

**ICANN
Transcription
RPM TMCH sub team
Friday, 22 July 2016 at 15:00 UTC**

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The recordings and transcriptions of the calls are posted on the wiki page sub team page:
<https://community.icann.org/x/UwSbAw>

Attendees:

Susan Payne
Khouloud Dawahi
Phil Corwin
Kathy Kleiman

Apologies:

Marina Lewis

ICANN staff:

Mary Wong
Antonietta Mangiacotti
David Tait
Terri Agnew

Coordinator: The recordings have started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the RPM TMCH Sub-Team Call held on Friday, the 22nd of July 2016.

On the call today we have Susan Payne, Khoulood Dawahi and Philip Corwin. I have no listed apologies. From staff we have Mary Wong, Antonietta Mangiacotti and myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and I'll turn it back over to Mary.

Susan Payne: Hi. I don't have any sound here but Mary's microphone is showing as working. Is it just me or is there any sound?

Terri Agnew: Hi. Terri. Could you hear my introduction at all?

Susan Payne: (Kalude), can you hear me? Good. Okay. I mean I'm not running this meeting. I think as a subgroup we've probably not - we've not really self-organized. And perhaps we - I'm just wondering - I mean there are three of us and obviously some staff members.

But, you know, there are three of us on this call. Is this, you know, a waste of time? Would we be better served to actually spend this hour communicating on the list with each other trying to agree who's going to chair this group and trying to kind of agree some questions by email?

I don't know what the rest of you think but it seems like - it seems like we may be slightly wasting our time.

Mary Wong: Susan, this is Mary. I hope you can hear me because we can hear you.

Susan Payne: Mary, I have you (hand up).

Mary Wong: Does that mean you can't hear me? Thanks for that (Kalude). I assume that means that you, Phil and Antonietta can hear us. I'm not sure about Susan. So just hang on for one second.

So while we try to get Susan back on, Phil and (Kalude) since you can hear everyone, what do you think of Susan's suggestion? Our sense from the staff side I should say now is that it might be helpful to just have at least a short discussion amongst the folks on this call largely because this sub-team really doesn't have very much time.

So we're going to take things back to the list. It will be good to have a list of very specific items or questions to the subgroup even if it's just in 10 or 15 minutes time.

Phil Corwin: Mary, Phil here. I wouldn't - certainly that might be useful; a short discussion just to figure out what the participants are going to - how they're going to move forward.

But again, you know, I'm on in an ex officio capacity. I'm already co-Chair on the full working group and another working group. So I really expected this one to, you know, organize itself and either, you know, put someone in charge or take collective charge.

But you're right. There's a lot to be looked at and not much time. And if it's not done in time, it's going to delay our working on the clearinghouse.

Mary Wong: Thanks for that Phil. This is Mary again. So I would suggest that we hang on for perhaps just a minute to see if we can get Susan back. Susan, can you hear us?

Susan Payne: Yes. We just got back. Sorry about that. But it was strange that I could see symbols and nothing was happening.

Mary Wong: Well we're glad to have you back. So in the last minute or so Phil had chimed into one of my suggestions that in response to your note earlier that it might be helpful even we only have a few people on this call to have a very brief discussion so that what we take back to the sub-team on the mailing list is

very specific and perhaps sets deadlines for the sort of question we need answered.

And the reason that we thought that might be a good idea is because of the very short timeline that this group has. Is that all right with you?

Susan Payne: Yes. That sounds fine.

Mary Wong: Thanks Susan. Thanks Philip for agreeing. So we actually have, as I noted at the beginning of this call, one of our colleagues from GDD, Antonietta join us for this call. And for purposes of the recording, I'm going to ask Antonietta to give us a very brief update on the pending dates and what we can (expect) from the TMCH independent reviewers draft report, if that's all right.
Antonietta, if you're on audio, can you go ahead?

Antonietta Mangiacotti: Thank you Mary. Can you hear me? Hello.

Mary Wong: Yes we can. Yes.

Antonietta Mangiacotti: Okay.

