in phase one was because it is one of the new TLD RPMs and if we make the decision to wad it up with UDRP we can't - I think that would require the Trademark Community to be comfortable with the URS continuing as is, at least at the beginning of a subsequent round because we couldn't realistically expect the second round to be - the next round to be delayed if for no other reason than Jeff Neuman's head would explode if he heard that news.

And finally in regard to Kathy's statement that the Co-Chair role does not require an insane amount of work, it reminds me to say that you don't need to be crazy to work here but it helps.

And with that I want to apologize to Jason for assuring him that the discussion of the Co-Chair role would be short and sweet. We really didn't expect all this other discussion but the floor is open to Jason Schaeffer to present on the ongoing work of the practitioners' sub team for the URS.  
Thank you.

Jason Schaeffer: Okay, thank you Phil. As this is an ICANN meeting we know that things do tend to go long. So your apology's accepted but understood.

So with no further ado, we're here very late on a Sunday evening where now staff can put the slides up for the sub group.

I'm Jason Schaeffer. I had the task of chairing the sub group on practitioners' questions. We can go to the next slide I guess.

And what we did and endeavored to do was to develop questions for URS practitioners and also identify a list of practitioners to ask those questions and to perform the outreach. So we're here now to - if you go to the next slide we might as well move forward.

So now presenting to the larger Working Group the work that we accomplished over the past few weeks and I'm proud to say that we endeavored to create a comprehensive list of questions broken roughly into procedural issues and substantive issues, so....

If we'll go to the next slide... I guess for those that are not here I'll read through the questions perhaps as a - to make it efficient we'll go through the questions and then of course if members of the Working Group have additional points we can raise them.

So starting in procedural, number one, since its inception how many URS proceedings have you been involved? Pretty straightforward.

Number two, in each proceeding did you serve as counsel for complainant or respondent? If for complainant what triggered your decision to file a URS claim and what was the factual basis for your claim? If for respondent what were your defenses to the claim?

Now as we get to the next section on substantive issues you'll see how these questions dovetail.

Moving on. As an overview and leaving aside the result for the moment, in filing or responding to a URS claim was your overall experience with the process positive? Were there rules and procedures for filing or responding to a claim under the URS clear and did you encounter any material procedural problems?

Next slide. Question seven, do you have any comments or observations as a practitioner about the ability to re-file after six months following a default and have you re-filed after a default or been involved in one?

Question eight, do you have any comment as a practitioner about the appeals process provided under paragraph 6.4 of the URS procedure where a losing registrant who fails to file a response can seek de novo review for up to six months?

And under paragraph 12 either party can seek de novo appeal with a determination within 14 days and have you filed an appeal or been involved in one?

And finally, do you have any comment about the extension mechanisms noted above and that are provided for appeals under the URS?

So as you can see, these are pretty straightforward procedural questions. I think the meat of what we're getting into will be followed in the next section but I'll leave it to the Working Group if anybody has any questions about these initial points that we raised or any additional points you'd like to discuss.

David McAuley: I have one question. David McAuley speaking for the record. When you asked for comments did you give some thought to putting a word limit on it?

Jason Schaeffer: So at this stage we - it's a good question. We have not. We have not set that up at this point but I think staff we should note that. Obviously this can - we should try to limit things as it could be quite verbose.

On the other hand, the goal was to get as much comprehensive information back as possible. When we get to the next section with the practitioners I think you'll be able to begin to look through that list and see who's on that list and begin to figure out who's going to be verbose and who might be, you know, short in their answers.

Kathy Kleiman: I think we should make it a 500 word limit. Just kidding. (Unintelligible).

Jason Schaeffer: Okay. Any other questions about our procedural comments and questions to the practitioners? Anyone else in the - does anybody see anybody in the chat? No? Okay.

Kathy Kleiman: Jason may I ask just out of - I'm part of the sub team. Jason is the Chair. But just wanted to add that because we had a slightly narrower scope than some of the other sub teams we had the ability to kind of go back through and edit a little bit and other things.

I think the other sub teams had a wider scope so hence our slightly more finished product.

Jason Schaeffer: Thank you Kathy. Okay, next slide.

Now we get into the substantive issues and here's where we think the meat of the analysis is coming in to play which will obviously as you'll see through these questions raise some significant issues.

