

**GNSO  
Special Trademark Issues : URS  
10 November 2009 at 18:00 UTC**

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<http://audio.icann.org/gnso/gnso-sti-urs-20091110.mp3>

On page:

<http://gnso.icann.org/calendar/index.html#nov>

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**Participants on the Call:**

David Maher - Chair

Jeff Neuman

Jon Nevett- Registrar

Jeff Eckhaus - Registrar

Mark Partridge - IPC

Paul McGrady - IPC

Zahid Jamil- CBUC

Phil Corwin - CBUC

Wendy Seltzer -NCSG

Robin Gross- NCSG

Kathy Kleiman - NCSG

Konstantinos Komaitis - NCSG

Olivier Crépin-Leblond - At Large alternate

**ICANN Staff:**

Margie Milam

Marika Konings

Amy Stathos

Gisella Gruber-White

**Apologies:**

Alan Greenberg - At Large

Maimouna Diop – GAC Observer

Coordinator: Excuse me everyone, this is the operator, need to inform all participants that today's conference is being recorded. If you have any objections you may disconnect at this time. And ma'am you may begin.

Gisella Gruber-White: Thank you. I'll do a quick roll call. Good morning, good evening to everyone.

On today's call we have Mark Partridge, Jeff Newman, David Maher, Paul McGrady, Konstantinos Komaitis, Jeff Eckhouse, Olivier Crepin-Leblond Robin Gross, Kathy Kleinman, John Nevitt, Wendy Selzer. From staff we have Margie Milam, Marika Konings, Amy Stathos and myself Gisella Gruber-White and we have apologies from Alan Greenberg and Maye Diop. If I could also please just remind everyone to state their names when speaking for transcript purposes. Thank you.

David Maher: Thank you. This is (David). I'd like to start off with a couple of housekeeping details. Tomorrow the call is scheduled for a time, I believe it's 10:00 Central Time, and I'm not sure what that is UTC. Unfortunately I have a serious conflict and I've asked John Nevitt to step in and act as (unintelligible) pro tem of that meeting.

For this meeting we're looking at the common ground paper as it was revised on November 5 and I believe (Kathy Kleinman) sent out a further revision but we don't have that up yet.

(Kathy Kleinman): (David) may I, no I sent out, the one I sent out was exactly what I sent to you on Friday.

David Maher: Oh okay. Well then we're all looking at the same document.

(Kathy Kleinman): Thank you.

David Maher: The, I think having gone through both the URS and the clearing house items in our previous calls and having identified people's positions and the issues I think it's time to start thinking about how we're going to do our job, which is arriving at a consensus to the extent it's possible. I as a proposal would say

that we ought to have a draft document of some kind, a straw man so called. I see we already have some hands up (Olivier) go ahead.

(Olivier): Just before we started the matter of housekeeping Alan Greenberg is not on the call so I'm taking his place as the ALAC main person. If he joins he'll be the ALAC alternate. Thank you.

David Maher: Okay. Thanks (Olivier). Mark?

Mark Partridge: I wanted to just point out that we just moments ago the IPC circulated an edited version of the chart with an updated comments from the IPC. They're essentially as we discussed last week with some changes I think they're primarily changes of nuance rather than anything dramatic but I just you know, wanted to put that on the record that it's there.

David Maher: Okay. Thank you. Okay. So far as getting a draft together one idea would be to ask Margie to collect the areas where there is, where there are, is already agreements and areas where there's still disagreements and give us some kind of document to work with. Any thoughts on that? Margie is that something you could do?

Margie Milam: Yeah that, yeah that's fine.

David Maher: Okay. Then let's get started, this call is devoted to the URS. I think the issue of mandatory is still in dispute or there is no consensus. Does anyone - (Paul)?

(Paul McGrady): Well this is, I mean this is our, frankly this is our number one issue and we've gone through the charts and we have a sense of where people are on various issues so that the mandatory issue is tabled for that process. But (unintelligible) looking at the updated chart it looks like everybody is in agreement on this point except for the non-commercial folks.

And before we go any further I'd just like to hear from them about you know, what their concerns are, those have not been expressed. And so we'd like to hear what those are so that we can see how far we are in this point because frankly unless the URS is mandatory we're negotiating, or the DPLs over a hypothetical mechanism that's really not going to do much good. So if possible can we hear from the one group that's identified as saying no to mandatory?

David Maher: Okay. Mark has his hand up but (Kathy) I believe is volunteering on this.

(Kathy Kleinman): Absolutely. There, and I urge the other members of the NCSG drafting team to speak up as well because this is a very important question, it's one we've been giving a lot of consideration to and a lot of internal discussion. And we are very, very concerned about the process issues here. We're concerned about the 20 days notice, appropriate notice to register.

We're concerned about the examining process. We'd like to see three person not panels but three person independent examiners with diverse backgrounds really evaluating these complaints to see if there is this clear cut abuse that is so obvious to everyone.

We want to see appropriate appeal, we want to see randomization of the forums, no more forum shopping. It's these, if the checks and balances come into the system then we've discussed that mandatory might be something you could really consider and so I wanted to share that but our reservation is that, is with the entire process and with fairness and checks and balances.

And again, I'd urge other members of the drafting team to, of the NCSG drafting team to respond as well.

David Maher: Okay. I don't see any hands up but I think that's clear enough that this is again as last week it's an issue that is dependent on the outcome of other

issues that we face and there's a possibility of consensus it depends on resolving the other questions. But why don't we just move on then, Mark?

Mark Partridge: No, I'll take my hand down, that's okay.

David Maher: Okay.

Mark Partridge: It's okay.

David Maher: Then the next issue is the purpose, garden variety cyber squatting and again the question seems to be raised by the non-commercial (Kathy) you want to speak to this again?

(Kathy Kleinman): Sure. I think we're revisiting where we were last week as well that there's a real concern about defining what a genuine non-contestable issue is, what clear and convincing and clear cut cases of infringement look like, creating something very narrow and very defined so that you know it when you see it.

And I haven't seen that type of description come forward yet. So we're amenable to watching for it and to better understanding. I think this is the place where lots and lots of dialog is going to be appropriate and maybe even face-to-face meetings to really slash out what this is going to look like because this is the key element of the URS at least from our perspective.

David Maher: Konstantinos?

Konstantinos Komaitis: Yes. Just what one, another point to what (Kathy) has said, another concern that we have is that we've heard exactly the same justification used for the UDRP so we are still struggling to understand what are these clear cut cases that we you know, we have been referring to. So would like a more precise definition of what it is really that the URS, the cases that the URS is meant to cover.

David Maher: Okay. Mark.

