

GNSO
Special Trademark Issues : Trademark Clearing House
11 November 2009 at 16:00 UTC

Note: The following is the output of transcribing from an audio recording of the Special Trademark Issues meeting on Trademark Clearing House held on 11 November 2009 at 16:00 UTC . Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-sti-tch-20091111.mp3>

On page:

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Participants on the Call:

Jeff Neuman
Jon Nevett- Registrar (Chair on this call)
Jeff Eckhaus – Registrar
Mark Partridge - IPC
Paul McGrady - IPC
Zahid Jamil- CBUC
Mike Rodenbaugh - CBUC
Phil Corwin - CBUC Robin Gross- NCSG
Kathy Kleiman - NCSG
Konstantinos Komaitis - NCSG
Alan Greenberg - At Large
Olivier Crépin-Leblond - At Large alternate

ICANN Staff in attendance:

Kurt Pritz
Liz Gasster
Margie Milam
Gisella Gruber-White
Marika Konings
Amy Stathos
Glen de Saint Gery

Apologies:

Davis Maher - Chair
Jean Christophe Vignes - Alternate
Wendy Seltzer –NCSG
Maimouna Diop – GAC Observer

Coordinator: This call will now be recorded. Thank you.

Gisella Gruber White: Thank you, I'll do a quick roll call for you John.

John Nevett: That would be great, thank you.

Gisella Gruber White: Good morning, good afternoon, good evening. On today's STI Trademark Clearinghouse call we have John Nevett, Zahid Jamil, Mike Rodenbaugh, Jeffrey Eckhaus, Mark Partridge, Konstantinos Komaitis, Alan Greenberg, Olivier Crepin-Leblond, Kathy Kleiman, Jeff Neuman, Phil Corwin, from staff we have Margie Milam, Marika Konings, Amy Stathos, Liz Gasster, Kurt, Glen Desaintgery and myself Gisella Gruber White and apologies we have David Maher and Wendy Selzer.

If I could please just remind everyone to state their names when speaking, thank you, over to you John.

John Nevett: Great, thank you very much. So just - we called group - alternate phone.

Alan Greenberg: John it's Alan, there's - the voices are cutting out a lot of the time and there's some slapping the background, I don't know what it is.

John Nevett: I could unequivocally state that I am not responsible for the slapping.

Alan Greenberg: Is anyone else hearing it or is it just me?

Konstantinos Komaitis: I hear it as well. This is Konstantinos.

Jeff Neuman: I hear it, too, I put myself on mute, this is Jeff. Not that it's me doing the slapping, I'm saying I'm putting it on mute.

Alan Greenberg: Thanks for the clarification Jeff. John try again, last time you were talking I only heard about a third of what you were saying.

John Nevett: Okay, is that better?

Alan Greenberg: Right now it is.

John Nevett: Okay, just on - in terms of ground rules, we have a couple groups that have alternates on the phone. I just want to figure out if the alternate is representing - if the two or one members are on the phone as well and just figure out the rights of the alternates.

Sounds like from an ALAC perspective Alan you'll be the participating party?

Alan Greenberg: We would prefer if alternates could speak but I understand the ground rules were not - were that they not so I presume that's the rules. If they change let me know.

John Nevett: Okay, the NCSG, do you have alternates available or...

Woman: I don't think our alternates are on the call.

John Nevett: Okay, Wendy's not on so they could be just...

Woman: Oh, good point, Wendy is on an airplane and sends her regrets.

John Nevett: Okay, registries, the alternate is on here, registrar the alternate is on here. BC?

Phil Corwin: Mike is the alternate and I'm the lead.

John Nevett: There's two - there are two I think with one alternate right?

Phil Corwin: Yeah, I'm sorry, there are two with one alternate, that's right.

John Nevett: Okay, so you and Mike are on?

Phil Corwin: Yeah, Mike do you want to speak to - yeah.

Mike Rodenbaugh: Yeah, that's correct and Phil is the alternate.

John Nevett: Okay Phil. IPC, Kristine is away right? And then ISBC I didn't hear anyone.

Man: Could I ask if anyone from staff could send out the link to the Adobe Connect if we're using that? I can't find it in past emails.

John Nevett: Okay, if someone could do that that would be great.

Man: Thank you.

John Nevett: Okay, so then just one other matter I wanted to raise, I recently in the last few minutes circulated a draft proposal coming out of our meeting yesterday on the URS, obviously today we're talking about the IP clearinghouse or trademark clearinghouse but I wanted to make sure if you don't get that to let me know and to thank the folks who helped putting that together.

So hopefully that will be some helpful document and reach a consensus at our next meeting or two on the URS. If anyone has any questions about that feel free to reach out to me.

Okay, so on the IP clearinghouse, trademark clearinghouse, I'm going to walk through the consensus document that's floating around that Zahid circulated this morning and we could just take them one at a time.

Zahid do you want to take the lead on that since you circulated it?

Zahid Jamil: Yeah, that's fine I could do that. If you look at number one which is the separate of view parts review approval or repository and the language we see and please correct me if I'm wrong.

Everybody across the board seems to agree to that. The ISBC is the only one I've seen in the comments saying that there's no need for doing that.

Paul McGrady: This is Paul McGrady, I joined the call late, I couldn't find the number and I can't get into adobe, but tech folks are working on it. I apologize for my tardiness.

John Nevett: Okay, no problem. Hi Paul. Okay, I'll take a queue Jeff.

Jeff Neuman: Yeah, I just wanted it clear somewhere that it's one database that the registries and registrars have to deal with. So I'm not sure exactly where that is, so we could separate the roles but make it clear that it's one entity that the registries and registrars deal with.

John Nevett: Any comments on that? If not Marika could you put that in the notes?

Man: Is that number two, is that the second one?

Zahid Jamil: I think number two is that centralized database but I guess we could clarify that for you.

John Nevett: Jeff does that address your concerns?

Jeff Neuman: Centralized database for maintaining the trademarks and providing summaries, yeah, just make it...

Man: Do you want to say one centralized database?

Jeff Neuman: Correct. Okay, thank you.

Mark Partridge: John, this is Mark Partridge, could you put me in the queue please?

John Nevett: Go ahead Mark, you're next.

Mark Partridge: On the chart that's there didn't seem to pick up the comments that - from the IPC that we sent out yesterday and I'm concerned that maybe they didn't get properly distributed or sent.

But on this particular - so I've resent it and I hope people will get that this time, you know the point on number one that it - the IPC's view is that the responsibilities could be divided provided there's one centralized database for submission of information and for use by the stream.

Similar to what Jeff is saying, also make sure it's one database for submission.

John Nevett: Okay.

Alan Greenberg: What do you mean by one database for submission? It's Alan.

Mark Partridge: That there's one place for the parties who are submitting information to send it. That's the main point of the clearinghouse is that there's one place to make the submission.

Alan Greenberg: Okay, so you're saying in addition to one final database, you're saying the submission point must always also be the same.

Mark Partridge: That's the idea - yes, that's the idea behind making the clearinghouse efficient so there's simply one place where you deposit.

Alan Greenberg: Okay. It's Alan, the only comment to that is that needs to be done factoring in respect for languages. In other words you can't say there is one place to deposit it and you must do it in English.

Mark Partridge: That certainly seems fine, no problem with that.

John Nevett: Note that I've Kathy and then Jeff back up.

Kathy Kleiman: Okay, this is Kathy and there appears to be agreement on number three that says there will be regional validation services or regional examining services.

The goal which we've talked about many times being to get that verification and that - as close to the country as possible but there wouldn't be one all knowing authority that knows every country's trademark laws and every country's description of goods and services process and every country's classes like international classes.