Starting with number one, the burden of proof, clear and convincing. Do you believe this is an understandable standard? Should this standard be modified? And if so, why? And if not, why?

In any of your cases did it appear that the panelists did not consider each of the three required elements under the URS?

In any of your cases did the panelists appear to be unsure of the test or application of the standards... and I skipped one.

In any of your cases did it appear the panelists did not address certain aspects of the URS which was required to do?

So these six questions alone provide a lot of - potentially a lot of information back to us from these practitioners. Let's just go to the next slide to round it out before we answer questions.

Should there be more guidance for practitioners and providers regarding what satisfies the clear and convincing standard? As a practitioner how confident were you in each case with the WHOIS data necessary for filing your URS claim was accurate or authentic?

In each of your cases did you find those decisions adequate to understand the basis of the ruling?

And then ten, did you consider using past URS cases as precedent in your submission and if so were you able to effectively use past URS cases as precedent? And were some decisions unusable due to their brevity or lack of discussion or the rationale for the decision? And if so, did you find another case or cases to use as precedent?

Next slide. Do you believe that there should be more guidance on the elements that need to appear in a decision? Are you finding that the URS is

being used for the type of cases for which it was intended, i.e., the clearly abusive case?

For those who are practitioners do you believe that the relief provided the URS the suspension is adequate and if not, what would you like to see as a relief? Transfer of the domain?

Have you encountered problems with the relief or reward awarded? Why or why not? And please describe the problems you encountered.

Number 15 opens up a particularly wide door here. Is it valuable for the URS to follow the UDRP elements?

Number 16, do you believe that the remedy provided by the URS is adequate and if not, what remedy would you propose? Next slide.

Okay, we can go back about three sides, to the first question.

So with that, we should open this up to the Working Group. I know it's the first time many of you are seeing these points but... Kathy?

(Ariel): Actually (Christine) raised her hand first.

Jason Schaeffer: Oh okay.

Kathy Kleiman: I was just going to read your comment into the records.

(Christine): Thanks, this is (Christine). Real quick, and this is more of a comment than a question but I've been on several of the sub teams now and I know that one of the things that we've worked really hard to avoid is questions that are simply yes and no.

And there are many questions that just answer do you believe, which is yes or no. It doesn't ask to elaborate, it doesn't ask for why or for further information. And I think it would be really helpful if the sub team went back and clarified those so that you really were asking what you were getting at.

And a couple of places, like for instance, I think questions two and seven here, one, two, and seven are all essentially sub parts of the same thing. So we're talking about clear and convincing evidence. Is it understandable, and I think seven was something like how could it be made better or more understandable? Like that idea of grouping them together in sort of a multi-part question as you've done in other places.

So just sort of a say to kind of condense it and kind of lump the questions and make them be more - generate more useful information. I think that would be my suggestion. Thanks.

Jason Schaeffer: Yes, thank you (Christine). I mean, this is a rough work in progress but that is - that was - that is the goal and that's what we've tried to do over the past few weeks to - we took a very large amount of information and culled it down to this.

But I think it'll be much more effective in the end if the final product does follow that model.

Jason Schaeffer: David?

David McAuley: Thanks. David McAuley again. I agree with what (Christine) just said. And the other thing I would say is I think the - I saw a redundancy there I think on adequacy of the remedy which I'm sure you'll clear out.

But I think the more questions there are the less chance that someone may respond and so my - I would simply exhort you at some point to try and whittle them down to the essential questions and maybe have an introductory

paragraph that says where you want to make a comment, please do but please be brief and to the point, or something like that. Thank you.

Jason Schaeffer: Thank you. Kathy? Susan?

Susan Payne: Hi, thank you. On number two, well I suppose it's one and two but, you know, do you believe this is an understandable standard. So you are proposing to ask practitioners who are familiar with the URS whether they understand what the burden of proof standard is? Like if they understand what that means?

I'm sort of seeing you nod yes and I'm just wondering why you think it's necessary to ask that? It seems to me that if the practitioners who are familiar with the URS rules and the statement there about what the burden of proof is don't think that's understandable shouldn't they be going back to law school? I mean honestly, I'm just - what on earth?

Jason Schaeffer: So thank you Susan. So I think what we did here is that this was also a little bit broader when we started looking at examiners as well and in some cases there are examiners that are also practitioners.