Mark Partridge: The clear cut cases that the URS is meant to cover are those cases where there's no defense. The UDRP doesn't adequately deal with them now because it involves a more complicated time consuming and expensive process.

The problems that have arisen over the last many years in many ways weren't anticipated in the original design of the UDRP, so the, we're taking cases that would under the same elements as the UDRP but they're to be decided by clear and convincing evidence with no contestable issue, meaning there's no defense.

And for practicing lawyers throughout the world that, that's a clear standard to deal with the decision. If you look at it and say this is a complicated case, it takes more time to decide there's a defense, then it shouldn't be decided under the URS, the case should be rejected.

But there's a huge number of problems, documented problems that are going through the UDRP process now where they're decided by default and there's no, no contestable issue they should be handled faster, more cheaply and not require defensive registration maintenance by the complainant. So that's, that's the point behind this and it seems pretty straight forward and clear.

David Maher: Before going on to the various people who have their hands up, what is, how does this fit in to the request, the assignment we have from the GNSO council? Is in the staff explanation of the differences between the staff recommendations and the IRT is the purpose narrowing an issue? Is this a question that we really have to decide at this time?

Mark Partridge: I would say that the purpose isn't an issue between the staff report and the other proposals that have been put on the table. It's not a difference between the IRT, I think it's, (Kathy) and others have pointed out that there's some

safeguards in the IRT proposal in terms of process and procedure that aren't in the staff report that they and others including the IPC favor but I don't think there's a question of purpose.

David Maher: Okay. (Kathy) is, is your hand up?

(Kathy Kleinman): Yes. I wanted to ask Mark or whoever would like to take it a question, which is, is a single park domain name, no pattern, we're not talking about - no pattern of misconduct associated with the registrant, a single park domain name where there's an overlapping use of some basic word, we can assume it's trademarked a million times over but also a generic, ordinary dictionary word. Single park domain name, is that a case of clear cut infringement?

Mark Partridge: Well I guess that was directed to me to answer and I'd put on my UDRP panelist hat and the question under the standard under the UDRP is whether it is more likely than not that this is a, is an abuse and that depends on the specific mark in question. If it's, if the word is a common ordinary word house for example, probably there's a defense. If it's, if there's terms there and it's used for a park page but the term is coined an arbitrary that probably is clear.

David Maher: (Unintelligible).

Mark Partridge: (Unintelligible) answer in the abstract.

David Maher: But doesn't it really depend if, if it's a case where someone has put up or blocked the registration and there, it's clearly a trademark infringement and they default that then is a URS case but if there is any question and there's a defense then it goes out of the URS. (Wendy) you have your hand up.

(Wendy Selzer): Thanks I was sort of, one of the points that the non-commercial group has emphasized is that I think echoed by what I heard Mark saying that there are cases that the UDRP deals with poorly. And while the URS is a quick attempt to solve them we'd be better off solving them uniformly by fixing the UDRP for

to be applicable to all domains not just new GTLDs and all registrations invoking this clear wrongdoing.

So I think that's why the non-commercial suggested either a sunset for the URS coupled with a review and amendment to the UDRP plan or a new PDP on UDRP review so that we can take the lessons from UDRP's failures lessons from early implementation of URS and combine them into a rapid system that serves the needs of domain registrants and trademark holders.

David Maher: Okay. (Zahid).

(Zahid): Thank you. And I'll let Mark or you know, (unintelligible) correct me if I'm wrong here, but my understanding of what actually falls under the URS or what doesn't, doesn't necessarily depend on the sort of claim you're taking to the URS. It depends more I think maybe on the answer and it basically there is a, there's a complaint which seems like, which is a trademark dispute or even (UDR) (unintelligible) registry.

If there is a answer and if you look at the forms and what I've just done a few minutes ago is sent out the forms in one small Word document so that maybe it'll help many of the people who are on the groups see what it was that the IRT recommended. You will see that if you can just take off a defense and give just a few lines as to what your defense is. Effectively what that will do is if it's a, the URS examiner is not going to look into whether or not this is a case which has been proved or proof (unintelligible) but only look at the fact saying okay, it has definitely made out.

Is there a contestable case here case and if it is then that should be tackled in a different form either in the court or at a UDRP where the complainer would have to prove his case and the defense would have to prove it, contentions as well. So automatically I think it's really not a question of what actually is covered by the URS as opposed to maybe.

And this is I mean again (unintelligible) Mark explain if I'm incorrect I can be corrected here but the answer and the defense put up most of the times will decide whether the, the (unintelligible) stays within the URS or is kicked out and will go to UDRP order of the court.

And I think that is a safe - is a safety provision as well, because a respondent in the URS can actually really just take a box, put in a couple of lines about what his defense is and just like you would be able to do that in a summary jurisdiction where a defense is put up and it's not scrutinized in detail. But the judge looks at it and says yes, this is an arguable case, we don't know whether this will win or not but summary judgment is denied and I think that's why we're trying to basically get it and that's my two cents for that.

David Maher: Okay.

(Zahid): As far as the sunseting of the, thank you, as far as the sunseting of the URS concern I, there's just one concern that is raised, that if the URS was the sunset and the UDRP didn't actually go through a process where it was upgraded, if you will, or reviewed again and performed, you would be left with a void and I don't know what would fill that void. You might have new GTLDs and sort of running along and there's a sunset of the URS and you've got nothing there to protect it and that is just one concern that I would have (unintelligible).

David Maher: Okay. (Olivier).

(Olivier): Thank you. I think that one thing that we're all trying to build here is a URS that is fair for everyone, both for registrars, registrants, international property owners, etc., but the discussion we're having right now seems, as far as I'm concerned, to be more operational than actually answering the questions which are on this table.

The operational details, well if I could suggest perhaps that we agree on what we have here and then work out operational details that will make this URS fair for everyone, then we'll probably have something where we have consensus on a (unintelligible) document provided the document, the URS itself will be fair operationally. Is that something that we can work with?

David Maher: That sounds like a very good question. Jeff Newman.

Jeff Newman: Yeah thanks. So my question is really for (Kathy), for (Wendy) and others. I've heard the IP guys try to define a standard. (Kathy) and (Wendy) can you define a standard that you could accept? Have you guys given that some thought? And what would be kind of the exact words you'd like to see?

You know look I'm in the registry constituency and I don't really feel like this a hugely important issue for the registries as to what the standard is so I'm trying to listen to both sides and kind of come up with what I think would be a good compromise.

But I've heard, so we've heard what the business and IT guys have said, really helpful if you guys could suggest some wording or something that you all would find acceptable.

David Maher: (Kathy) do you want to respond to that?

(Kathy Kleinman): I think (Wendy) might want to go first and then I'll respond as well.