Mary Wong: Go ahead.

Antonietta Mangiacotti: (Perfect). All right. So yes. Mary mentioned we're getting ready to publish the independent review of the clearinghouse report, which was supposed to be this week. Now we'll be officially publishing it on Monday. And this was a study that we hired the Analysis Group to do.

They looked at GAC specified (errors) for review. (Of course we did it) with the matching criteria at a (unintelligible) period and the trademark claims notification whether the trademark claims notification period should be extended beyond the required 90 days. And they looked at the matching criteria and whether those should be extended to include non-exact matches.

So they obtained the several data sources including Whois domain name registration data, data from the Trademark Clearinghouse database. And based on that they sort of came up with some key findings. And we're getting ready to post those - that report on Monday.

Well, we'll be providing it to the GAC simply for their review. We don't expect that they would need to approve anything. And so that is where it stands at the moment. Are there any questions?

Mary Wong: Thanks very much Antonietta. Yes. Does anyone have questions for Antonietta? So we will put this out to the full working group as well as the sub-team Antonietta if that's all right. So we're looking at...

Antonietta Mangiacotti: Sure.

Mary Wong: ...Monday, 25th of July for the publication of the draft report. And I assume that that will be for the usual 40 day period.

Antonietta Mangiacotti: (Right).

Mary Wong: And as this sub-team knows, we have scheduled a call with Greg Rayford of the Analysis Group. I believe that's for next Friday, the 29th of July. Antonietta, I think you've confirmed that with Greg.

Antonietta Mangiacotti: (Yes).

Mary Wong: And so what this sub-team had agreed to do last week, and we can continue this discussion on the list with the rest of the sub-team members, is what are the topics and the questions that we would like covered with the Analysis Group when Greg is on the call with us next week.

And one of the suggestions or rather two suggestions that come up from our first call last week I've put in the notes part on the right. And that is what kind of data did the Analysis Group seek from the Trademark Clearinghouse and what could they not obtain.

So that plus perhaps some of the suggestions that were already contained in the scoping document for this group is something that the sub-team can look at to either add to or edit. And Antonietta, I think it would be helpful if we got the questions to Greg ahead of the Friday call. So we'll try to do that.

Antonietta Mangiacotti: Okay. No problem.

Mary Wong: Thank you. And (Kalude), I noticed your commend in Adobe. Hopefully what I've just said answers your question that we will be doing a call with the group next Friday with Greg from Analysis Group. We will try and get our specific questions and topics to him before then to have a more constructive discussion.

And of course this coming Monday the draft report will be published and we will send that report to the sub-team and the working group as well. Does anyone have questions for Antonietta at this point or does anyone have anything to add to the topics and questions for the Analysis Group? (Kathy), please go ahead.

(Kathy): Hi. Thanks. And I came in after your presentation Antonietta. So I apologize. But I wanted to know - and I wanted to know if there's an answer to how many people - we know that the Trademark Clearinghouse is providing information - that database used for the - for policies that have been created by ICANN for the trademark notice for the sunrise period.

But that database is also being used by private parties. If you already spoke to this, then just say it and I'll listen to the tape. But do we know how many private parties are using the Trademark Clearinghouse's data and for what

purposes? The data that they collect. This Trademark Clearinghouse database in particular.

Antonietta Mangiacotti: I think that...

((Crosstalk))

Mary Wong: Go ahead Antonietta.

Antonietta Mangiacotti: Oh, I'm sorry. I was just going to say from the information that we obtained from the databases basically relating to the number of trademark holders that are included in their trademarks and trademark agents. As for any private parties, I'm not really sure.

(Kathy): Okay. Mary, I'd like that added not as a question for the Analysis Group next week but as a question for things that we're looking for in terms of data is how many private users are there of the Trademark Clearinghouse data.

Mary Wong: Thank you (Kathy). I've added that to the notes.

(Kathy): And can we add that to the list of...

Mary Wong: And...

(Kathy): ...does anybody have any objections to gathering information?

Susan Payne: Could I ask you a question Mary - (Kathy)? It's Susan. Hi.