And as everyone in the room knows, the URS is in its infancy and is - may not always be from the data that we've begun to collect we may not always be well understood or applied in every case so we were just trying to see if that is in fact the case or not and allow for reasoned responses.

And when we get to the practitioners that you'll on the list later you'll see the overlap between a practitioner and an examiner in some - many cases.

Kathy Kleiman: Any other questions at this point? I believe there are more practitioner questions if we're ready to move on from this section? Great. Thanks for the input. Next section.

Jason Schaeffer: Okay. Question one, substantive issues, under URS rules proof of use can be submitted with the complaint or the SMD file can be submitted to demonstrate that proof of use was submitted and accepted by the TMCH. Do you believe that this is adequate proof of use for your case? If not, what would you recommend and why?

Two, fees, as a brand owner or practitioner representing brand owners how do you feel about the URS fee? Do you believe the fee is too high or low? Does the fee structure work for the URS? How does the fee factor into deciding whether or not to file the URS case? And as a respondent or practitioner, please provide the answer to these three questions.

So going back. Next slide.

Okay, this - yes, this is (unintelligible) for 15 or more domains as a brand owner or practitioner representing brand owners how do you feel about the response be for 15 or more domains?

Do you believe the fee is too high or too low? Does the structure work for the US and how does the fee factor into deciding whether or not to proceed with a URS? And the same questions pertain to the respondent.

Number four, have you found the word limits to be adequate?

Number five, if you are a brand owner or practitioner how did you find about the URS? How did you make a decision about whether or not to file a URS or just let it go? Next slide.

Number six, if you are a registrant how did you learn about the responses to the URS and the affirmative defenses?

Number seven, did any of the decisions in your cases include unintelligible or meaningless language, i.e., gibberish?

Number eight, are there effective means available online for searching for cases and in your experience is this true of all providers and how can such a search be improved?

Kathy Kleiman: And we have a question...

Susan Payne: Yes, hi, it's Susan Payne. Thanks and apologies. I don't mean to sound like I'm criticizing your work. I know you've only had two weeks to do this for a start and I'm quite sure that what you're presenting to us now isn't your final form. So please don't take this as being criticism of your work.

But it seems to me that when we decided on having these three groups we talked about - you know we had a discussion for Working Group about the benefit that there might be of asking expert practitioners and we had - there were various debates that we were having in the full Working Group. And people kept saying oh but you know expert practitioners could bring valuable insights to this.

And that's - I mean I'm not necessarily one of those who is wholly on board with that but I'm, you know, I'm willing, you know, I was willing to cede to the group.

But it seems to be me that, you know, what we agreed on was asking expert practitioners specific practical questions about the URS proceedings. And I don't think that we should be asking those practitioners things like sort of subjective questions like do you think, you know, the 15 - it's not on the board now but the 15 names question.

You know, but - a number of these just seem to me to be not appropriate for a question to the expert practitioners who are supposed to be answering, you know, a really quite finite series of questions about the procedure and issues

that they've encountered in the procedure. Not, you know, do you want to blow up the rules. So that's my comment.

Jason Schaeffer: Thank you Susan. So as you can imagine when we endeavored to set out on this we have many people in the sub group raising different questions so we of course incorporated everyone's questions into this draft. As you can see, yes, there are some questions that are highly focused and others that are more broad. Again, as you go through the next set of questions and as we get to the next part of the presentation when we get into the practitioners I think it'll help provide more - be more illustrative on how we got to this point.

Naturally there are certain specific concerns of certain brand owners in our sub group that decided they wanted to ask this type of question. But your point is taken and yes, the idea is to find the right scope of questions that will provide useful information back to all of us because we need it.

But your point is taken.

(Ariel): Lori also raised her hand.

Lori Schulman: Yes, hi, Lori Schulman for the record. I note that George Kirikos in the chat has also made a comment that was similar to a point I was going to raise as well.

Why is there questions directed toward registrants when this is URS practitioners? Again along the lines that the assumption was these were experienced practitioners using the URS model. And I'm very confused by the question -- although now it's been changed -- about have any of your decisions contained gibberish.

I think a better question is have your decisions been logically written? Have your decisions been clear? I'm mixed up right now about exactly what we're

trying to do. And I also want to echo the fact that, again, the longer the questions are the less apt people will answer them.