David Maher: Okay. (Wendy)?

(Wendy Selzer): Sure. I think backed by procedural safeguards, which are a critical part of making the substantive rule fair I think a, well like the (unintelligible) Motion to Dismiss standard of a federal complaint. Does it state a cause of action and does, but of course we're applying that standard to the, on the other side to

the defendant. Is there a claim that could be stated on the defendant's behalf or if there is no such claim then the complaint stands.

So we've heard tossed around serial cyber-squatting is what this is intended to combat if the defendant registrant can be shown to serial cyber-squatter and has nothing to offer in his/her defense then that's a complaint that can go through URS. Provided that the, that the registrant has the opportunity to challenge if that complaint was made incorrectly, leaves out material facts or never reached the registrant with notice at all.

David Maher: Okay. I think it would be helpful if that could be produced to writing as a standard that would fit into the purpose question. (Phil Corwin).

(Phil Corwin): Thank you. I just, maybe it might be helpful to try to define what the elements are. Because to say it's a case with no defense the complainant brings the case, he may think there is no defense but he can, the complainant cannot know for sure whether or not there is a defense before filing the case and I don't see anywhere on the grid the elements that need to be proved. Maybe there's consensus on that.

My understanding was that the elements were identical to the UDRP other than the requirement for a registered mark and a higher evidentiary standard,. But I just, I don't see them on the grid and I just want to raise the question of whether the elements are satisfactory, whether there's consensus on that. Because it seems to me that's more important than, that's really what's going to define whether a finding can be made against a registrant, not this no defense for which no one can be sure when they file a case whether or not there is one.

David Maher: Mark?

Mark Partridge: Well I think (Phil) said it right is that what's contemplated is that the elements are the UDRP elements but that the standard is heightened and I think

(Wendy) put it well by referring to the (12 B6) standard, which is essentially the summary judgments standard.

And that's what was in the minds of people who worked on this from the IRT point of view and I think that's largely carried over to the staff proposal, although the staff proposal used the clear and convincing evidence standard without stating the no contestable issues standard.

David Maher: Okay. It seems to me that we're, we may have exhausted this subject at least for the time being that we will, what we need is a written statement on the, the standards and it, if we can get that and work on it we might be close to a consensus. But does anyone still want to speak to this? I see Jeff, (Kathy), (Phil) have your hands up.

(Kathy Kleinman): I do (David).

David Maher: Go ahead (Kathy).

(Kathy Kleinman): Okay. I still think we need to work on the elements here and I'm going to second (Phil) on that because we promised our constituency that the URS would not be a bypass to the UDRP, that is was a different purpose, that it was, that it was for nearer or more limited purposes. So you can't throw it open to the same UDRP test and then just require a higher burden of proof, and I talked about this throughout (unintelligible).

You really have to have elements that make it clear to the complainant as well as to the registrant what it is the URS is for. Make it clear, define the elements, define this as the more clear cut abuse but put that into the element and then raise the burden of proof. Raising the burden of proof alone doesn't do anything and neither does a more likely or not standard that Mark raised.

I think we can get these elements narrowed down but the URS and the (URDP) shouldn't be two paths to the same goal.

David Maher: Okay. Jeff? Jeff Newman.

Jeff Newman: Yeah. Just quickly, I feel like we're playing a game of chicken and egg here going around in circles. When we talk about the standard people talk of, people say let's just talk about the elements. When we talk about the elements then people bring up well let's talk about the standards. So I just want to note that for the record. I agree we should talk about the elements but I just, am I the only one that feels like this is going in a circle?

David Maher: No, I think you're probably right. Mark?

Mark Partridge: Well we're concerned about, the IPC's concerned about (Cathy)'s comment about the elements. We think the point of dealing with the elements is in the evaluation stage, that that would address her concerns. But trying to capture some sort of narrow focus at the - at the top of the funnel as to what comes in this largely has the potential of defeating the purpose, as this was intended and being problematic for dealing with new problems as they arise.

People are very creative about these things and if you start having very narrow elements the cyber-squatters will work around them. (Kathy) and I have had this conversation before and I, I think it would be good to focus on it at the decision stage as to what elements or what safe harbors there might be for people who would not be violating this. But I think it would be a mistake to narrow the funnel and defeat the purpose of this, which is to provide something that will quickly deal with those, primarily with the default cases and clear instances of abuse.

David Maher: Okay. I see (Kathy) and Jeff have your hands up. I think...

(Kathy Kleinman): I'll put mine down. Sorry.

David Maher: Okay.

Jeff Newman: Hey (David), maybe just a quick clarification (unintelligible) in the notes. I think (Wendy) meant Rule 56 instead of (12 B6) which is the summary judgment motion as opposed to the initial pleading. So...

Man: Well, okay. But (12 B6) is, turns into a summary judgment if you have evidence.

Jeff Newman: I know I'm just, just for the notes perspective, we don't have to get into that just...

David Maher: No. I think, let's skip over (unintelligible) procedure.

Woman: (David) can I (unintelligible).

David Maher: The idea is I think in front of us. Should we move on to appeal?

Woman: (David) can I ask a question?

David Maher: Sure.

Woman: Is there anyone who would want to take off line of discussion about what the elements and the standards should be?

David Maher: Well I think it would be, and that's fine if people want to do that off line but wouldn't it be better if the non-commercial group could put down in writing what (unintelligible) the essential here so that we're not chasing our tail on these issues?

Woman: It would certainly help to have a comprehensive list of - because I don't, I'm not sure we all agree on clear and convincing and what those cases of

infringement are. So to work with IPC and business on really clear cut examples of what you're looking for on this, what you expect to capture on this would be very helpful.

(David Maher: Well, can the non-commercial group do that?

Woman: Again, asking to work with IPC and BC on the very specific examples for what they URS is created for, what they want it for since we're not the ones asking for this proceeding it would be, it would be much, it would be helpful to work with anybody who wants to work off line on this.

David Maher: Well let's, I have a concern here, we are faced with a very short deadline. Either we come to a consensus or the ICANN board has said they will put into place the staff proposals. So that's, that's default and I think at this point if you, if the non-commercial group has some serious concerns about the default and the way it might be applied.

I'd like to suggest that the burden is on you to come up with some definitions that you believe will work and then work with the other groups that may have different views. But I, I'm thinking of the looming presence of what will happen if we don't find consensus.

John, you have your hand up.

John Nevitt: Yeah. Thanks (David). I want, I just want to agree with you on what you just said and also echo a prior comment that Jeff said. When we're looking at, we have to look at this differently between the elements and the standards. When (Kathy) just spoke she talked about what the IPC and the BC might consider clear and convincing evidence, that doesn't go to the elements that goes to standards.