And so that was the purpose of the regional is to have different places to submit the data that would know the trademark law of the different regions of the turn countries.

Man: But doesn't that go to validation, not where the trademark are focused? File the trademark information?

Kathy Kleiman: Are we creating a third entity now?

Man: No, it was two, wasn't it?

Man: Well regardless are we on number two or three?

Man: We are on number two.

Kathy Kleiman: I guess I'm on number three because I thought number two was the database that communicates with the registries.

John Nevett: Okay, Jeff do you have a comment on two or three?

Jeffrey Eckhaus: It was actually on one, two and three. Yeah, what I want to say is I think people are mixing and matching and I think that I guess Mark had mentioned it and Jeff you had mentioned it.

I just want to be clear, so the separation into two parts was one would be the validation piece and one would just be the other entity that disseminated the data.

So there was no piece - there was no idea that it would be two separate databases or two separate ideas. And I guess that is one and two combined on that, that I don't think there was any change on that and I think we're both in agreement on both of those.

So I just want to be clear what the separation was, it wasn't it's the separate databases, it's just separate entities on there.

John Nevett: So if I could summarize, on the front end the IP holders want to be able to provide all that trademark information to one entity.

And on the back end the registries and registrars want to deal with one database.

Jeffrey Eckhaus: Right.

John Nevett: Then the question is what's in the middle for validation and should there be a separate entity that does that and should that separate entity or entities be on a regional basis or not?

Is that accurate?

Jeff Neuman: Well I think there was one - well yeah, I think there was one other part which I think the staff proposal was the one database, everyone would connect to that one data - would use that one database. But the person who you would

connect to was different than the person who was collecting all the information that you submitted to and was the validator.

So I think I'm saying what you're saying but I didn't bring three into it, I'm just going to leave three alone for the moment.

John Nevett: Okay. Can someone send Paul McGrady the call information for the US with the...

Paul McGrady: I finally got it. I haven't connected to Adobe for some reason I'm in the Miami office today and it's not working here.

So if I need to say something I'm just going to rudely jump in, how's that?

John Nevett: That's fine. Zahid.

Zahid Jamil: Thank you, just a question so if you're trying to register a trademark and you're in a region which is say you know in Asian, whatever, wouldn't you be sort of presenting that information in your own language, in your own format to the regional marks verification service provider first?

And then that's where it goes to the centralized database afterwards, after validation? Because otherwise what would happen is that you'd probably have to send it to a centralized database or whatever eventually and then they send it to the validation which is separate.

And then it comes back to them, maybe we're doing that - you know I mean I don't know how that will work, it's just asking a question there.

John Nevett: Okay, Alan?

Alan Greenberg: Yeah, I think we're talking about the level of detail we don't need to talk about. I think we've established some principles. I don't know whether we all

agreed on them, but the principles seem to be there shall be a single database that is used for the ultimate repository of the information and querying information in it or sending out IP claims or whatever.

That we want or some people here want a single point of entry into it to contribute documents or contribute marks and languages must be addressed in that case.

And then the issue is who and how do they get validated? And I would suggest that we just put a principle saying the validation should be as close to the region as possible with someone familiar with the issues.

Regardless of whether we have multiple contracts or multiple validators, there's going to be some work that's subcontracted locally.

That's going to be the only way to handle paper documents so I don't think we need to architect this in detail other than to set the principle.

John Nevett: Does anyone disagree with Alan?

Kathy Kleiman: This is Kathy, it depends what the principle is of the central point. I - this is a new idea coming in of one place to submit and all languages, I think you've just increased the cost exponentially.

John Nevett: Well let me stop you, that is not a new idea, that was the IRT idea was one place. That was what the trademark holders have been asking for forever. So go ahead, sorry.

Kathy Kleiman: Again the concept of the regional - so yes, there is disagreement on that point because the regional verification and then that ability to translate an array of trademarks and from an array of different domains into kind of a common format to the database. So different visions here.

Alan Greenberg: It's Alan, I'm not sure it is. When I go into the Japan Airlines home page, I then am asked what country am I in and what language do I want to speak in to and then I go to somewhere. I don't know where that extra - that next page comes from.

But it's all served out of a common point from my perspective as a user.

John Nevett: Jeff Neuman.

Jeff Neuman: Yeah, I was just going to say in previous sunrises if someone submitted and IDNs have been launched with sunrise processes, if someone submitted an Egyptian trademark that had a - you know that could be matched, it didn't need to be from the region, again the question is not how something becomes a registration.

It's once the registration is there an ability of the authenticator to authenticate that that is a registration? Not how it got to be a registration, so if it's hieroglyphics or if it's any other kind of language, if it looks like an identical match and it's identical match, then that's all you need to know.

John Nevett: Okay, anyone else on this point?

Paul McGrady: Hi, this is Paul, I just want to be clear that the IPC's position that all the regional validating or authenticating should be done - should be under one contract with one organization that has the capability world wide.

I understand that the notion of regional validators, but you know from our point of view that creates all sorts of quality - faulty contractual issues.

And it makes - find one vendor who can do all of that, so that you know that's what the IPC would like to stick to.

John Nevett: Okay, any other comments? Konstantinos?

Konstantinos Komaitis: Yes, but the idea of the regional clearinghouse, you know there are so many differences, even tiny differences in trademark laws so we need to have the authority to be able to verify those differences.

I mean one central authority will not be in a position to do all that even if WIPO is not doing that at least all the different registration countries separately.

So I really think that the ideal regional is important for us to maintain consistency in what is being listed. And since the clearinghouse is all about efficiency, especially for the registries and registrars, the one centralized database will allow and ensure this efficiency.

John Nevett: Okay, so it sounds like we have consensus that there should be one database that the registries and registrars are dealing with. I didn't hear any dispute that this should be one entity that the trademark holders will submit their information to so they don't have to do multiple.

And then the issue is whether there should be multiple verification entities or one verification entity with subcontracts based on regional differences.

Is that an implementation detail that ICANN could work through?

Kurt Pritz: So that's - what I heard you - I'm sorry, this is Kurt (unintelligible), sorry.

Kathy Kleiman: I'd like to think about it and bring it back to the developing country people who raised the issue with us and also I think it's something we should revisit that when we get further down on the chart to the notice of the IP claims.

Because one of the issues is not just identical match which raises its own set of issues, but it's not just identical match but what the description - what information we're going to be providing the registrants.

Including hopefully a description of goods and services, what is this trademark owner claiming this trademark for? And the closer we are to the regional verification the better the translation into the registry database will be.

I don't know if that makes sense, but every country, even Canada doesn't use international classes of goods and services.

So knowing what to pluck out of that trademark application to put the registrant on fair notice is going to be a process of translation. And again the closer we get it to the trademark laws the better the nuances are that will be passed on.

So again, foot note here, can we wait until we talk about notice?

John Nevett: Okay, Alan?

Alan Greenberg: Yeah, I just wanted to reiterate that regardless of how the contracts are done, there are going to have to be experts in local trademark long in 100X countries and that's either the requirement of the single contractor or the multiple contractors.

If there is no single contractor in the world, then do it. I mean that's an implementation issue.

John Nevett: So I think you were in agreement with what I said and Kathy is withholding that until - you know reaching out to her community. All right, so let's move on to number four. Any comments, thoughts?

Alan Greenberg: I think that's a duplicate of number one, isn't it?

John Nevett: Okay, number five, question is whether there should be a contract with ICANN or not. I'm not sure where this minimum standards but not a contract came in for the registries and registrars.