Kathy Kleiman: Okay. First, really good questions are being raised. This is Kathy. Without putting anybody on the spot but let me put you on the spot - who here is from the practitioners' sub team? Just wondering. I am - okay.

So with Jason's permission everyone should feel free to join us in talking about it because we were all there. So on some of these in some ways actually we're seeing some of the wording for the first time because it was rewritten after a recommendation because we actually had bullet point kind of ideas.

They weren't numbered, they weren't - so we're seeing some of this for the first time.

The idea just by way of explanation is brand owner - practitioner - it was kind of clear - some people cross over and some people don't in terms of practitioners. And also some brand owners represent themselves - appear to represent themselves and sometimes repeatedly.

So in some ways they are practitioners. So I think the idea in some cases was to create parallel questions. For responding attorneys and brand owner or practitioners where it's really in-house counsel. So in some of the, you know, we thought there might be a different perspective on some of these.

But let me also again open it to some of the people in the sub team.

(Ariel): (Christine)'s next.

(Christine): Thanks, this is (Christine) for the record. Yes, just another little clarification as you're going through and rewriting. Number one I think is a little unclear because we talk about the proof of use being either submitted with a

complaint or an SMD file and then you ask is this adequate proof? And I'm not sure if you're trying to get at is the SMD adequate proof? Is the proof of use adequate proof? Is it the fact that the complainant gets to choose adequate proof? Just another little nit as you're going through to make sure that it's clear to the respondent which it the person answering the questions. Thanks.

Woman 1: Good question.

Jason Schaeffer: Thank you (Christine). That's a good point. I think the - speak on the behalf of the sub group the main focus here was - is the SMD file sufficient? And that was a big issue of concern but...

(Ariel): Lori's next.

Lori Schulman: Lori Schulman for the record. Yes, following up on (Christine) about do you believe this is adequate proof? I mean if that is the standard of proof I'm not sure why we go to adequacy there. I - again, I - these questions that come back to the SMD files, since they're just technical keys I do - I still don't understand why they're issues of concern, number one.

Number two, I want to go back to a comment that Kathy just made because this is sort of the crux of something I was discussing this afternoon about a concern that I have. When you say, "Well this is the first time we've seen them, they were bullet points but then they'd be rewritten," and so I guess I don't understand again why work that's agreed upon is then rewritten and then it's very hard to speak to the work because it hasn't been in the form that the team agreed upon.

And I find it puzzling. It's hard to answer questions. It's hard to ask questions if the work has changed from what one iteration that everybody thought they were looking at to another iteration.

Kathy Kleiman: This is Kathy. In this case I thought Greg did a great job actually in taking our bullet points that had a lot of kind of assumed knowledge in them and trying to expand them. They are indeed wordy and we do need to cut them down.

I thought Greg did a really good job and - but like other sub teams that presented these are drafts. So we appreciate your raising problems, ambiguities - good, let's solve them. And that's why we're sharing them with the whole Working Group.

I yield to the Chair to see if he has any further comments.

Jason Schaeffer: And just another point of clarification of how these questions are coming to the floor. We as a sub group went through a large swath of - it was 700 cases I think it was we split up...

Kathy Kleiman: Yes.

Jason Schaeffer: ...and looked through blocks of 50 to 100 cases each and when you take that deep dive into these cases you will see the gibberish and you will see these things pop out and you'll say, "Wait a second, something's not right here," and that kind of informed the discussion.

So we have unfortunately I guess the benefit of going through the cases one by one and seeing the problems one by one whereas you may not. But I invite you of course to take a look at 50 cases on your own and you may find similar things pop out at you and it might be instructive.

But that's how these things are coming to be.

Kathy Kleiman: At some point get to the practitioners list just so you can see it.

Lori Schulman: Yes I just wanted just for clarification because I haven't looked at the cases and it's a good point. I mean did you literally see things that were not words or sentences that were not sentences? I mean exactly what did you see?

Jason Schaeffer: So yes, and in many cases there are just characters, random characters in place of where text should be.

Lori Schulman: Okay. So that was...

Jason Schaeffer: It happened.

Lori Schulman: Okay, gibberish. Okay.

Jason Schaeffer: Quite often. So it does for a practitioner who gets their decision in that format you would want to say hey where's the rationale and basis for the decision.