So if we are opening up the elements of the UDRP that's going to be a lot longer process. So I would recommend we keep the elements the way they

are, it's what the IRT recommended, it's what the staff recommended, it's you know, most of the groups seem to say let's not open the elements of the UDRP but you know, we could do a UDRP review. And that's certainly something we'll talk about later in this call, and we could do a URS review but to open the Pandora's box of the elements at this point is a mistake. We should just stick to what the, what the standard is to prove those elements.

David Maher: I agree with that. Okay. Let's move on to the de novo appeal. We seem to have, at least according to our chart, a consensus on the concept of an appeal. Does anyone want to speak to this? Or should we just move on? Mark?

Mark Partridge: Yeah. I think the chart may not fully deal with the nuances of the party's positions here. The IRT view of appeal was that it would go to the ombudsman not as a de novo review, or that it could go to court as a de novo review. And I'm not sure that, well I think that's a view that makes good sense but I'm not sure that that's what everybody has in mind.

David Maher: (Kathy).

(Kathy Kleinman): Yes. As the (NPSG) column shows we really think that this appeal process is critical to the checks and balances of the system, not an ombudsman but a real appeal and in fact the IRT even had one for default, had a de novo appeal, which we have embraced as well.

But also that let's put in you know, an appeal for review on the merits and appeal if there is a question of impartiality or abuse of discretion by the examiner. Let's add some teeth to the abusive claim by the complainant. If there's an abuse we never flush this out well with reverse (unintelligible) in the UDRP, let's do it here.

And of course honesty before the forum, if there's perjury, if there's lying there should be an appeal on that and the claimant should be kicked out of

the process permanently. Basic fairness and the appeal can go a long way towards making that happen.

David Maher: Okay Jeff.

Jeff Newman: Yeah and Mark and John can keep me honest here. I think some of the concerns expressed by the IRT for that, I don't think there was an opposition to an appeal process. I think it was more that they were worried that someone would just appeal automatically if it meant that their name would go off of hold and become live in order to get the extra few days, weeks, months of monetization out of the name.

So I, if there's a way to address that, which I believe there are ways to do that with certain penalties against abusive appeals I guess on the other side of what (Kathy) is saying, then I think at least it was my impression that the IRT might not have cared as much or may not be so a stronghold on this. So if we can address those small concerns, I'm sorry large concerns but small details I think that might go a long way.

David Maher: Thanks. Konstantinos.

Konstantinos Komaitis: Yes. I would like to basically go back to the ombudsman issue. I think that the ombudsman is a separate border within ICANN (unintelligible) procedures, issues and decisions by ICANN and sort of other people being not satisfied with it. They also have zero expertise on trademark issues and I don't really see how an ombudsman would be able to deal with an appeals process that comes down to basic issues of trademark law.

This is not an appeal, it's my understanding of the appeal at least is to have the appellate body within the system that (unintelligible) create in order to provide a very good checks and balances interview, part of the opportunity for due process and to go back, and reopen the case and challenge basically the decision.

David Maher: Mark?

Amy Stathos: (David). This is Amy Stathos. May I speak to that for a second?

David Maher: Go ahead.

Amy Stathos: Yeah. Just to clarify, not with respect to the ombudsman concept but if there was some, an ombudsman implied into this process it would not be the ICANN ombudsman, that would be a completely different process. That's it. Thanks.

David Maher: Okay. Thanks. Mark.

Mark Partridge: Well I, what I'm going to say echoes that. The concept was not that this went to the ICANN ombudsman but that there was a specific person within the URS process, a supervising attorney or some such position who would review upon request and make this decision. So it would be somebody who was knowledgeable about the process and knowledgeable about the relevant law. That was our concept.

David Maher: Thanks. (Kathy) did you speak to that?

(Kathy Kleinman): No. Let me lower my hand right now but I did want to speak to something about the panels when we get to it, which seems to be also under the appeals area, just what the panel should look like. I'll wait until after we finish talking about appeals.

David Maher: Well the next item is the question of the notice where I think there is general agreement and item 16 is a panelists being randomized. Is that the issue you want to talk about or?

(Kathy Kleinman): No I wanted to, on the appeals we had talked about in the NCSG had again, it's advocating for a full appellate process because we think it makes sense when we're dealing with this type of rapid review. That's where the balance is going to be is having an appeals process, and we recommend a three judge panel and one would be a trademark expert, one would be a fair use expert, one would be an academic or a DNS expert.

And that's, that would be more substantive and more authoritative I think than an ombudsman and more definitive. But also for the original review of the process, rather than having one person decide what in his or her opinion is clear cut abuse we're still trying to figure out what it is and again, no one can give us exact elements of it, we'll be working on that at NCUC.

But why not have three people meeting independently -- don't call it a panel, they don't have to correspond and probably shouldn't -- but again a trademark expert, a fair use expert and an academic independently sitting in front of the stacks of URS complaints, and looking and seeing whether they, you know, when they spend their ten minutes on each one and that's how long we're told these things will take.

They spend their ten minutes on one and you know, up or down is it, you know, is it a URS complaint, does it belong within the URS and how do they decide. And they can all send their decisions back to the forum and you know, and then two votes wins. And this is again, a way to have checks and balances and fairness in the process, especially since no one can really define what the elements are at this point or the special elements of the URS.

David Maher: Jeff.

Jeff Newman: And that's, this (unintelligible) is that paid for by the appellate? I'm assuming it is because that sounds pretty expensive to me.

(Kathy Kleinman): The original process of just the three person examiners, the three board examiners shouldn't be that expensive, we're not talking about that much more time than one examiner. And the appeals process, yeah, we should talk about who pays for that.

David Maher: Mark.

(Kathy Kleinman): That's a good question.

Mark Partridge: I think the proposal to have three people at the initial examination stage is a mistake for this process, it would add expense, it would add time, it would make it more complicated than necessary for dealing with the vast majority of cases that are going through this.

I think the safeguards that (Kathy) rightly is concerned about are best addressed by having the opportunity for the person to respond by having the site go back up in the case of inadvertent defaults and having an opportunity for people who do want to defend a case and have legitimate claims for defending it. But so what I think (Kathy) that you're proposing for the start is not, not helpful at the beginning stage because of the vast majority of cases that would go through this just don't need that level of review.

David Maher: Okay. Thank you Mark. I don't want to sound like a one track record here but I think we all have to keep in mind as I understand it the question of a review at all is not in the staff recommendation for rights protection for the URS.