Jeff Neuman: Yeah, that's what I was going to say too, you took my comment. This is Jeff.

John Nevett: Okay.

Jeff Neuman: I mean we wanted a contract.

John Nevett: Yeah.

Zahid Jamil: This is Zahid speaking, sorry, just to get a - you want to contract, Jeff, that's the question, is that what you're saying?

Jeff Neuman: Yes, very much so. We did not want - we did not like the way it was treated as an accreditation. We want a strict contract.

Zahid Jamil: I apologize for that, I think that works great, thanks.

John Nevett: Okay, I've got Alan.

Alan Greenberg: Number five is talking about the validation services. My understanding is what we discussed the other day is we definitely wanted a contract from ICANN with WHOIS providing the overall service.

Either the validation providers have contracts with ICANN but based on the previous statement it sounds like the validation provider will be part of the overall organization and perhaps sub contracted out.

So I think our issue is - I thought our issue was the overall service must be under contract, not accredited. Those contracts may flow down, so we don't - ICANN will not necessarily have a contract with the validation service.

John Nevett: Jeff do you have a response. Go ahead.

Kurt Pritz: Well this is Kurt, well get me in the queue after Jeff's response.

Jeff Neuman: Yeah, I mean the way we saw it on the IRT was that there was going to be one entity selected and that entity could sub contract if it wanted to, the authentication role.

Now that we're talking about two entities, I think the sense the database needs to have a strict contract with ICANN. I don't know about the validating agent.

I guess we would too because I guess you would want a way to have strict - you want to have strict guidelines and how to enforce the minimum requirements.

But I don't know, I'm sorry, I'm up in the air on this one.

John Nevett: Okay, Kurt, shed some light.

Kurt Pritz: Oh yeah, no I'm just going to shed dimness. This is a point I made in an earlier meeting that to the extent you can be really clear in whatever your final product is, you know I'm not clear why accreditation isn't adequate.

So if there's - but I'm not - you know I'm for it either way. So I'm just saying if you want to advocate that position be clear in your product work why.

And you know instances where accreditation might fail, that would be really helpful in carrying the day there.

John Nevett: Okay, Jeff.

Jeff Neuman: Hey Kurt, can I turn this around a little bit? I know you're going to appreciate it. But I think the last time you represented to us that the board really wanted - didn't want a contract but wanted more of an accreditation.

Maybe it will help to understand why the board was so concerned with having that contract and then maybe we can respond to those concerns.

Like what in their mind, or what in the staff's mind is the difference between an accreditation and a contract?

Kurt Pritz: Yeah, I don't know. I can only shed more dimness there.

John Nevett: Well we've done both on the registrar community, we get accredited and we have a contract.

Kurt Pritz: And you know what's ICANN's relationship with say WIPO and (NAB)? You know why wouldn't that work here? So I think it might not work here, I just think it's important to say you know or not.

Man: Do we need to break five into two parts between - if we're talking about two functions?

Jeff Neuman: Well five and six, there's six, six is perfect. So here's my view Kurt, WIPO and National Arbitration, they don't really have an operational role in - with respect to registration of domain names in any - they have a dispute provider role which is kind of separate and outside the whole registration process.

But if this we're talking about sunrise processes, we're talking about IP claims, talking about potential pre-registration services for URS.

I see these as more operational than being the dispute provider third part kind of independent thing. And therefore I think the distinction is that when you have an operational role, you really need a strict contract, whereas when you

have kind of a third party outsider type role like WIPO and national arbitration forum for a dispute process I think that could be more of a off hands approach.

But this has got to be you know as a registry I need to have certainty that they're going to operate to certain service levels. And there needs to be enforcement actions against them, whereas as a registry I'm not sure that I care that WIPO takes two days longer to decide a UDRP case.

Does that make sense?

Kurt Pritz: Well you've got a strict guidelines without a contract, right?

Jeff Neuman: Well but you need legal enforcement and I'm not sure how loose an accreditation is when - whether that could really be - it's different, right?

This accreditation that they have with WIPO which is a lot different than the accreditation they have with the registrar. The accreditation they have with the registrar is a strict contract that you can enforce.

The accreditation they have with WIPO is kind of a letter saying okay yeah, you guys are accredited to provide these services. We need strict guidelines, we need an agreement.

Whether you call it an accreditation agreement or whether you call it a contract, that's what we need.

John Nevett: Okay, any other - I have Zahid.

Zahid Jamil: Yeah, I mean I'm looking at the - I'm updating the table as I'm going along and it seems that on five and six everybody says yes so I guess we've got violent agreement.

John Nevett: Okay, Konstantinos?

Konstantinos Komaitis: Yes, just to add from truly a low point of view, the contract is more strict and I would agree with Jeff that we need to have compliance requirements that are the same across the board, across the (unintelligible) and across.

So we really need (unintelligible) for the contract, more binding and it provides more guarantees.

John Nevett: Okay, Alan.

Alan Greenberg: Yeah, I think the problem is here we use the term sometimes interchangeably. Registrars are accredited yet they're part of the contracted party's house and we treat the RAA which is an accreditation agreement as a contract.

So I'm not sure there's a big difference depending on how we word these documents.

John Nevett: Okay. Anyone else, Zahid?

Zahid Jamil: That was from before, just take it down.

John Nevett: Okay, anyone else? Anyone not on Adobe? All right, sounds like there's more consensus that we should have contracts for both sides of the equation. Okay, number seven?

Zahid do you want to walk through that one?

Zahid Jamil: Sorry, I was on mute. Identical matches, there's - seems to be a difference between the definition that was in the staff report and the one that is available here which was in the IRT report.

There seems to be several agreements across the board with no objection from the ISPC. The only one was the (NCSP) saying that they needed to review this and get back to the larger group.

The...

Man: And at large.

Zahid Jamil: I'm sorry, and at large. The BC's view on this was that they wanted all stenographical errors, typographical to be included with it.

John Nevett: Okay. Comments? I've got Alan and then Jeff.

Alan Greenberg: First of all we asked for some clarification. The wording in the middle of this definition about being spelled out, I want to make sure I understand. You know does that mean someone replaces the hyphen with the letters H-Y-P-H-E-N?

So I'd like to know what that means, it doesn't seem to make a lot of sense in what domain names now really look like. We have an objection to the plural which I don't believe was in the IRT report and seems to have been added, I may be mistaken on that.

And we strongly object to meaning and oral. It's just impossible to implement given the number of languages, the number of meanings things have, the different pronunciations that are used in different languages of any given character stream.

John Nevett: Okay. I've got Jeff - I've got a whole bunch of people.

Jeff Neuman: So let me support Alan just said - I didn't even know plural got in there and I apologize for not even noticing. It should be exactly what's in the IRT report.

Not sure you know again I feel like I'm rehashing discussions that we had for weeks in the IRT but I know most of you weren't there.

But essentially there's no way for us to do typographical errors or any entity to do it because again - and I think the other thing the PC has in their paper which isn't on this chart is one marks containing the word.

And the example I used with some people from Microsoft was that you know how do I know the difference between whether or a window or window cleaning windows is a Microsoft trademark?

How do I know that window cleaning is not an infringement or something that's in error or - there's no way for a database to make that kind of distinction.

I'm not sure why it's added in here. The IRT didn't recommend it, the business constituency supported the IRT report, it just seems to me that they're adding a whole bunch of complexities here that are new adds.

And that wasn't the role of this group, new adds should not be the role.

Mark Partridge: John this is Mark, let me - when you have a chance.