Lori Schulman: Right, or how...

Jason Schaeffer: Right.

Lori Schulman: ... did it not get conveyed?

Jason Schaeffer: Right. So, you know it's not to point fingers at any one person or group or organization but this is things that the sub group saw.

Lori Schulman: Thank you.

Kathy Kleiman: And to Georges.

Georges Nahitchevansky: Hi Georges Nahitchevansky for the record. So I reviewed 50 cases and I did not find gibberish in the cases. So I don't think it's fair to say that this is, like, a universal repeating recurring thing. If there have been

incidental cases of that that's possible but I don't think it was the experience of everybody looking over cases.

And the second thing is we were asked to really look at the cases in terms of who were the practitioners who had filed the cases and not to necessarily go into every case and look them over.

So we didn't really do that. We really just looked at it in terms of the practitioners. Just wanted to clarify that.

Kathy Kleiman: Phil is going to jump the queue with an announcement and then (Greg) - is (Greg) in the room now?

Phil Corwin: Well I just want to explain I'm about to leave the room because my new employer has a reception this evening. The buses start leaving at 6:30 so I need to go back and drop my bag off. And I know that Kathy and Jason will ably handle the remaining 20 minutes of this session.

I want to thank everyone for the robust discussion of both the Co-Chair position and the way forward for this Working Group and we will follow up as discussed and have a full exploration of those options at upcoming Working Group meetings. Not on Thursday meeting which is a meeting with providers, but as soon as we get back from ICANN 621 we will pick up that discussion. Thank you very much for being here.

Kathy Kleiman: Okay, Greg, Greg (unintelligible).

Greg Shatan: Thanks. Greg Shatan. Sorry for not joining earlier but I had four meetings at the same time and I was following this one on chat but unfortunately not orally so all I saw was a lot of interesting body language up until this point but now I'm here.

So just wanted to say that I, you know, probably reviewed about 70, 80 cases because I got a little carried away and I didn't see any gibberish in any of them. I certainly did see some cases that appeared more sparse in terms of the decisions.

There was, you know, obviously as with any new endeavor there are improvements to be made. It would really hard to imagine that everyone got it right the first time. But the - to come in on the gibberish question, I saw no gibberish. Thanks.

Kathy Kleiman: Okay.

Jason Schaeffer: Okay, staff can you move, I think next two slides we may have. Oh keep going. We already covered - oh this we did not cover.

Kathy Kleiman: I don't think so.

Jason Schaeffer: Okay. Okay we have I think four more, five more questions here.

So question one, as drafted and currently implemented do you feel that the URS is a reliable mechanism such that parties can reasonably rely on uniform application and interpretation of the policy. If not, why not and how can this be improved upon?

Do you believe that this has improved over time as more decisions have been issued? For those who have only filed URS case was there a reason why you didn't file more?

Have you encountered any problems after a successful -- I think that means to be URS -- decision in the suspension of the extension - for the extension of the suspension and if so please describe the problem incurred.

And number four, we get into GDPR. What impact if any do you believe the GDPR that will take effect on May 25th will have on the URS? Next slide.

Okay, go back.

Man 2: Sorry.

Jason Schaeffer: Okay, so that's it for the questions. Yes if there's any questions go ahead.

Flip Petillion: Flip Petillion. I have a problem with your second question on this slide. And I would suggest the following. Actually I know we are afraid that a lot of people will not answer all these questions because list is too long. But I think you should add another question.

And I also think that you should send the list not only to the practitioners in the URS using URS. You should actually address this and send this to everybody who is doing UDRP.

And we would like - or I would like to see the answers from the UDRP practitioners and definitely on question two, why do you not use URS or why do you limit it to one use?

Jason Schaeffer: Thank you. Very good points and staff should note that.

I guess Kathy is the wider group Chair. Is this something that makes sense and is this within what we were discussing?

Kathy Kleiman: The Co-Chairs did discuss this at a leadership meeting and we've discussed it with staff and there is an issue of expense of reaching out to a larger audience. So it's something we'll take under advisement but the UDRP practitioners is certainly a larger group than the URS practitioners.

Flip Petillion: So we make a choice between quality and cost? Is that it?