So if we are in agreement that there should be some kind of an appeal. The only way we're going to persuade the ICANN board ultimately that they should direct staff to provide for appeal is to come to some kind of a consensus on what it should be. And I am getting the sense from listening that we're pretty far apart but I think you ought to understand that again, the default here is that there won't be an appeal and maybe that will introduce a

sense of realism on both sides of this issue I hope. (Kathy) you have your hand up.

(Kathy Kleinman): No, sorry. Let me take that down.

David Maher: Okay. Well let's move on then, we're in agreement that the notice to the respondent should be clear, I don't think we really need to go further on that. The next question is whether the dispute resolution providers are randomized and how they are randomized and again, I think that this is an issue where the burden is on us to come to consensus. (Olivier) you have your hand up?

(Olivier): Thank you (David). Sorry to come back to the actual noticed respondents requiring to be clear. One thing which has not been considered and which should be considered in light of the (AOC) is the fact that there is no, no mention anywhere of multiple languages. We don't know what language the notice will be written in and it might be clear if it's written in English to an English speaking person but it might not be clear to someone who is not an English speaker.

So that's one thing which we wanted to put on record and we might have to deal with this when we start dealing with the nitty gritty of operations, but we do recommend that we deal with many languages.

Furthermore also, what happens with patents, or sorry, with trademarks that are written in other scripts, in Japanese patents, Japanese trademarks, sorry. These are things that we might need to have a look at. Thank you.

David Maher: Okay. Mark.

Mark Partridge: If you're going on to the panelist point I want (unintelligible) add a nuance to what, what's stated there which is that the IPC since our last call has exchanged some more thoughts about this and one of the concerns is the willingness of providers to implement something with the randomized pool.

We think that the providers or existing providers or prudential providers should be contacted about whether that's practical.

And it may be that a better way to deal with the concern of randomization, etc., that that's designed to do is in an appeal process.

David Maher: Okay. I think, I'm sorry I skipped ahead to fast on the question of notice and I think (Olivier) has raised a very important issue when we're talking about all the languages of the world and all the character sets it, there clearly is an issue of what constitutes clarity.

And I think at the very least we should recommend that the notice should be clearer to the person who receives the notice, whatever procedures might be required to do that. I don't see anyone's hand up on that. So let's, let's move on to the panelists. Is anyone, oh (Olivier) go ahead.

(Olivier): Thank you (David). One of the, one of the things that might have to introduce to WHOIS data or registration data in the preferred language in which the registrant wants to be contacted in that might clear the language issue.

David Maher: Oh. Very good suggestion. Okay. Anyone else on the question of randomization of dispute providers, resolution providers?

(Kathy Kleinman): (Kathy).

David Maher: Go ahead.

(Kathy Kleinman): To just again going back to the key issue for NCSD which is forum shopping, that this is something that is done in UDRP and that we absolutely have to prevent in the URS. So however it's practical, randomizing panelists as Mark suggested, randomizing forums as we suggested, this should be easily doable. Thanks.

David Maher: Okay. I think we can move on then the question of the time of notice 14 to 20 days and the various different positions in between that and this is one where the guide book, the staff proposal is still 14 days with an extension of time not more than seven days and fax notification is included in the notice process. So here again the default we're faced with is the guide book proposal, the possible extension of seven days (Kathy).

(Kathy Kleinman): Actually I'm sorry, I didn't put my hand down on that. But no, the 20 day notice is critical. We're hearing from people in developing countries are members and the span goes, if the initial notice goes into the spam file the e-mail notice, then the certified letter is not going to get to Cambodia or many other places within the 14 days. The 20 days is a minimum and then if you have a rapid review the domain name and the Web site come down very, very quickly as compared to UDRP. So 20 days seems very reasonable to us, we'd like more.

David Maher: Mark?

Mark Partridge: The IPC in talking this through is concerned about the loss of a rapid decision here. The - one of the concerns of, that (Cathy)'s raised before is protecting the good actors who don't give notice, and we think that the IRT version did that by having the opportunity for the site to go back up if there was a default.

If we look at this in a practical way as to the number of days and (Kathy) has said well, 20 day minimum for a notice. If we followed what the IRT had in mind there would be 14 days to respond and then it would go to the panelist to decide and let's say they took 14 days to decide.

Now you're at 28 days and within that period of time under the IRT view if a respondent came back and said, you know, we do have a defense here, we'd like to submit a defense, then they would have that opportunity. And the site would not be taken down or if they had - had been taken down it would go back up.

And I'm sympathetic, and I know the IPC members are sympathetic to (Cathy)'s concerns about the good faith actors. But as the experience of people who've been dealing with these things is that, that is a very small portion compared to the very large number of defaults and things that would go through this and the opportunity to continue to have sites up and making money off them is very troubling to a lot of people commenting on this.

So what we would like to see is to hold to the 14 days and find a way to address (Cathy)'s concern for good faith people who don't give a notice and I think we did that in the IRT report.

David Maher: Okay. (Wendy).

(Wendy Selzer): Sure. Just a quick question, I keep hearing the vast majority, the great bulk are likely to be wrong doers or people who should properly be taken down and I'm just wondering where the numbers and data to back that are found.

David Maher: John, Mark do you want to reply to that or shall we move on...

Mark Partridge: Well I think WIFO gave us statistics at the last couple of meetings on this point and that, that a very large number of cases these days are defaults and that of those cases there's a decision that yeah, there was no defense in this case, that this was a parking page based on someone's clear brand name. So I think the numbers that we've been hearing from WIPO are that there's about (7%) of these cases go down.

David Maher: Okay. John. John Nevitt.

Woman: John indicates that he just dropped from the call.

David Maher: Oh . Well, Konstantinos.

Konstantinos Komaitis: Yes. One point I have been hearing a lot talking about the default cases and I appreciate that there is a huge number of default cases. But not all defaults are in bad faith and we really need to understand that and this is a problem that has been taken from the UDRP and it has been incorporated in the URS that (unintelligible) are (unintelligible) this is not the case, there are some defaults that are genuine defaults.

And also to respond to the data submitted by WIPO, the seven, WIPO said that the 7% rise, they saw a 7% rise in UDRP disputes. Now whether that 7% was cyber-squatting or not is yet to be seen because no one has actually conducted a proper (UBS) created view to see whether there is a rise in cyber-squatting.

The fact that WIPO has generated a larger number of UDRP disputes in my eyes for example might mean very (unintelligible) shopping and not cyber-squatting. So I would really like to turn the attention to the fact that not all domain name registrants are (unintelligible) and we need to make sure that we've given the appropriate notice to show that they are in good faith and 14 days is very minimal compared also to other disputes, procedures that are taking place (unintelligible).

David Maher: Okay thanks. John if you're back.