(Kathy): Hi Susan.

Susan Payne: Hi. Can I just - could you just explain what you mean by that? I mean when you say private parties, are you meaning how many brand owners are putting remarks in there or are you meaning what else is the aggregated TMCH data

being used for this side running the sunrise and the trademark claims process?

(Kathy): Susan, you're tedious. It's the latter. Thank you. I stayed up too late listening to Donald Trump last night. Thank you. It's the latter. I'm not sure I was happy I stayed up to listen to him, so.

Susan Payne: Okay.

(Kathy): It's the latter. How is this being used by private parties, particularly registries but there may be other people accessing it.

Susan Payne: I mean obviously registries need to use the data for the purposes for which the - it was set up if you...

(Kathy): Yes.

Susan Payne: ...know what I mean. But I - so I'm assuming you're thinking about whether, you know, whether...

(Kathy): For purposes for which, yes, for additional purposes.

Susan Payne: Yes.

(Kathy): Exactly.

Susan Payne: Yes.

(Kathy): Exactly.

Susan Payne: Okay.

(Kathy): And I'm hearing rumors and I'm hearing grumbling and we seem to be the only ones in a position to kind of look at it especially if the Analysis Group hasn't looked at that.

Susan Payne: I would agree. I think it's - I don't know that Analysis Group would be able to so I suspect they didn't look at it. But I agree with you about the rumors and it's unclear whether it's actually happening at all or - and the - or the TMCH are offering some kind of a watching type service now.

And again to me it's unclear whether that's using the data that they have in TMCH to do that or whether it's a separate and independent service. And I think it would be useful to know the answer to that.

(Kathy): Agreed. Agreed. Thank you for - can you come and help define everything much more clearly today because it's going to be an unclear day? So thank you. I appreciate it.

Susan Payne: Maybe you didn't get as much sleep as I did.

(Kathy): Thank you. Mary, if you could take Susan's, you know, qualified statement that this has - private users of the data and if we could find out more about that to the extent that it's public or private. I mean that may be information we can easily find online or maybe something we'll have to ask the Trademark Clearinghouse. Thank you.

Mary Wong: Thank you Susan. Thank you (Kathy). I've tried to capture that in a single question in the notes part. But I'm not sure what the additional - how to define the additional purposes. So if anyone has any more specific suggestions, you could please type in the chat or let me know.

And what I would suggest staff can do after this call is we will take the queries to the sub-team mailing list. We can try to not just re-circulate the scoping

document. Perhaps put these questions in the body of the email itself so in the hopes that we can get more specific responses within the next few days.

And for specific responses obviously we mean first specific topics and questions for the Analysis Group before next Friday when we do our call with Greg. And secondly, more broadly the - any additional data sources, any comments or additions to the suggestions, what types of data in the scoping document and any questions that we need to ask that we haven't noted before.

On that second point, I don't know if anyone has any suggestions or comments and of course if anyone has any additional suggestions for the call - the Analysis Group at this point, please raise that as well.

(Kathy): Okay. I'll jump in. And maybe it's a question that's answered when we see the Analysis Group's materials. But is there a bibliography on the Analysis Group and to the extent that this particular subgroup is looking for public materials, is there an annex or an appendix or a bibliography in the Analysis Group materials so that we can find whatever public documents they used?

It may help us shortcut our work. This question make sense and is there maybe a quick answer or longer answer? So can we kind of piggyback on work that's already been done with public documents? Thanks.

Antonietta Mangiacotti: Hi. This is Antonietta. And I do believe they include that in their footnotes. So there's that. And they do have I believe a couple annexes in the back at the end of the paper but they just - mainly that wouldn't be I think useful for information to piggyback off of but they do include footnotes of the sources that were used for some of the - some of the writing in the paper.

(Kathy): Great. Since I won't be on the call next week, maybe someone can ask Greg and Antonietta next week what some of the best public documents were and

whether they can guide us towards some good documents that we can use.
Thanks. I'll pause for Susan.