John Nevett: Sure, I'll add you. I've got Kathy and then Mike, Zahid and then Mark.

Kathy Kleiman: This is Kathy, I wanted to echo what you know which is that there's great concern in CSG about what identical match is and a number of people say identical match is identical match.

I think ALAC raises some great points as well. Here I wanted to further complicate the issue by finding out - by raising the issue of design marks.

It was interesting, in some kind of offline conversations, I had assumed system design marks were not part of anything, were not part of the clearinghouse because design marks are a right given to the trademark owner for sometimes not even a word.

But if there are word for word or words and a context of a certain type of calligraphy or certain type of color or certain type of logo or design presentation.

And now I'm hearing that there are some who would like to protect those words within the design as part of the string match of the clearinghouse.

So I just kind of want to put that out there as well that we're looking at identical match across just text marks or also across design marks. And that will influence our review, the NCSG review of the issue.

John Nevett: All right, we've got Mike.

Mike Rodenbaugh: Thanks John, Mike Rodenbaugh. So yeah, I was just not clear in reading this and this is the first STI call I've participated on. You might have discussed it but just not clear you know what really identical match means from what it says here.

It could very well mean Yahoo Sports in addition to Yahoo which I think it should mean. But I think the IRT's report came out otherwise.

You know but I don't see any harm really in having additional notices go out. Even - I mean Jeff you seem to imply that the database is making decisions as to what's an infringement or not, obviously it's not. It's making a decision whether there's a record or not, if so display a notice.

If not say that there's not. I mean it's not complicated. What goes in there though and what is an identical match really does need to be clarified. If

Yahoo Sports and Yahoo Finance and all these other phrases are not going to be included as an identical match on the word Yahoo then it is not going to be nearly as effective a remedy for any brand really.

It's almost worthless basically if all you're preventing is identical matches. So then the only other point I was going to make is you know Jeff you keep saying that this is a new add or something and you know this is a new group.

We tried to come to consensus and failed and now we are trying to come to consensus, so please don't say that things are new adds. I mean things have been taken away obviously as well. Thanks.

John Nevett: What's the staff proposal on this one, what's the default?

Amy Stathos: Hi, this is Amy. I don't think that we actually addressed the specifics of what can achieve identical mark or identical match.

John Nevett: Okay, thanks Amy, I've got Zahid and then Mark Partridge.

Man: I think some of us jumped into the line too again to address other comments.

John Nevett: Okay, I've got Zahid and then Mark Partridge and then I'll add the others in.

Zahid Jamil: Thanks, this is Zahid, one thing (unintelligible) position is that you know we would like to see a few add an S or we take away and S to the brand name basically and say that that will not eventually lead to an IP claims order going out.

I just want to say that that is the position, that the BC members feel that it doesn't really help having an IP claim service. Because you just add an S or - and I know this sort of makes sense for the typographical errors but at least with the addition or the deletion of an S or you know plural or singulars, that might become an issue.

I know I think we can start and address those S's really. With regard to typographicals, again it's just a claim notice going out, it's not - doesn't actually affect the notice and I think that it's fairly reasonable.

I understand that the negotiations the IRT did not do this, but you know we're trying to get - I agree with Mike we're trying to get consensus in the new group here. Just wanted to mention that.

But you know we're open to discussion, sure.

John Nevett: And again Mark Partridge.

Mark Partridge: Yes, the IPC's position is that the IRT balance is the one we favored there. The identical match issue is - was debated at length as Jeff points out and there's arguments to be made that it should simply be those contains the letter string and should be very broad for reasons stated.

This is not a block, it just gives notice and viewed that way it's a service to a good faith registrant to avoid disputes. It helps with the process of avoiding disputes if it's broader.

The IRT position on matches was a compromise position that was narrower than that. It's not the position that many brand owners favor, but it's the position supported at this point by the IPC.

Amy Stathos: John, this is Amy too, can I get in the queue?

John Nevett: Sure.

Alan Greenberg: And the people on Adobe perhaps.

John Nevett: Yep, I'm going down the list Alan. Amy did you have a response to that point?

Amy Stathos: Yeah, no, I mean I just wanted - what staff had indicated because we didn't specifically identify an identical per se, it's basically the idea was that it meant to - the domain name must consist of complete and identical contextual elements of the trademark.

But we didn't define identical. The purpose was to be limited to identical marks used to ensure operational integrity. So there wasn't overly broad notifications.

John Nevett: Okay. All right I've got Jeff Eckhaus, Alan and then Jeff Neuman.

Jeffrey Eckhaus: Okay, thanks. So I wanted to make this response is to Mike Rodenbaugh, to your piece about hey, if you have Yahoo you can't have - you know why not have Yahoo Sports.

And just from somebody who's been dealing a lot with trying to parse domain names and to parse the lettering on there.

And from experience I'll give you an example you know for ENOM we have the trademark and we have some issues and we found out that by using - if you add some other letters to it, like we took - people were sending letters to companies like Venom, you know that includes the term.

So it is very, very difficult - exactly, yeah, and a whole bunch of other ones which I don't want to get in to. But just because you add an S or you add a letter to it, it completely changes the word.

It changes the term, the trademark is not there, like I don't know, you know how Coca Cola is but if you - if they have the trademark for Coke but then you add in - if you have something about iron coke and that has to be something about a - you know with steel then it completely changes the term around.

And it's no longer trademarked, so I'd be very, very leery about adding letters or adding extra terms onto it, because it does not necessarily mean that there's a trademark.

John Nevett: Alan?

Alan Greenberg: Yeah, on that one my recollection is that was part of the rationale for the ORS, that the IP claims was not going to cover the variations and that was up to a person to decide whether to take action on it or not.

I would say this - I would dispute what someone said, there isn't a chilling effect of just getting an IP claims notice. I think to many people it will be a significant chilling effect.

Maybe not to a lawyer but certainly to many others who might otherwise want to register a name. And this pop up may well change their mind. And lastly I again asked the question what does spelled out mean?

And can someone give a rationale for it because I do not understand it.. I'm sure there were hours of discussion about it but I didn't hear them.

Paul McGrady: Okay, this is Paul, can I get in the queue?

Jeff Neuman: I can address that, this is Jeff.

John Nevett: Jeff you're next anyway.

Jeff Neuman: Yeah, okay. So let me address that question first and then I'll make my points. Spelled out means for symbols like the ampersand sign, you would write in the word and. So if M&M right, or that's a plus I guess, you can't have a plus but you can have M A-N-D M would be the spelled out.

So the point I want to make is this has been done before. There have been at least 15 or 16 sunrise processes since 2001, each of which have had the same rules for spelled out.

I think it's really an implementation issue but it's fairly well understood by those that have implemented it.

What that means and I think the IRT basically said look, just what it did was included the rules that were included in the latest ones for like dot tel, dot asia, dot eu.

So I think - I don't really think there's that concern about what does spelled out mean, I think it's fairly well understood and certainly here it's just short formed on this chart.

But there are pages of rules that registries have come out with, be happy to send around those pages of rules. But this is - the problem we're having is with the short form and the chart that you're trying to paraphrase what it is. But I think it's fairly well understood.

The other point I want to make about plurals is I think we're being a little bit - you can't just say plural because plural doesn't mean just add S, even in the English language it's S or ES or if it's a word like alumnus, you know the plural of alumnus is alumni.

The plural of forum is (forii) or fora, sorry, right? So even in the English language it's impossible to figure out what the plural is. And in other languages I don't even know what the plural of ASCII versions of a Chinese mark would be.

I can't even contemplate that. So there are many reasons the IRT - these were all in the IRT discussions and why we balanced it out.