John Nevitt: Yeah thanks. I went to go off view and I hit off. So I'm not sure if Mark said this but WIPO presented data to the IRT that 70% of complaints are defaulted, they don't, they go unanswered in the UDRP currently, so that was definitely an important figure for us. (Wendy) and to answer your question the vast majority means to us meant 70%.

The other thing I wanted to bring up on this point and on point 16 is the BC's comments related to post launch IP claims. It sounds like from the BC perspective some issues on 16 and 17 are acceptable in exchange for post launch IP claims and domain transfer. So I want to get a sense from (Zahid),

is it an and or an or because as you can imagine post launch IP claims would add a level of complexity to this process that would be unmatched by anything that's in this proposal and would be wholly unacceptable to the providers.

(Zahid): Can I respond to that (David)? This is (Zahid).

David Maher: Yes. Go ahead.

(Zahid): Thank you. Currently the position is that basically this is a BC position that in negotiations we should have these two placed out there as important elements, both in the IP claims as well as the URS. So it is a negotiating position, a lot of it is subject to negotiations.

I will have to go back and, I haven't had a chance to speak to the BC membership see to what extent we can actually negotiate which aspect. But I think that there is an understanding within the BC that a lot of things in the FCI will lead to compromise depending, you know, on what it looks like at the end of the day the work flow trademark holders.

So I'm sorry I'm not answering the question directly but what I'm just saying is, is this is the position of the (unintelligible) where we're trying to negotiate that but it may be an or, or it may also be an and, but at the moment I wouldn't want to say much about it.

John Nevitt: Okay. Thank you.

David Maher: Okay. (Kathy).

(Kathy Kleinman): I'd like to recommend we come back to this one because I just don't think it's, I've been told that the difference between 14 days and 20 days it not that significant to many people. I happen to know it's very significant to, you know, small non-commercial organizations and even large one operating in other

countries. So but the last thing we want is a system where you know, trademark owners can gain things by submitting complaints on the eve of Christmas and when people are going to be out for a week or two.

I think this one should be, we also don't want to go with just assuming people are going to default. Because when people don't default and when they do have the time to respond and even find an attorney to help represent them, which can take time, because the trademark owner really have his or her attorney, it's the registrant who has to find one.

When they respond I think the ratio comes down to about 50/50 in terms of winning, losing in the UDRPs. So I'd like to recommend we come back to this one because it's a huge issue for registrants and I'm not sure it's that big an issue for everyone else, especially if the forums can come up with very quick decision-making processes.

David Maher: Well that, I hear what you're saying but bear in mind the default is still what staffers recommend. Mark.

Mark Partridge: I think the comments have been made that I don't need to say a lot more here about this. But I think the default mechanism that the IRT proposed really helps deal with this problem, letting these things be out there is a financial burden and you know, probably the majority of these cases to the trademark owner and you can protect the good faith registrants with the IRT mechanisms.

I just wanted to apologize to people, I'm going to have to in about five minutes sign off from the call.

David Maher: Okay. (Olivier).

(Olivier): Thank you (David). One suggestion which we discussed within our working group at ALAC was one where you might have the site being taken down

after 14 days but the URS only starting seven days later. So effectively for those organizations or individuals, registrants that are in the very remote part of the world the first they might learn about what's going on might be through their own Web site going down.

But as soon as they find this out they can click on it and basically respond and say right, we know, we're now informed about what's going on. But the important part being that the URS would only start seven days later. Is that something which other participants might find interesting?

David Maher: (Zahid).

(Zahid): Oh I'm sorry, that was up from before.

David Maher: Oh.

Man: Could you explain that a little more? What do you mean by the URS starting seven days later?

(Olivier): Well at the moment we're looking at either having a URS process with the whole examination of the claim at either 14 days or 20 days. What we suggest might be that the site gets taken down at 14 days but that the URS process of examining the claim only starts at 20 days or seven days after the site has been taken down. So it gives some time for the registrants to see that the site is down and to be informed while at the same time the site is not out there anymore, still in operation for 20 days.

John Nevitt: So this is John, sorry if I may (David) as a follow-up question.

David Maher: Sure. Go ahead.

John Nevitt: Isn't that the default position that ICANN staff proposed which is you have a 14 day time frame to answer and then you have an automatic right to seven days if you raise your hand and.

(Zahid): It would mean that you would need to reply but there it actually gives you the 14 days cuts the site off and the seven days is one where there's no extension that you have to ask for, that a registrant would have to ask for.

Woman: It's different.

Man: So it's a bit different.

David Maher: Anyone else want to speak to this?

(Zahid): Yeah this is (Zahid), sorry, I want to pick that up. If there was a minimum period in which a decision was to be made, and I think it's something that's written on the (unintelligible) that on, there is a certain period of time that an examiner's supposed to take to render the decision that could be the seven days, etc., so effective (unintelligible).

David Maher: Okay. Thank you.

Woman: Did we just lose the end of that? I didn't hear the end of the statement. Did everyone else?

Woman: We've lost (Zahid).

David Maher: Oh, (Zahid) got disconnected.

Woman: We're going to reconnect him.

David Maher: So while we're waiting the modes of notice we seem to have agreement on adding facts, which is the default in any event. (Olivier) you had your hand up.

(Olivier): Thank you (David). Yeah. Thank you (David). If I could just add to this, I think the main concern for the BC and IPC is that they still want the URS to be rapid. And one thing is if we actually set up times on how long it would take for a claim to be looked at by in the URS process that at least we've sort of hard walls as to the amount of time that is taken until the URS take place, the amount of time that the URS takes place, the process actually takes. And so they would have a good idea of how quickly someone would be, a squatter would be taken off line.

David Maher: Okay. No one else on that? I think we can move down to Item 19, request...

Margie Milam: Hey (David) it's Margie can you, it's not in the clarify for the notes, what is the agreement on the length of notice?

David Maher: So there's no agreement on the length of notice, I said there was agreement on the mode.

Margie Milam: On mode of notice, okay.

David Maher: Yeah. Adding facts to the original.

Margie Milam: Thank you.

David Maher: Okay. So the next very much (controverted) question is the option to transfer. (Olivier). Did you have your hand up?

(Olivier): Sorry, I'll take it down.

David Maher: Okay. The option to transfer I believe is. (Zahid) go ahead.

(Zahid): Yeah thank you. The option to transfer basically the BC's position is that it doesn't have to be a transfer per se, it doesn't have to be something that leads to the domain name being actually necessarily at the option of the complainant to be used by the complainant. But it could be some mechanism by which you could pay a fee or you could send it or something, it could be done by which you just ensure that simply it doesn't go back into the pool again, the revolving door issue (unintelligible) and that's what we're looking for, that's what the numbers are looking for.