Susan Payne: Lovely. Thank you. I think it's an additional question for Greg. But I suspect it might get answered by the report, which is when Analysis Group were speaking to people in Morocco, the scope of their work was not very specifically designed as far as I could see.

You know, they talked about the scope being to look at sunrise registrations for example but it wasn't very specific or very clear to me precisely what they would actually be covering and what they wouldn't.

But I'm hoping when the report comes out it's very clear what questions we're seeing to answer and consequently what they weren't seeking to address. I don't know if you can comment on that Antonietta or we really do need to wait for the report. I think I may have many more questions for them once I've read the report if it's not clear in the report exactly what the schedule they were covering was.

Antonietta Mangiacotti: Yes. So in the report I think they mainly focused on discussing the clearinghouse (registries), not the providers themselves and those services for the sunrise period and what brand owners think of it, how often it is used.

And then the other two main areas that are done in their report are the matching criteria and the trademark claims notifications. And the reason why these were included aside from, you know, them being clearinghouse services that are being reviewed was that they were specifically requested by the GAC.

And so the report attempts to, you know, analyze and come up with key findings related to those two areas particularly was expanding the trademark claims notification period beyond the required 90 days and whether that

would be useful to trademark holders and whether there would be costs associated with doing that.

And in terms of the matching criteria, it was rather - it should be extended to include not exact matches and there's a whole methodology that goes behind that. And there were trademarks obtained from the clearinghouse - trademark information and the permutations were applied to those trademark strings and based on that they came up with key findings for that area as well.

So that's mainly what their report looks at. Briefly it discussing the ongoing claims notification service provided by the clearinghouse, which is when the notifications are just sent to the trademark holders who registers a name (yet) matching.

The trademark, which seems like most brand owners are utilizing that (unintelligible) service. So I hope that answers your question.

(Kathy): Antonietta, did you guys look at chilling effects as well and the impact of extending on the number of people, which seems to be a lot, turning back at the trademark notice and what would happen if this - if the notice period became permanent?

Antonietta Mangiacotti: Right. So the claims (unintelligible) seems to be very effective in the (unintelligible) registrations. So the - some of the key findings that came out of this was that extending the notification service not be of much value given that trademark holders - this is according to the report. Trademark holders do not dispute non-exact match registrations very often. Perhaps they don't find those registrations unimportant.

And so extending that claims notification service beyond the, you know, beyond the 90 days would actually have a more harmful affect. It might essentially deter others from registering names that would otherwise, you

know, not be infringing registrations and would be thought of as infringing by the trademark holders.

Another key finding was that registration activity declined during the 90-day claims period and continues to decline afterwards as well. So extending that period as well would not be of much benefit. And again, this is the conclusions that were, you know, were - the Analysis Group (exchanged) doing their research and analysis.

(Kathy): Great. Thanks so much. I'm really looking forward to reading this report next week. Thank you.

Antonietta Mangiacotti: Sure.

(Kathy): Thanks for the previews of coming attractions.

Antonietta Mangiacotti: Yes.

Mary Wong: Hi all. This is Mary again. And that really was interesting and helpful Antonietta. I don't know if anyone has any additional questions that we can put into our list or any other comments.

But one of the things that we might want to agree on before getting off this call and of course this would have to be taken to the rest of the sub-team as well.

Last week there was a suggestion that this sub-team do a quick call - a pre-call separately or even 30 minutes before the call with Greg to go over our list of questions.

And I'm wondering given that the draft report be published on Monday and we're going to speak to Greg on Friday whether that is something that we should continue to pursue.

We do realize that, you know, everyone is busy and so it may be difficult for everyone on the sub-team to have completed a full review of the draft report before Friday.

But what we can do is schedule the Friday call for 90 minutes as discussed last week and spend the first 30 minutes in a discussion amongst ourselves on the sub-team. Is that something that the folks on this call today would be agreeable to or shall I take silence as consent or we don't mind either way?