The other thing I've got to mention is we're not talking only about IP claims here, we're talking about sunrise and remember if there was a sunrise there has to be identical match because that was the mark that they would be allowed to defensively register.

So I hear you guys talking about IP claims, but we're talking about more than IP claims, we're talking about sunrise and again I just want to point out this has been done before many times.

Never been an issue, I agree with Kathy that design marks should be shut out. I thought we had that in the IRT report, I could be very well wrong about it, I know we discussed it but design marks should not be in for all the reasons Kathy mentioned.

And pretty much every generic word has been incorporated into some design that you can then claim rights to which I think is - shouldn't be done.

Anyway, that's my view.

John Nevett: Thanks, I'm getting conscious of the time, I've got Kathy and now a whole bunch of new people want to start. So Kathy why don't you raise your points and then we'll figure out where to cut off the queue.

We're only on number seven of 22.

Kathy Kleiman: I know this will surprise everybody but I think Jeff just said it all so I will take down my hand.

John Nevett: I'm sorry, number seven of 11, okay. I went all the way down to URS.

Kathy Kleiman: I'm sorry, number seven. I'm sorry, we're changing numbers John?

John Nevett: No, I said we're only on number seven of 22, I went down to the bottom, but that's including the URS. All right, I've got Mike, Alan.

Mike Rodenbaugh: Real quick to respond to what Jeff and Alan were saying earlier and just you know reiterate what me and what Mark Partridge are saying is that there's no action that is taken other than a notice is sent out, okay?

And that is a benefit actually to most people, not a chilling effect. And you know to the extent that it could be a chilling effect, I think that can be addressed in the content of the notice which personally I'm willing to be very flexible on - I mean you know Kathy and Jeff Neuman can write it together, I don't care.

You know as long as it goes out and has the facts, that's what's important. But it should very clearly say that you know you may not be infringing anybody's rights.

I'd put that bold space in the first sentence. And I think that should alleviate the chilling effect argument that we keep hearing.

John Nevett: That addresses the claims but not the sunrise point that Jeff made, right?

Mike Rodenbaugh: Well the sunrise, so the point on that is the database can be used differently during sunrise or during a later - you know look up a notification process, right?

During sunrise it can only kick back yes answers on identical matches during IP claims it could kick back yes answers on a broader even algorithmic design.

And so surely our sources, Google uses one, Yahoo uses one, plenty of other people use them including a lot of domain registrars for their domain look up

tools that have you know typo generator type of algorithms, that do work and can be effective.

John Nevett: Okay, Alan?

Alan Greenberg: Yeah, Mike just made a good point that we don't have to use the same algorithm for all uses of the clearinghouse which I don't think is something I considered but is indeed a good point.

I'll go back and I thank Jeff for the explanation. As I said with spelled out I was really just asking to understand it. The point that hasn't been mentioned by anyone is the issue of oral and meaning which I believe was in the IRT report.

I don't remember if it was in the staff one but has been brought up by a number of other people. We're strongly against it just because of the difficulty of doing it properly.

John Nevett: Jeff, could you respond to that in the IRT report? I see it in the BC comments.

Jeff Neuman: Yeah, this is Jeff, it was not - oral was meaning we are not in the IRT report in this section. Oral is meaning only came into play when the algorithm was applied to someone applying at a top level for...

Alan Greenberg: First level, thank you Jeff.

Jeff Neuman: But that was not in the - this section.

John Nevett: Thank you. Konstantinos?

Konstantinos Komaitis: Hey guys, the only thing I would just like to say is that you know CSG fully agrees with what Jeff is saying and also for the design marks that

we should not include them because from a (unintelligible) when you register for a design mark you don't necessarily get protection of the text itself.

So if we allow design marks and because we will only use their text when it comes to domain names, basically the clearinghouse will be granted rights that do not exist under normal circumstances.

John Nevett: Okay. So Zahid, last point?

Paul McGrady: By the way this is Paul, I asked if I could be in the queue as well.

John Nevett: You did indeed, I apologize Paul. All right, Zahid and then Paul.

Zahid Jamil: Thank you. So I just want to reiterate the point that as far as needing an oral I think that that is going to be difficult if it's going to be part of an IP claim service.

But I think as far as type of squatting and something that Mike mentioned about algorithms, it could be possible.

To what extent is that impossible, maybe ICANN staff could tell us, that would be one way to go. I understand that there's violent difference of opinion between various people on the call here but it seems to me at the very least there seems to be an agreement on the IRT definition.

So maybe that's one thing we can actually move forward. We did support - the BC did support the IRT recommendation. So that much is there but we have additional comments that we would like to make and see if that works.

But at least on the IRT definition it seems to be to be consensus across the board.

John Nevett: Okay, Paul?

Paul McGrady: Yeah, and I don't know who said this, it was seven or eight speakers ago but somebody mentioned a point that I think is really important here which is the definition of matching was done in the context of a mandatory URS.

And that perhaps the definition of match was relaxed by the IRT because they believed that the URS would be mandatory and that the other recommendations would be accepted as a whole.

So as a result of that I'm going to suggest that we table this issue until the issue of whether or not the URS will be mandatory is finally resolved because I don't think that the IPC can take a final position on this issue until we know whether or not the URS will be mandatory.

John Nevett: Okay. So the bottom line on this one, it sounds like the IRT recommendation for identical match which is acceptable to most if not all and then the question is some of these add ons, the design mark, there's some complaint about that in opposition of that.

Typographical errors, oral and meaning and plurals are still at issues.

Man: And what about also like marks (unintelligible) terms like Yahoo Sports.

John Nevett: Okay, so that's another....

Man: I think ENOM's statement was rather telling, you know venom.

John Nevett: I doubt he was going to get consensus on that but let's put it in there as still an issue. Okay, moving on to number eight. Eligibility of the mark, whether it's nationally registered, court validated is the issue.

And to some extent this is related to number seven and to the point that I think Mike made that you know should the database collect more information

and then use it, and how it's used might be dictated by the user and not - just not collect the database - not collect the data rather.

But I'll take the queue on this, Alan?

Alan Greenberg: Yeah, at large position was we could accept court validated ones if there is adequate inclusion in them of the geographic region it applied to and the class of mark.

And - but we do note that the amount of work required to validate such things is going to be significantly more. We're talking about reading the court judgment which may be hundreds of pages and validating that there isn't a judgment following it which would have reversed it.

And we would want to make sure that the fees are set accordingly if these marks are allowed.

John Nevett: Okay, any other comments? Do we have consensus on this? Jeff Neuman.

Jeff Neuman: Could someone give me an example of a court validated judgment, common law rights? Who are we trying to protect here? Like why is this a big issue?

Again hasn't been an issue for the 15 sunrise processes that have been before, why is this a big issue now? Common law rights have never been included in sunrise processes before.

John Nevett: Okay, who suggested court validated marks be included?

Kathy Kleiman: I can address that, this is Kathy.

John Nevett: Okay, Kathy.

Kathy Kleiman: We at NCSG are perfectly willing to go down the direction that Jeff just recommended, nationally registered marks from jurisdictions that search, absolutely fine.

Where court validated marks came in was that the staff report talked about common law verification, sending in the label, the bottle, you've heard me talk about this now many times.

So that someone perhaps continents away can verify some common law right. And what we went back and thought about was when - who verified the common law rights and ultimately in common law jurisdictions it's the courts.

So if you had a court verification of a common law right and it happens in disputes, then we thought you know as a compromise position and go ahead and submit that to the clearinghouse.