David Maher: Mark.

Mark Partridge: Yeah I'd say from the IPC's point of view if we can resolve that revolving door problem of short registrations that would lapse and then that name would fall back into the, to another cyber-squatter to pick up, that would be a suitable substitute for transfer. And that if the, if somebody does want the transfer they can go to court or they go through a (unintelligible).

David Maher: Okay. Jeff.

Jeff Newman: As long as whatever solution you guys come up with doesn't effect or have any impact on recoding the registries to actually deal with the (unintelligible). So we had this discussion before, I know what you guys want. From my perspective as a registry I'd rather you just order the transfer immediately so I'd rather than just join that side than to have anyone play with clocks or timing or grace periods or any kind of thing that has to be manually done or hard coated.

David Maher: Okay. Jeff Eckhouse.

Jeff Eckhouse: First let me echo what Jeff Newman said as a registrar we do not want that either. And just had a question, this again is for the IPC on this, is, or some of the groups that are advocating the transfer are would you be willing, you

know, do you think that the person, the complainant would be willing to pay for an additional year if they wanted the URS to say okay, we're going to add a year on?

Or do they, you know, what's the expectations because you're saying I know the issue people have discussed is you know, after the transfer, after the URS or whatever there's a short period. Is the intention for them to at that point to renew the name themselves or what's supposed to happen after that period and would you want an initial additional year at that time when they won the URS. Just some ideas on there, some questions about that.

Mark Partridge: Well this is Mark real quick, I think the goal is so that it just doesn't, doesn't drop from this process and fall into the hands of somebody else immediately. So I think the idea of renewing it for an additional year in which it's frozen that seems to me to make sense as a way to deal with this issue and that would, that would provide sufficient time for the complainant or the registrant to take further action.

Jeff Eckhouse: And the complainant would pay for that, it wouldn't be, you know, that some magical person would pay. Because that's, I've heard that was an issue that then we don't want it to go, to drop but we don't want to pay so that's one of the things, so if the complainant would pay for that additional year some standard commercial rate, whatever it is would that be okay.

Mark Partridge: Yeah. Well look, I'm not a brand owner but, and I think there are brand owners out there who would say they'd like to have it for free but I think there has to be a balancing of issues on that I think what's fair would be you know, that there's an appropriate payment for it.

(Zahid): This is (Zahid) can I jump in?

(David Maher: I'm sorry, who?

(Zahid): (Zahid) from the BC.

David Maher: Oh.

(Zahid): I was just saying could I just follow-up on that?

David Maher: Okay.

(Zahid): Yes? Okay thank you. Sorry, just because John mentioned that you know, those people are advocating, so the BC is actually, and I think that we started this process and we're glad to see the IPC in (so far) supportive. Yes, to answer the question, it is something we could work with. We understand that there's a balance, we can't actually have that for free and the real issue we're just trying to solve is revolving door issue. So if it costs some fee to basically make sure that it doesn't go into the pool that is something we can work with. Thank you.

David Maher: Okay. (Kathy).

(Kathy Kleinman): Just two questions I can understand this a little better, and please accept these questions are in good faith. The first is what happens if it's a ten year term on the registration? How is that going to be handled from a registry/registrar perspective and what would the BC want with that domain name?

And the other is what about if the domain name is a basic word and maybe one person is registered as bad faith but that doesn't mean that if it goes back into the pool the next person will register it in bad faith. So what about that type of situation? Because again, this is the domain name I would think that someone has chosen not to register during one of the sunrise periods.

(Zahid): This is (Zahid) from the BC, should I respond?

David Maher: Yeah. Go ahead (Zahid).

(Zahid): Okay. So the question about the ten years, the issue is to make sure it doesn't go back through and if it, you know, we're looking at a situation where the ten years is expiring and then you just need to pay an extra fee to make sure that we can ensure that you know, we renew it, that makes sense. So that's I think that's (unintelligible) unless I'm not understanding something in the question.

But the second thing with regard to what if somebody wants to actually have the right to use that name for something completely different. We don't have a solution and we haven't thought about a possibility in that if there is something, and this is just really speaking off the top of my head, like the reconsideration mechanism that the IRT proposed for certain you know, (unintelligible), etc., that could be something that could make sense.

Or we could work with that, but I think that that may be something that the registrar/registries and their processes may be impacted by so that may not be workable from that perspective. So that's my respond to that, that we haven't really given it that much consideration.

(Kathy Kleinman): Thank you.

David Maher: Okay. (Phil). (Phil), one question your status, are you representing any of the stakeholder groups?

(Phil): Well I'm an alternate for the BC and I'm being very careful not to say anything that's at odds with the BC position, I'm just if it's okay if not I'll, I won't say anything...

David Maher: No.

(Phil): ...but I just...

David Maher: Go ahead.

(Phil): ...want to raise points which I think kind of draw out points for discussion, I'm not trying to advocate a position in my comments, if that's okay.

David Maher: Sure. Go ahead.

(Phil): Yeah. I just want to elaborate on the point (Kathy) had made, which in thinking about this if the standard is one of the all, the first element is identical or in some way incorporating a registered mark. And I don't have an answer to it, but there are going to be registered marks which are not generic words where I can you know, clearly you wouldn't want it going back in the pool because almost any use other than by the authorized, the owner of the mark is going to be infringing.

But there are other marks which are you know, generic words and could go back in the pool and be used in a completely non-infringing way. I don't have a solution to that but it just, the identity to a mark is just one of the three elements. And in some cases it's almost preordained that the use by anyone other by the holder of the mark is going to be infringing but in other cases it's not preordained at all that the other two elements would be satisfied for other users.

David Maher: Okay. Thank you. I think we can move on then to the complaint and answer question that this is item number 20. There seems to be substantial agreement, although the details I think are still not entirely agreed upon, is this again is an area that I don't believe is covered in the staff recommendations so the default position is that there would be no limitation or the limitation if any might be imposed by staff when they put together the details. Does anyone want to speak to this?

Well it's an area where, oh (Olivier), go ahead.

(Olivier): Thank you (David). Following up on my earlier comments, same comment here as well, in what language should the complaint announcer be written in.

David Maher: Very good question and I think this is an area where we might be able to come to an agreement and provide something use for staff. The next item is the question that successful complainant obtaining a transfer and I think this really is the same subject that we have already covered in the item 19.

I don't know if anyone feels differently, but I think we can skip over that which brings us to the last point and we have about ten minutes left. The question of the review of the URS and we have I believe agreement that regular review is necessary. Does anyone want to speak to this?

Well there may be, oh Konstantinos.