Kathy Kleiman: You want to hear what happened at the council this morning and the timing issues - I'm just saying we are somewhat of a time constraint as well. But we'll talk with staff.

Well, Georges...

Georges Nahitchevansky: Georges Nahitchevansky right. But isn't this the big elephant in the room? I mean basically we, you know, we had that discussion during our meetings and it was raised that, you know, there are only a certain number of URS cases that have been filed in total. And there has to be a reason why people are not using the URS. And practitioners who have experience in the online space with UDRP and whatnot would be your logical choice.

Now I understand, you know, from what you said Kathy, the time constraints and the Co-Chairs didn't want to open it up but there has to be some, you know, middle ground because you need to get that answer. That's - is it effective as a remedy? Is it not effective as a remedy?

And we ought to know that and maybe address that point if it's not an effective remedy, why not?

Kathy Kleiman: So let's do this. I think we're done with the questions. Let's go to the list of practitioners which is going to be teeny. We're going to try to blow it up and see kind of who's - I mean, I know you know who's there. But - and see who's there. And we will notice an overlap of people.

So let's maybe hold the question and come back to it. Also we've got it and staff has it. Thank you.

Jason Schaeffer: Thank you Kathy. Thank you Georges.

This section is - now we'll get to the point of the second part of the sub team was to come up with a list of URS practitioners. And when we started on the first call this slide is particularly interesting. We just began brainstorming about names that we thought would be those people that would be experts in this area.

And to get to your point, Georges, a lot of it was crossover with the UDRP practitioners and we know that there are relatively few URS cases compared to the UDRP. You'll see a couple of zeros on this list. These names in the first column represented the practitioners and groups that we thought would have experience on both brand and respondent side.

As you can see it on the column you'll notice 53, Doug Isenberg has 25, David Taylor 18, John Berryhill 5, and so on. When we get to the bottom you look at (David Bernstein), Flip, and (Mark Monitor) all have zero, which we were very surprised to see.

So we went back as a group and said okay now we need to look at the data and actually get into who's doing what with URS. So this does get into the heart of what we're discussing here of who's doing this and why they are or why aren't they?

Can we go to the next slide? So we did take - and Greg took a big step here to rework the data here and we have a number of columns. You'll see sample cases and total cases which there's some difference. But the sample cases are what the sub team went through and came up with in collating and coming up with the information and then the total cases was what the wider database revealed.

And as you'll see if you just scroll this list a lot of the names that we thought would be there are there and others are as well. I don't think we need to go through - I think everybody can read the list. I don't think we need to go through it.

Kathy Kleiman: Right. Should we go to page two of the list?

Jason Schaeffer: Page two as you can see there is a precipitous drop-off on number of cases as we go. And then as you come down we're now into 8, 7, 5, and then the next slide we get to the 1's... 1's and 2's.

So a decision was - we had a discussion within the group, the Working Group, to - was there a cutoff point where we would say okay if you didn't have a threshold of five cases would you be included in the group?

The team knowing looking at the data realized that there's a lot of practitioners that only have one or two so we decided to at the moment keep it wide open. And based on some of the comments here from others in this Working Group we're looking to make it even broader so...next slide. Is there one more on this? Yes.

So this is a pretty large group representatives of people that filed and/or responded to URS's far, far fewer in the case of respondents which is not surprising as this is supposed to be a mechanism for clear cases of abuse that would not necessarily warrant a response but most of this is brand representatives or their counsel.

Any questions from the wider group?

(Ariel): Greg.

Greg Shatan: Thanks. Greg Shatan for the record. Just - as I did this work, you know, noticed some interesting things in terms - especially in terms of going from our sample which was, you know, a semi-random grouping of the total, that a number of those who we only found one case for had seven or eight, many of the ones only had one but there was also - so I did not, you know, search - I searched for the names that we identified in our list.

So there might have been somebody who only appeared outside our sample especially because the list is kind of very streaky in terms of when people are doing these cases as they often bring a bunch and then stop for a while, bring another bunch.

So we may be missing one or two people but I think the point is that there are, you know, a number of practitioners and also a number of in-house folk who are using this quite regularly as well as there are people who are just jumping in.

And as Jason mentioned, the - on the respondent's side the only person we found with more than one was John Berryhill. Everyone else seems to have been essentially counseled for other reasons who was called in at that time, not necessarily people we've seen appearing as complainants counsel but just, you know, people who are grabbed, especially in the more anomalous cases I would say, of the ones I looked at.