But if there is consensus that people don't want that then let's go with the nationally registered marks.

John Nevett: Okay, Margie.

Margie Milam: Oh I didn't have my hand raised.

John Nevett: Okay, you've got a little microphone there.

Alan Greenberg: It's Alan, it would be good to know why staff added them if there is indeed a reason or not.

Amy Stathos: There were a couple - this is Amy, there were a couple comments. I don't know that anyone's wed to it but the idea was that there were a few comments with respect to those that aren't simply registered.

But there are some jurisdictions, certainly western jurisdictions that if you've used your trademark for you know a period of time certainly have some very valid rights to that.

And so that was the reason for including it.

John Nevett: Okay, I see Jeff Neuman has a hand up and Jeff Eckhaus has a microphone up.

Jeff Neuman: So this is Jeff Neuman. My recommendation then is my motion is take away the term common law rights, take away court validated mark. Yes, the common law people who have common law rights have rights, they can enforce that through Accord.

They can enforce that through the EDRP I think, someone can correct me if I'm wrong. So they have the protections that they need, if they're not going to go out of their way to just register a mark, then why do we need to give them extra privileges under this system?

John Nevett: Okay. Anyone disagree with that view, that proposal?

Mark Partridge: John, this is Mark.

John Nevett: Okay Mark.

Mark Partridge: One of the points that the IPC has made a few times is not really in contradiction of that, but we recognize that in the past registries have considered other kinds of rights or other kinds of interests when they issued it, such as corporate names within the UK that somebody operating a German registry might want to deal with rights that are recognized in Germany.

And the IPC's suggestion and view is that the database should be able to accommodate that if it's something that a registry chooses.

John Nevett: The registry may choose to do a lot of things, right? So this can't be the be all end all for everything a specific registry might choose to do

So we've got to reach the least common denominator at least and then if the registry chooses to do that on it's own it can.

Mark Partridge: I appreciate that John, the IPC suggestion was that this clearinghouse be able to accommodate other data, that you know registries find relevant to what they need to do.

John Nevett: Okay. Alan?

Alan Greenberg: I haven't thought about that a lot but my gut feeling is if something is loud and is only used by certain registries, that might be acceptable. But I certainly wouldn't want to put a mark in there which has to be used by all the registries who use the clearinghouse for you know things like common marks.

And I would want to make sure that if common marks are validated that the fees are set accordingly. Other people should not be paying for that service if they're not using it.

John Nevett: Okay. Any more comments on number eight? Sounds like we're getting close to consensus, sounds like Jeff's proposal got a number of folks that agreed with that, let's work through that issue as we go on.

Number nine, host launch IP claim service. What - you want to explain this one Zahid?

Zahid Jamil: Yes, hi, glutton for punishment, absolutely this is again as I said earlier this is a BC position where the members think that it makes sense to have IP claim services available in an automated fashion, both the launch of the gTLD.

I also see the ALAC comments where they disagree with the IRT and said it is better to you know just take action after the fact, so we would agree with that as well.

So if these two groups on the call basically agree that post launch IP claim service could work then - just to start off the discussion.

John Nevett: Alan, I'll go to you next. Are you guys ALAC supporting the post lunch IP claim service?

Alan Greenberg: We're certainly not demanding it but we think it would significantly enhance the whole process. I understand it's more work but there's a reason for sending out an IP claims notice on a pre-launch registration.

We see no reason not to do it afterwards. The IRT statement saying there are watch services available and the URS covers it I think is addressing something after the fact and it's better to catch it ahead of time.

And from the point of view of the trademark holder get someone to acknowledge that that's the mark they're - the domain their registering is not a violation of the trademark.

We're certainly not adamant about it but we think this is something that we should significantly consider. On the other hand it can be added after the fact and that's not a decision we need to make immediately.

John Nevett: Sorry, one of the questions the board asked this group to look at is the chilling effect on registrations, so can you address that, is that a concern for you post (unintelligible).

Alan Greenberg: It's certainly a concern, you know I'm in the unusual position of taking the position of the trademark holders in this point. I think overall it would be a good thing.

It depends of course how these notices are worded and that's a factor. But we're not adamant and it can be added after the fact, so I'm not sure it's an issue we need to discuss.

John Nevett: I've got Jeff Neuman.

Jeff Neuman: Yeah, so God, where do I start? You said two groups support it, I think there are two groups that vehemently oppose it which is the registries and the registrars.

I will also note that the IPC in its statement and maybe Paul could speak to it, but I did notice in the IPC statement that they said that they did not support a post launch IP claim.

That it says that in fact the answer to number one, they specifically say that there could be no chilling effect because it's only pre launch and then they say - they talk about later on that it should only be pre-launch, that it's not feasible to do after launch.

So I think it's really just the business constituency that's really asking for it. And sounds like at large thinks there may be some merit. But I've got to tell you we're never going to get consensus on this one.

And I just had an hour long call with a couple people before this explaining why it's not feasible and I could do it again but not on this call.

John Nevett: Okay. All right, Mike?

Mark Partridge: John it's Mark, I'd like to comment when you can put me in.

John Nevett: Sure.

Mike Rodenbaugh: Well I mean Jeff, you know sorry just saying it's not feasible, I'm not buying it obviously. So you're going to need to give some better explanation than that.

I've asked before a couple of times, we've talked about it you know, it doesn't seem to me very difficult for a registrar or a registry to do a simple database query during the registration process.

You're already verifying a credit card, you're already doing a look up (unintelligible) database, you can look it up against a querying out database.

From that really the registrar, registry doesn't have to do anything other than that. The clearinghouse could do - it could be handled outside of the registration process.

That's certainly up for discussion, whether you know once the registrar does its core job or only job of querying this database, you know it could step out. At that point, the clearinghouse could send a notice directly to the applicant for the domain name and the applicant can have a you know period in which to cancel the name if they get a notice like that.

Or I mean I think a better way is that the registrar and (unintelligible) and the contents the clearinghouse (notices) the work into the registrar process, but I understand that that means modification to your process. So you (could take it outside of there) if you need to, but saying that it's not feasible and leaving it at that is just not going to be a good enough answer.

Jeff Neuman: So would those people that I was on the call with this morning for an hour like to go into some of the reasons I explained. Mike, I'm not just saying it's not

feasible. What I'm saying is that since we have such a short call, I'd be happy to explain it to you. I spent an hour before explaining it to other people, and it's not just a matter of querying a database. It's a ton more than that. You are querying the database, but you are relying on external parties and doing an entire registration process.

Yes, when you query a credit card company to see if a credit card has sufficient funds or has the ability to make a charge, that's a one-way communication with a one-way yes or no answer back. You are talking about multiple steps when you're talking about querying a database, getting the information, doing the match, sending out a notice, waiting for the notice, ensuring that the notice gets to the - from the registry, through the registrar to the registrant, getting the notice back to make sure they proceed with the registration, putting registrations on hold so that you actually get those results back. But I can - and I can go into it for an hour or two if you want.

Mike Rodenbaugh: You're making it complicated just to make it complicated. It doesn't have to be nearly that difficult.

John Nevett: Well you know what? Let me cut this off. I think Jeff you made a good suggestion that if folks want to discuss this offline, we can set up a separate call to discuss post launch (IP) claims. You know I think Mike you are minimizing the impact to the registry and the registrars. And I don't think we will ever get consensus of this group on this issue, but you know it's fine to talk about it. But with 20 minutes left with two topics left, let's - I suggest we move on.

Kathy Kleiman: John, this is Kathy. Can I ask a question?

John Nevett: Sure.