Konstantinos Komaitis: Yes (David). I think that I am (unintelligible) very much in favor of reviewing the URS and but I think that we need to also incorporate and start playing with the idea of the review of the UDRP and throughout this discussion I've heard the two systems being confused a lot, at least in my eyes.

And I really think that if we are to create a new system to deal with this, a rapid new system to deal with (unintelligible) type cases we need to disassociate as much as we can from the UDRP otherwise we have two systems that can be both gains and can both serve, and both serve the same purposes.

So we can you know, the review of the URS can coincide with the amendment of the UDRP and it can happen at regular intervals and the URS can exist until we proceed to the appropriate review of the UDRP.

David Maher: (Olivier).

(Olivier): Thank you (David). There is one thing which hasn't been considered there either, which is the criteria for reviewing the URS. How do we measure success or failure, and in addition to that, if we more importantly if we see either abuse or some aspect not working what is the mechanism to quickly revise it. Because under the current ICANN processes the only way to modify a policy is by a PDP which will typically take a long time even if all the parties agree. Or board action is deemed an emergency and we do have to think of that as well.

David Maher: That's a very good point and it's one where the burden is on us to come up with a reasonable proposal that we can agree on that we present to staff and ultimately to the board. (Phil)?

(Phil): Yeah, I just wanted to note that I had spoken to this issue with the public forum and (unintelligible) and proposed that you know, there be preidentification the type of data that would be collected to provide for regular annual review. You know, simple things in a number of cases file, the decisions, how many you know, the effect on the UDRP.

But some databased methodology for reviewing it and providing both complainants and registrants with assurance that there be a regular review process, that the review would be based on hard evidence and that there be a way to adjust the process if it wasn't working out the way either side had contemplated at launch, so.

David Maher: Okay. Thank you. At this point I don't see any other hands up. I, if Margie is willing to proceed to preparing a very rough straw man graph of the consensus that we are working on and if the various parties that understand that there is a serious burden to overcome or a burden to bear in order to make a, reach an agreement that can be presented to the board, and without that kind of agreement the default is very clear, it'll be the staff position, because that's what the board has said it's going to be. (Olivier).

(Olivier): Do we have to agree on all points for the board to take into consideration what we agree on or do we, would the board just, would the decision revert to the, to the IRT if we don't agree on one point?

David Maher: No. I don't think we're required to have total consensus on every single point. I think if we have consensus on certain points but not on others it seems to me the logical approach would be for the staff and the board to accept our consensus on the agreed items and proceed with the staff proposal on those where there is no consensus. Anyone feel differently about that?

Well if not there will be a call tomorrow, I'm sorry I won't be able to, oh (Zahid) go ahead. (Zahid)? No.

Konstantinos Komaitis: (David) just, sorry, this is Konstantinos, a very quick question about tomorrow's call, what time is it exactly because I think I've received two e-mails with different times?

David Maher: Gisella can you answer that?

Gisella Gruber-White: Yes absolutely. The call tomorrow, just bear with me for one second, the call tomorrow is at 1600 UTC.

David Maher: 1600 UTC.

Gisella Gruber-White: Yes.

Konstantinos Komaitis: Okay. Thank you very much.

David Maher: Thanks. Okay. We're almost at the 90 minutes and...

(Kathy Kleinman): (David)?

David Maher: Yeah (Kathy), go ahead.

(Kathy Kleinman): There seem to be a number of areas of agreement, there seem to be a number of areas where there is disagreement but room to discuss and negotiate, the BC has put in a number of issues as I think John Nevitt pointed out, where the, they're willing to negotiate X for Y.

Is this, is anyone interested and is ICANN staff amenable to creating a face-to-face meeting? Because in the time frame that we're dealing with one or perhaps two face-to-face meetings may mean we can really iron out the type of details that are important to some of the constituencies, you know, everyone has the issues that are very important to them. If we meet face-to-face we may be able to kind of put all of this to bed.

David Maher: Well (Zahid) do you want to comment on that?

(Zahid): Thank you (David). Yes. I think that, I think to the extent that we have been able to reach some common ground or agreed on a higher level of certain principles maybe there's, there is some room for us putting, setting something as a tentative -- and I repeat the word tentative -- proposal to the GNSO with (unintelligible) saying that we are still continuing to negotiate the details. And that number one, we need more time and number two, I think the idea of having a face-to-face (unintelligible).

I think some of the issues may be, this is at least my perception of it, some of the issues may be are lack of understanding (unintelligible) about you know, what works, what doesn't work and what were the concerns might be.

(David Maher): Yeah. I certainly am not opposed the idea of a face-to-face meeting. I think the logistics are very, very difficult at this point. I'm involved in another working group, Jeff Newman and I are both involved in the PCFC developing the PDP procedures and a face-to-face meeting has been proposed, a (doodle) has been sent out. And it's enormously difficult, it's pretty clear that

no one is going to be available during the forthcoming holiday season no matter what country you're in there are winter solstice holidays, whatever you call them.

Unless we can get some kind of an extension. Margie, do you want to speak to this?

Margie Milam: Yeah. I know we talked about it in (Seoul) and I certainly floated the idea of a face-to-face meeting. I can, we're certainly willing to explore it if that's what the group is interested in and I'll go ahead and start having conversations internally if that's what, you know, you as a group think is important, but yeah, we do have a bit of calendar constraints because of the holidays. It may be difficult to schedule but I'm certainly willing to look into it and get some information for you.

David Maher: (Zahid).

(Zahid): I think that that's, that's what I was trying to get at basically that we would send something to GNSO, get an extension or something and this face-to-face meeting would take place subsequent to that work out details. The reason being that we have sort of, for lack of a better term, a (unintelligible) sort of staff proposal hanging over our heads. And maybe if we got that extension and then got that time to sort of you know, cool the minds sitting together trying to work this problem out at a later stage that might help and we won't have to deal with that default situation.

David Maher: Thanks. Jeff Eckhouse I'll let you have the last word and then we're...

Jeff Eckhouse: Okay thanks.

David Maher: ...(unintelligible).

Jeff Eckhouse: While I think I've in my e-mails I've spoken about how we need to be efficient here and I just want to reiterate that and say while I think a face-to-face would be very useful, I still do not think that it would be that useful that it would be worth asking for an extension on this, and that we should still focus on the official timeline and work on the telephone calls and think about a face-to-face as more of a bonus than a necessity for this.

David Maher: Okay. Thank you. Thank you all for your participation. I think we've made some significant progress and let's hope that regardless of the face-to-face issue we can continue to work through e-mails and if people want to make private telephone calls to each other please go ahead. So I think that's it. Thanks.

Woman: Thanks (David).

(David Mahair): Bye-bye.

Man: Thank you (David).

END