I thought it was interesting that, you know, the one case where Zak showed up he was representing a complainant. We'll forgive you I guess.

So, you know, everyone else, you know, and (David West) only had one case so it was interesting. So I think people have kind of - there appears to be, you know, those who do and those who don't.

So I think we - you know, it'd really be helpful to speak to, as Flip suggested, to a sampling of those who don't but who do UDRP. It'd also be interesting to find out from the forum or the providers if they can recommend maybe some shortcut way of contacting practitioners, hopefully one that doesn't violate the GDPR. But, you know, we are at least dealing with a known universe of people who have, you know, made themselves known in some fashion.

(Wypo) I think kept contacts. They're stable with their - of - actually it's the stable of not or providers but of neutrals. But I don't know if you sent stuff out to the providers but if there's a way to get to the providers without this huge expense problem because we are still dealing with a relatively - especially if we go to the top, you know, 20 or 30 of the UDRP practitioners. The expense shouldn't be huge and we're dealing with, you know, something we can do, you know, online and without kind of getting into, you know, a big big deal.

And that'll probably be enough in terms of, you know, cost and expense, diminishing returns and all that. Thanks.

Kathy Kleiman: Okay. I'm in the queue next. One of the questions the sub team had if I remember correctly is whether to reach out to the people who had only one or two cases... and whether that was an interesting group. As you look down it and maybe staff can also page up one page, you know, does this look like it would - there's a lot of people who only had one case.

A lot of our questions have to do with your experience with the URS. Should we reach out? Could you page up one? Could you page up one page?

So again people with two and then going down to one. You know, so we'd love your thoughts on whether this looks like a list that we, you know, would be valuable to reach out to or should we focus on those with more experience.

Thank you David, go ahead.

David McAuley: Hi, David McAuley again. One of the questions I think we saw was if you had one case and didn't do any more would you tell us why. It seems to me that the broader you cast your net, assuming that it doesn't cost all that much to cast it broadly, the better off you are. Because not everybody's going to reply and you may get some very interesting replies from those at the bottom of the list. Possibly.

So anyway that's - that would be my suggestion.

(Ariel): This is (Ariel). I'm staff actually. (Julie) from staff has a comment. Ask the question.

(Julie): Yes so actually there's two things I wanted to do. First was to read out the question from Scott Austin and then also to note both (Mary)'s response to that and then complement her response just to help the discussion.

So Scott has asked Greg Shatan was able to create this list of practitioners who had served as counsel for the largest number of URS cases. Can we do the same for UDRP and take the top 5% or whatever percent produces the number that is within the available budget for distribution of the questions to practitioners and even one case if the issues are unique and could be instructed?

And in - and actually I think - yes, okay - so - and so (Mary) had responded and then I'll just say a little bit more about this.

And Scott there is no budget allocated to these surveys. Staff assumption is that this will not be worked on by a professional surveyor and Scott has responded, "I thought the discussion was about a limit to reaching out to UDRP practitioners due to expense. What is the limit on expense?"

And just to go to that question, the limit on expense is zero. In all practicality, I don't mean zero resources necessarily but we do not have a budget for any kind of professional survey. And that means then that - and I think I said this in the first of our two meetings but not everybody in the sub team was in that meeting and certainly not everybody in the Working Group was in that meeting.

So just to be clear, if we were looking at something -- and I think staff said this before -- that was limited and targeted -- and I know that has other issues with it-- whereby there could be a short survey that could be like a Survey Monkey type of thing that conceivably, you know, the sub team members and others could help identify the contacts because again, we don't have somebody who can professionally do that and we can't pay for that.

So - and I know that then there is a desire to reach out to, you know, as broad an audience as we can but we do have a very clear constraint in resources and budget. Thank you.

Jason Schaeffer: Okay, thank you (Julie).

Scott is on the sub team so the - I think some of those points that he's raising we can certainly address as the sub team and I guess that certainly goes to the wider question presented here today of do we in fact expand to those who are UDRP practitioners that would have the requisite knowledge base to answer these questions?

And that again goes back to the original point we had which was when we tried to come up with that short list of names we had a wider list that included people that you would've thought would've been on the list but were not. So I think it makes a lot of sense to - our next call address that.