Susan Payne: This is - I think it probably would be useful. I mean my only reservation would be if there'll be, you know, if we'll have a reasonable turnout to have that discussion. Mary, do you know what time has been arranged for the call? Is it this time slot?

Mary Wong: Yes it is Susan. We basically...

Susan Payne: Yes.

Mary Wong: ...set aside this time slot. So it's a question of whether we do just a 60-minute call with Greg and I'm very cognizant of your concern. We share the same concern. Or whether we go ahead and do a 90-minute but have Greg come on 30 minutes into the call with the possible risk that some of us might be spending the first 30 minutes in a somewhat disengaged fashion.

Susan Payne: Talking to ourselves. I mean I'm amenable to that. I think if we have sufficient people on the call, I think given we probably won't have, you know, we will have been trying to do this over the list really. I think it might be helpful to have, you know, to perhaps spend a little bit of time talking about it before Greg comes on the call. What do you think? (Kalude), I think is saying yes.

(Kathy): (Kathy), yes.

Susan Payne: Phil, do you have any strong views?

Phil Corwin: This is Phil. I don't have strong views either way. They both have their pluses and minuses.

(Kathy): Yes.

Susan Payne: Yes.

Phil Corwin: I think the main thing is to have the conversation with him.

Susan Payne: Yes. Exactly.

(Kathy): Agreed. Agreed.

Susan Payne: And for us to make some progress in the spaces for next week. What do people think about its timing for - if they're going to be asking people to kind of give their feedback and additional questions and so on?

Does asking for that by Wednesday sort of, you know, close of business in East Coast time or something like that - does that seem like a sensible timescale to allow us to sort of finalize something in a sense (unintelligible) Greg says that he's got it on maybe Thursday and can think about it before Friday?

Mary Wong: Susan, this is Mary. I think that was exactly the timeline that the staff would suggest and at least at the very latest because it would be good to provide Greg with at least 24 hours' notice of the specific questions we might have.

Susan Payne: Okay. That sounds good then.

Mary Wong: So what we'll do is we will send a follow up note to the sub-team list with a summary of these points but specifically noting the deadlines and the action items for the group.

What we can also do is ask that folks indicate if they are not going to be available as far as they know to participate on the call so that we have some sense of the size of the group for the call next week as well. And we will let Greg know that chances are we will ask him to come on at 1530 UTC if that's all right. (Kathy), I saw your hand raised.

(Kathy): Yes. Mary, that all sounds great. Everyone it sounds great. Just wanted to put up the flag that we're now in July. We're in - we can throw out deadlines but people are going to come back from vacation and say I have an idea and I didn't see that because, you know, I was at the beach and I wasn't checking email.

So we're in that period now where people normally take longer than a few days to respond and will just come back online when they come back online. So I just wanted to throw that out.

Greg is terrific. I think he'll be able to swing with it. And I just also wanted to make sure, and again sorry if this already came up. But Greg is going to come back and talk to the full working group. Both Greg and Antonietta will come back and talk to the full working group when we get to this point in the TMCH because my guess is everyone in the working group is going to want to opportunity to talk as well, you know, to ask questions.

And that we're certainly, you know they certainly won't be ready by the end of next week. We're kind of, you know, the Vanguard on this. But hopefully they'll come back in a number of months when we're ready. Is that anticipated? Thanks. Question to both Mary and Antonietta.

Mary Wong: (Kathy), this is Mary. So as you know that that is something that the full working group has built into its work place. And of course the timing might depend on when folks with have digested the draft report and it's even possible that Greg and Antonietta's schedules permitting that we might want to do more than one call with them and the full working group.

So one additional thought that I had on this following on your comment and on Phil's in the chat. I don't know if it would be helpful to invite interested working group members to join the sub-team call next Friday as well.

That might avoid us having to retread the same ground at the full working group. At the same time that might risk us going into more of a presentation of the report rather than specific questions. So I am just suggesting it to see what others might think. Susan, you have your hand raised.

(Kathy): Got my virtual hand raised too. But Susan first.

Mary Wong: Oh, I'm sorry.

((Crosstalk))

(Kathy): Susan first.