Kathy Kleiman: What's the default here? What did the staff report say on this?

John Nevett: They did not have a post launch (IP claim service). Correct me if I'm wrong Amy or Mark.

Amy Stathos: That's right.

Kathy Kleiman: Okay and John you are cutting off comments.

John Nevett: That's my suggestion. If people you know think we should spend the time - the remaining 20 minutes on this topic, that's fine. I'm happy to do that. My own suggestion is it sounds like if we get into the nitty gritty of the details it's going to take more than 20 minutes. I see a bunch of hands up, so...

Man: Not mine. Mine is down.

John Nevett: Okay.

Kathy Kleiman: I took mine down.

John Nevett: Alan and Paul, do you want to talk about this issue or do you want to move on?

Man: I just have a very quick comment.

John Nevett: Go ahead.

Alan Greenberg: Just that as I said, it's something we can add later should it prove necessary. The other comment that was made that's not you know necessarily relevant to this, but interesting in that using it that way may in fact make the clearinghouse a viable business. Whereas if we end up with a very small trickle of new GTLDs post the first batch, it may not be a viable business at all. But I don't think that's what we should be making our decision on right now.

John Nevett: Okay Paul.

Paul McGrady: Yeah, just two seconds because somebody asked me to speak to this. The IPC position has been what the (IRT) proposed that there would not be a post launch (claim service). However, again, that was all in the context of (being mandatory). And if (unintelligible) is not going to be mandatory, then you know I think the IPC's position on this particular issue has to remain a little bit agnostic until we get that issue tacked down.

John Nevett: Fair enough. Okay, Kathy you just raised your hand.

Kathy Kleiman: Yeah, just a quick comment. I was also on the call with Jeff earlier today and what I found very interesting was the philosophical approach that Jeff brought that you don't want - he didn't want (IP claims) to be a quick-through agreement. That he designed it to allow time for the notice to go to the potential registrant for the registrant to have time to review it, to consider it, maybe to consult an attorney to look at the trademark rights that were asserted, and I found that discussion compelling and revealing and I hadn't really thought it through before.

John Nevett: Okay, Zahid.

Zahid Jamil: Thank you. Two quick points. One, it's basically - it's only going to be prelaunch. I just wanted people to think about this. If I'm a bad (actor), I will make sure I will register after the GTLD has been launched effectively making (IP redundant). And that everybody (over that) - that's just going to do this afterwards. So then you just want to look at the (IP claim) service as a whole and saying that it really doesn't - that it actually (catch the bad actors). That's one point.

The second is in any case, I do think that this is something that could be discussed in further off the call. I had a discussion with the (unintelligible) guys who did this who have - I've seen how that thing functions. And if we

can take this off the - you know offline and have them make a presentation or they could take us through some of this, that would be great.

Jeff Neuman: I'm sorry, who are the guys? This is Jeff Neuman. Who did you have a discussion with? The (unintelligible).

Zahid Jamil: (Unintelligible). Yeah, (Bart).

Jeff Neuman: (Bart) - they never did an IP claim.

Zahid Jamil: Yeah.

Jeff Neuman: No, they have not. They designed the system not for a post launch, but they designed the system. But that's - there's been no other TLD other than (.biz) has actually launched an (IP claim) system at this point in real life.

Zahid Jamil: Thank you and I know the (.biz) (is a concern). We will take this (offline).

John Nevett: All right, let's move on to Number 10. Okay, it sounds like there's close to consensus, but there's some clarification. Kathy, do you want to take those or Konstantinos?

Kathy Kleiman: Sure, I'd be happy to. And I hope others will jump in as well. There have been some discussions offline about how to minimize the chilling effect, how to create a notice that is useful for trademark holders - useful to say you know not just maybe you know international Class 9.

You know we claim a mark in international Class 9, but a notice that really provides a discussion of the jurisdictions in which the mark is registered, of the description of goods and services of the mark, and then some kind of notice as Mike actually raised earlier, which says you may or not be infringing on this. You know if your use is noncommercial or it's fair use, you know consider going forward. So anyone who would like to get together to draft a

notice that's useful for both sides, come join the party because some of us are trying to do it offline.

John Nevett: Okay, that's helpful.

Paul McGrady: Yeah, I just want to jump in. But Kathy and I are working on this together and I was supposed to have a draft for circulation by this call. But because of my trip to Miami, I got messed up. But hopefully she and I will have something for all of us to look at very soon. And if anybody else wants to help us, by all means it's an open invitation.

John Nevett: That would be great. So that was Paul.

Paul McGrady: Yes.

John Nevett: Okay, so people contact Paul or Kathy if you want to get involved in the folks working on - the formal group working on this one. (I still have a queue though). Alan.

Alan Greenberg: Yeah, at large had two comments. The first is, "I'd like to have an explanation of what the concept of a binding notice means." I think what it means is that the interaction and the response would be something that could be referenced later in a URS to say, "You said it wasn't going to - you know that this wasn't infringing, but clearly it is." "And if that's what binding notice means, we support it, but the wording - the sentence itself doesn't (parse) properly."

And the second one is the notice must go out in the same language as the registration. You know as the attempted registration is going on in whatever context that is.

John Nevett: Okay, so Paul will you take that? Paul and Kathy will you take that into - those points into consideration in your group?

Paul McGrady: Yes, we will.

Kathy Kleiman: Absolutely.

Paul McGrady: But I would like somewhere along the way for someone to tell me what they meant by the words notices binding.

John Nevett: Okay.

Man: Well I don't know what that means, but I think what we're trying to do is to develop a notice that's effective. That it conveys the information that needs to be conveyed and that it's not unduly intimidating, and that it provides information for the potential domain registrant to reach out to open a dialogue with the brand owner if they think they should do that. So I think it's - what we don't want is an over simple notification that doesn't contain the appropriate information or do we want something that's so large and confusing that if it came down to it a URS panelist, or a UDRP panelist, or a judge would look at it and say, "You know this thing is 15 pages long. It's (unintelligible). Who knows what this means?"

And so I think that's just our way of saying that the notice needs to be in balance and it has to convey just the right amount of information and not anything that's extraneous or anything that's unnecessarily threatening.

Man: Sounds good.

Kathy Kleiman: Should we change the wording on this then that the notice is a balanced one?

Man: I like the word effective.

Kathy Kleiman: A balanced and effective one. Okay, good. And Alan maybe you can join us in these. You and Olivier can join us in the calls because it's - on the notice work. Because we would love to have you.

Alan Greenberg: Oh, good. I had no more work to do.

Man: Yes, I think it was - I didn't hear who was speaking before. I think it was Paul and I would just like to add this. We need to understand that the purpose of the (unintelligible) (needs to be efficient). It needs to be efficient for registrars, for registrants, for trademark holders, for (all providers) consent. And having very clear information that extends beyond the Class 9 or the (Class 10 type) so as to inform registrants is very important. So I think this is a - you know it's a very crucial point that we need to (have).

John Nevett: Okay.

Man: And I am up for - I can sign on for the group for the (group) for the (unintelligible) to work on the (unintelligible).

John Nevett: Great. Jeff Neuman.

Jeff Neuman: Yes, this is just a point. Yesterday I sent around - it's called IP Claim Doc, which is an actual notice of what we sent out in (.biz). So I would hope that people read that and use that as a starting point so you don't have to start from scratch. Again, I'm not saying it's perfect; I'm not saying it's even good or great. But don't start from scratch. You guys have a sample out there. And if people want to comment on that, I'd recommend that so that we can streamline this process a little bit.

