

**ICANN  
Transcription  
Review of all Rights Protection Mechanisms (RPMs) TMCH Sub Team call  
Friday, 26 August 2016 at 15:00 UTC.**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <http://audio.icann.org/gnso/gnso-rpm-tmch-26aug16-en.mp3>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page <http://gnso.icann.org/en/group-activities/calendar>

**Attendees**

Jeff Neuman  
Kathy Kleiman  
Kristine Dorrain  
Marina Lewis  
Philip Corwin  
Robin Gross  
Susan Payne  
Vaibhav Aggarwal

**Apologies:**

Grace Mutung'u  
Kurt Pritz  
Mary Wong (staff)

**ICANN staff:**

Berry Cobb  
David Tait  
Michelle DeSmyter

Man: The recordings have started.

Michelle Desmyter: Good morning, good afternoon and good evening and welcome to the RMP TMCH sub-team working group call on the 26th of August at 15:00 UTC.

On the call today we have Jeff Neuman, Vaibhav Aggarwal, Phil Corwin, Kathy Kleiman, Kristine Dorrain, Susan Payne, Marina Lewis. We do have apologies from Kurt Pritz and Grace Mutung'u.

From staff we have Berry Cobb, David Tait and myself, Michelle Desmyter. I would like to remind you to please all state your name before speaking for transcription purposes. I'll turn the call over to you, David.

David Tait: Thanks, Michelle, and I'll just also note that we've got apologies from Mary Wong was unable to join us for this call. As you'll see from the agenda on the right-hand side.

And hopefully through the emails that are being circulated, we've added at the last minute and, (unintelligible) (Kathy) for the prompting. One additional item which is discussing - which, (again) item one, which is to include the discussion regarding possible information to be solved from Donuts and other DPML-like providers.

And that issue was an action item from last week's meeting and it was from the working group two, obviously from the sub team, to take some time and consider how best to proceed with this and had there had been - hadn't (less so) than possible to reach consensus on the best way to proceed forward.

So I - (unintelligible) can you open the discussion at that point and I ask if any of the sub team members would like to raise their hands in the room and kick off the discussion on how we should proceed in relation to this item? Can check if everyone is able to hear me? Hi, Kathy, you've got your hand up.

Kathy Kleiman: Hi David. So we're talking about the DPML they can you provide - was there anything that you found what you're looking for more information about any type of private use of the trademark clearinghouse, there's with Donuts, Minds+Machines or others?

Can you tell us a little bit about what you and (Mary) were able to do and what you found because it's different, you know, if you're hitting a wall or if you didn't have time or something like that? So they could give a little bit longer of an update that may give us a sense of where we might go from here. Thanks.

David Tait: Thinks that, Kathy. Just to - my understanding is that (Mary) had done a very cursory or very preliminary search, (unintelligible) and for any publicly available information.

We haven't been able to come up with anything out other than a single link to the Donuts page which we shared last week. And we haven't, as far as I'm aware, we haven't been able to discern any more in-depth information to be publicly available.

Kathy Kleiman: Great. Thanks, David. I'm going to take my hand down and I'll enter the queue after Susan again. Thanks.

David Tait: Susan, if you'd like to. Kathy, since Susan's put her hand out, would you like to speak?

Kathy Kleiman: Sure. Do we want to put some questions together for donuts and minds and machines and anyone else who we know might have a protected (marks) list, some initial questions for data gathering purposes, add them to the list that we're currently looking at? How do other people feel about that? I see a lot of people typing.

David Tait: Kristine, would you like to interject?

Kristine Dorrain: Yes, I was one of those people typing. Sorry, this is Kristine from Amazon and then I realized this is such a small list I should just raise my hand. Yes, I agree, Kathy, I think that sort of what we - I think that's exactly what we meant to do.

I admit to not doing my homework and giving this a ton of thought during the course of the week but I think absolutely, I think one of the things we should be doing today is to kind of come up with a list and then (edit that) list, right?

So I might have 15 questions - I don't, but let's say I did, but maybe only five of them are really sort of relevant to the DRPM's portion of the working group.

Like, you know, I may have other questions about how DMP all works but are related to the working group. So I think one of the things we should do is, I'm a fan of the approach of sort of brainstorming questions and then kind of backtracking on deciding after the fact, okay, now, are these actually kind of related to our purpose part, you know, do they go off on a tangent?