Susan Payne: Oh. Okay. I was just going to respond to what you said then Mary. I suppose - I mean I think if anyone wants to join, they should feel free to join I supposed. I mean, you know, it would be awful to keep this as an exclusive group and then have no one on the call.

But I suppose we need to kind of remind ourselves is that, you know, at this stage we're kind of trying to do a data gathering exercise (unintelligible) and what they covered and what they didn't and what, you know, what data sources they would already have so that we don't have to look for them elsewhere.

And realistically although many of us will have tried to read their report by the time we speak to them, generally speaking I suspect members of the wider working group will have questions for them about their report but probably would be better placed of those questions in a, you know, in a slightly longer timescale.

So I suppose I don't want to be some kind of exclusive club but I guess we need to keep reminding ourselves that we're supposed to be, you know, gathering data rather than doing a kind of quick (typical) analysis and review of analysis to this report on Friday.

Mary Wong: Thanks Susan. (Kathy).

(Kathy): Yes. I would agree completely with you Susan that this is - that our mandate is a narrow one; what data is available. So I wouldn't want to put Greg on the spot for a full presentation. This is - our focus is data gathering.

And just wanted to note that others including myself will be at the Latin American Internet Governance Forum next Friday. So there is a conflict that will be pulling people out. So I'm glad we're going to have the opportunity to revisit on the substantive issues in a few months or many months whenever we get there.

But totally with Susan. This is - we have a narrow focus. So if people want to join us. But Mary, I'd definitely remind the group what our focus is and what we'll be looking at in terms of our questions for Greg. Thanks.

Mary Wong: Thanks very much (Kathy). So it seems to us that we will keep the call next week primarily to just the sub-team. We could let the working group know that that call is taking place and that interested members can join it but that the focus would be very narrow and it would not be the place or the time to ask questions - broader questions about the report.

And what we can do is well, Antonietta and Greg to also schedule an appropriate time now that we know when the draft report is coming out. Bearing in mind what you said (Kathy) about all this being holiday time for a lot of people that maybe we try and find a date where that fuller discussion can take place with the full working group as well.

And Susan, I noted your point. That's indeed something that we can try to get folks to do as well. Meanwhile Susan is typing. (Kalude) I noticed your question in the chat. And the - I guess the general answer is that when we do the sub-team, the work in terms of data gathering would include the identification of sources that we don't already have.

Those sources including additional information, material and documents. So what we can do as well is to make that specific and to say if you or any other members of the sub-team or indeed of the working group have ideas of any particular documents, we can add that to the list. And depending on what they are, how many they are, we can then figure out a good mechanism for reviewing them and summarizing them.

(Kathy): And Mary, a question for Antonietta and Greg for next week but to know ahead of time. Are there - if there are footnotes, a lot of - oftentimes materials aren't included in footnotes because a footnote would be for a direct citation.

You know, if they want to - if there were documents they'd want to refer us to that may be not called out in a specific footnote, that would be useful because right now they've already gone ahead of us on doing this. So any kind of guidance they have whether it's based on the report or not or just on the general research that led to the report - if there are places to find data, we'd love to know them. Thanks.

Mary Wong: Thanks (Kathy). And I've noted that in the notes part as well. And so not really wishing to keep anyone else on the call for longer than necessary,

since we have a task list and deadlines ahead of us, this is basically a last call on this call today for any other questions, suggestions or comments. I see (Kalude) is typing in the chat.

And while we wait for his comment and (Kathy) you're typing as well, I'll just say that staff will follow up shortly and certainly later today with the task list and the deadlines. And we'll also send a note to the full working group about the forthcoming publication of the draft report.

So thank you everybody. And definitely thank you to Antonietta for joining us today. We will certainly be engaging more with you in the future. And thanks everyone for attending. I think we can call this call ended and we will talk again on the list. Thank you.

(Kathy): Thanks Mary.

Susan Payne: Lovely. Thanks very much Mary and Antonietta.

Terri Agnew: Once again the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines and have a wonderful rest of your day.

END