Because I'm interested to hear what people think about it because I do think it contains all of the information. And I know I sent it separately to Kathy, and Paul, and Konstantinos, so I'd be curious to hear your thoughts on that

notice. And again, I think - I do believe that when we sent that notice out, we did review it with (LIPO) and they were happy with it.

John Nevett: Okay, great. All right, so that group will report back to the larger group hopefully you know by next week, and then it looks like the last topic we have is Number 11 and it doesn't look like there's any objection to this one. There's one blank in here. What is that, the IPC? So IPC do you want to talk about this issue?

Mark Partridge: John, it's Mark.

John Nevett: Hey, Mark. Go ahead.

Mark Partridge: Our position on that is we support 11.

John Nevett: Okay, so it sounds like we have consensus on Number 11.

Kathy Kleiman: Great.

John Nevett: All right, that's a good start. So it sounds like there are a couple of subgroups working on a couple of the issues, specifically Number 10. And if folks want to have a dialogue on Number 9, you know that's fine.

And then so the question is is anyone willing I guess after the subgroups come back on to pull together a (straw man) proposal on this clearinghouse concept. If you think that was helpful to do like you know the one I circulated (for URS).

Alan Greenberg: I haven't seen that. It's Alan. I haven't seen that yet, but I'm willing to work on this one.

John Nevett: Okay, so maybe that same subgroup could - it sounds like it has a good cross section. Maybe that - you know you could take on the two issues - solving Number 10 and maybe coming up with a (straw man) or something.

Kathy Kleiman: Wait, did you just nominate us John?

John Nevett: I was just asking if you were willing.

Man: John, I mean maybe we should get together and have discussions about Number 9 also.

John Nevett: Yeah, I mentioned 9 - that we could have a subgroup on 10 and subgroup on 9. I'm sure Jeff Eckhaus would be happy to represent (Rich) on that one because he (has never experienced it).

Jeffrey Eckhaus: Yeah, thank you for the nomination John.

John Nevett: So Mike would you be willing to do a call on Number 9 and then Kathy and Paul are arranging something on Number 10.

Mike Rodenbaugh: Yes, I'm glad to be with Number 9. I think Jeff Neuman should be there as well.

John Nevett: Yes, Jeff Neuman (wants to do that I presume).

Jeff Neuman: I thought I could avoid that one.

John Nevett: Okay and then - so next steps. We've got a couple minutes left. I guess we will do a (doodle) for calls next week on both topics. If there are online discussions on URS, that's great. If there are you know reports back from any of the subgroups that are working on some of these clearinghouse issues, that's great too.

And then folks raised the issue of the face to face meeting yesterday and staff was looking at that - whether it made sense or not. Do folks still think that's necessary or something that would be beneficial? And it's only been a day, so I don't know if - and I think Mark has dropped the call. So I don't know if you guys from - on the staff level have looked at that at all or not or looked at that concept - Kurt or (someone).

Amy Stathos: Yeah, this is Amy. I don't know if Margie has done that or not, so I will touch base with her.

John Nevett: Okay. Okay, so we will look for a (doodle) for calls next week. I will be out part of the week, but available later on and hopefully we can move forward. And again, if folks could look at that URS, it's simply a rough draft. So if people have comments, let's start talking about it.

Man: What are we doing scheduling next calls?

John Nevett: They are going to send out a (doodle) for calls for next week.

Man: Yeah, I will point out next week is our last week for the formal deadline set by the GNSO. Actually, today is - or next Monday is the week - is the deadline if we're going to get something into the meeting ahead of time, which is the formal requirement.

Jeff Neuman: This is Jeff. Should we be making a formal request for more time?

John Nevett: I think so since Monday is the deadline that we can't - next Monday is the deadline, which we clearly are not ready to meet.

Man: I'd agree. This is Zahid. I completely agree with that.

John Nevett: So how much more time do we think we need?

Man: Well the board deadline is the 14th - the 14th of December, which means the GNSO would have to make a decision by then or a day or so before then. A week before that so the constituencies have an opportunity to look at it. It really means our output - we have to have our work finished by no later than the 4th or the 7th of December if the GNSO will schedule a special meeting.

John Nevett: Is Kurt still on the call? Is there a chance to informally float the idea with the board of extending that deadline?

Man: What is the - why do we need to extend the board deadline?

John Nevett: Well I'm just not sure of...

Man: I mean the board deadline is a month from now.

John Nevett: Well right, but to go through all of the processes we need to go through.

Marika Konings: This is Marika. Kurt has dropped off the call.

John Nevett: I just - I mean the board deadline is pretty arbitrary. I'm not saying we should take - we would take that much more time. And I'm not trying to delay the process, but inevitably, the process has delayed itself with all of the other things that are going on. I can't imagine...

Man: Including holidays.

John Nevett: Yeah, I can't imagine asking the board to move its deadline out a month or so is going to do anything to the process.

Man: I mean we're what five weeks away from the board deadline. I don't know if it's appropriate to ask the board at this point for - let's make some progress. And then once we show some progress, I think that folks will be more likely to be a little more flexible.

Man: I would - if the GNSO is going to delay its deadline, keeping the board deadline, it's going to take a while to schedule a meeting. With the complexity of scheduling meetings in the GNSO, I think we need to start that soon if it's going to happen. Just having watched how difficult - it's been scheduled next Monday - the Monday the 23rd meeting.

Man: You know we could do a progress report for the GNSO on the 23rd.

Man: Yes, but they will not be able to answer the board formally unless they schedule a meeting to do it.

Man: Well we should encourage the GNSO to schedule a meeting you know the week of December...

John Nevett: You know what, I'd say...

Man: That is what I'm saying.

Man: Yeah.

Man: I just don't think you know that the council has an obligation to respond you know by the specific deadline, specifically where it's in December you know. I think we'll just do it at our next meeting when we can. What's the board going to do, fire us?

Man: I have a whole bunch of ideas.

Man: I think the issue should be raised on the council list.

John Nevett: Yes. Yeah, do we have a council liaison.

Man: We certainly have councilors on here.

John Nevett: Yeah, I mean Zahid, or Alan, or Mike, or who else is on the council.

Man: Zahid has given me an update on the 23rd, so that's (you right).

Man: Actually, at that point, the meeting was going to be held at a different time, so (David) may in fact decide to do it. But if not, (it)'s Zahid.

Zahid Jamil: Okay.

Man: All we need is to...

John Nevett: We need to (put something) on the council list to I guess give a short update of where we are and...

Man: And why we need them to schedule another meeting.

Man: Exactly.

Man: Zahid, should I just simply say that we are looking for more time? And do we have an idea of how much time we need - a couple of weeks?

John Nevett: Well I think we're looking for more time from the council.

Man: Yes, how much more time do you think that is?

John Nevett: Well council needs to be willing to make the decision very close to the board deadline, and subtract a week from that and that's when we need the meeting to be.

Man: Okay.

John Nevett: That's when our deadline is. So we need a council meeting very close to the end, which probably means Monday the 14th.

Man: Okay, thank you.

John Nevett: Okay, great. Thank you. All right, so we've hit - it looks like it's about the ending time of the meeting anyway. Any final comments. If not, we will adjourn the meeting and look for (doodles) for the next meetings. Thanks everyone.

Man: Zahid if you put something out, the rest of us on this call will quickly support it hopefully and we will get (something) going.

Zahid Jamil: Thank you. Will do that. Thank you.

Kathy Kleiman: John, thanks for chairing.

Man: Thanks John.

John Nevett: Yeah, no problem. Thank you all - a great meeting. Great. Bye-bye.

Kathy Kleiman: Take care. Bye.

END