Kathy Kleiman: Okay.

(Ariel): A (Jim McEllen) is in the queue.

(Jim McEllen): Thanks, so I think my question was going to be how were we going to do this survey and that just was basically answered. And I know that George Kirikos had put into the chat room that this was going to be a not statistically relevant survey.

But I think what we're really getting at here is some anecdotal - we're looking at seeing trends and asking people's opinions more. A lot of it's subjective opinions.

And so then I agree with David. We should send it out, cast a wide net, we'll have a list of, you know, how really experienced those people are and we can kind of evaluate the results we get back by knowing, you know, hopefully we'll be able to tell who those people are. I don't - was there any plan to anonymize the response?

Kathy Kleiman: And we should note in some of these cases if we're looking at this list the attorney isn't even identified in some of these cases. So just finding these people and trying to find - it's going to be hard.

In some cases attorneys are listed - you know, firm and attorney are listed and in some cases it's just a firm. It's interesting.

John McElwaine: Yes I think with this group we can probably get some of the names, clearly not all of them but we'll probably know the relevant folks that's in those firms that do that type of work and probably can help get it to the right folks.

Jason Schaeffer: Thank you John. Any further questions, comments, concerns from the Working Group? Anyone else in the queue? Staff? I don't see.

Kathy Kleiman: Any other questions in the chat room? Anything? Any comments?

Jason Schaeffer: Oh, Greg.

Greg Shatan: Just to go back to the questions issue. I think we should do at least one more good scrub on the questions and think about it especially from the - you know, not just take all the input that I was trying to lip read earlier while I was in the room next door trying to follow this. But to try to think about how to make it more concise, you know, if it's an online survey is there a way to do it

through some questions being multiple choice or radio buttons or short text or something where we can make it not so burdensome because as we found out in the survey that shall not be named the, you know, the longer and more complex you make it the more curious you become the less devoted your audience becomes to answering you.

So I think we need to just kind of find a way - and I know we're not going get professionals to work on this but some of us have worked on surveys and some of us have some idea of user interfaces too so hopefully we can do something that will get a pretty good rate of return which is really - in terms of, you know, relevancy, you know, it can go to two things which is what is how many people did you try to contact and how many people actually responded.

Those are both issues that go to sample size so if we have - if we try to get 100 and we get 80 even if there are 10,000 practitioners that is really pretty good.

We don't need to get into the minutia of this because we're not necessarily trying to build up statistics, we're trying to build up information. And so I think we can get some really good information on this. Thank you.

(Ariel): Collin is next in the queue

Kathy Kleiman: I'm sorry?

(Ariel): Collin Kurre.

Kathy Kleiman: Okay.

Collin Kurre: Yes I raised the question in the chat. This is Collin Kurre for the record. But if we are addressing - if we are planning to reach out to the people, the long tail of people that have only one case I wondered if we wouldn't want to abridge the survey and only have like the more general questions or if we - in

the interest of having more respondents or gathering more responses and not scaring people off?

Jason Schaeffer: I think that could be part of the scrub is to think about, you know, kind of a light version of the survey and maybe even go beyond the one. So if we can get - I'd rather have somebody answer our ten most important questions than not answer at all.

Kathy Kleiman: Okay. So this is Kathy. It's now 6:29. We have less than a minute. So I would like to thank Jason for presenting today. I'd like to thank all three URS data sub teams for an incredible amount of work in two weeks and everyone for presenting, everyone for being here for our face-to-face meeting.

And we have one more face-to-face meeting. In just a second I'll ask staff to give us the time and place of that meeting. But to let you know, it's a discussion with providers and some will be remote, some will be with us in person. The foreman will be with us in person, (Renee). And looking forward to that discussion and wishing everyone well in their week at ICANN because we'll be seeing you again at the end of the week.

Staff could you tell us where and when the next meeting is? Thank you.

(Ariel): This is (Ariel) from staff. The last RPM session is on Thursday, 15th of March at 8:30 a.m. to 10:15 a.m. and the room is 103A.

Kathy Kleiman: Thanks everyone. Appreciate it. Thanks again to Jason, to staff.

Coordinator: Thank you everyone. This meeting is adjourned and we'll ask the technology staff to please stop the recording.

END