So I would propose that as a way forward of just sort of shouting out, you know, questions that people might have. And one of the questions I have which may be does just go to the operation of DPML and then may or may not actually apply is, did - it looks like from the DPML, FAQ that the trademark clearinghouse SND (thought it was) required.

I would be interested if I find out what sort of response donuts got to that as far as did they get any pushback from people who wanted to participate in DPML but were not members of the trademark clearinghouse and he didn't want to be, you know, didn't want to put their marks in the trademark clearinghouse that would have liked to participate in DPML otherwise?

I'm not entirely sure why I want to know that but I think that would be interesting. So now I'll jump out of the queue and let somebody else ask a question.

Kathy Kleiman: And to expand from what Kristine said - this is Kathy - or their marks in the DPML that aren't in the trademark clearinghouse? I think the answer is no but it's - it would be a good question to ask. Thanks.

Susan Payne: Hi, it's Susan. The answer to that one is no. For all of the DPML services you have to have a marking the PMCH. So there should be any blocks that are matched by a marking the PMCH as you suspected.

And that I was just going to mention what I found - what I just put in the chat which is the CCP looks as though they're also kind of gathering data. And they were endeavoring together data on numbers of blocks and they haven't been able to find any commercially available data on that. So although I've included a link to a page where they're talking about it, in fact, what they say, is they haven't found any.

David Tait: Thanks, Susan. (Marina), you've got your hand up.

(Marina): Thanks everyone. Sorry, I haven't had enough coffee at this morning in California. I couldn't find the mute button. I just wanted to follow-up on (Christina)'s comments, and to that extent, Kathy's as well about DPML because, you know, I know that - I just have this sneaking suspicion as to why I want to have all this information from them but maybe I couldn't quite put my finger on it.

And just one of the things I've been thinking about is (unintelligible) of DPML and, again, not to be the voice of (gripiness) or grouchiness or cynicism so early in the morning.

But one of the issues I've had with DPML from the get-go is that - and perhaps I should frame this in the terms of how we create our questions and the information that we seek to obtain from them, and that we do so in a way that is designed to eliminate bias.

And the reason I say that is simply because, you know, and I think I made some comments on her last call, donuts and DPML I think have a very vested

interest in the existence and the operation of the trademark clearinghouse for purposes of running their own protected marks (lift).

And as the question came up about whether or not marks are in the DPML but not in trademark clearinghouse, and so my understanding is, because technically speaking, DPML gets on the SMD files from trademark clearinghouse.

And so that's when they need you to have membership in trademark clearinghouse before they can actually open up a blocking membership. And I suspect that it has a lot more to do with the technical requirements of actually being able to answer all this information.

And as I get (up) in trademark clearinghouse, then, you know, again, I'll just say it, I think that, oh, we saved donuts an incredible amount of money and it makes this whole operation viable.

So, again, if we're trying to determine whether or not the trademark clearinghouse is a valuable solution for brand owners or, you know, something for, you know, to serve the needs of the public, if we're going to be asking these questions of doughnuts and of the DPML and the (right side) registry, I believe, is the other one that has a DPML, again, I think we need to be very concerned about the possibility of bias in the answers that we get back from them.

And so if we could keep that in mind in crafting our questions, I think that that might help us to get to as objective data as we can because again, you know, I don't want to point donuts out to be the bad guy either.

But recognizing that they do have a financial stake in the systems and the operation of the trademark clearinghouse could help us to guide our questions to arrive in a more objective conclusion which is why think we want here. So just my initial thoughts in the morning here.

David Tait: Thanks, (Marina). And at this point, are there any other comments or questions to be - oh, Kristine, you've got...

Kristine Dorrain: Hi. Kristine from Amazon. I'm interested in Susan's comment that it was anecdotal but (comlad) certainly have clients or that was the case and the reason why I'm interested in that, and then it kind of goes to the question that I had asked about did the various DPML services drive users to the trademark clearinghouse, because again, trying my best to be mindful of our purpose, right, and not just investigate DPML to investigate DPML.

We want to find out about the effectiveness of the trademark clearinghouse as a rights protection mechanism, so if, in fact, the trademark clearinghouse was basically set up for sunrise and claims services.

But these other sort of free-market, you know, forces created additional uses for trademark clearinghouse SMD files, that furthered rights protection and brand owners found some sort of value and then she participated in the trademark clearinghouse because of these additional services that were offered.

I think we need to put that into our data to present to the entire working group because -- excuse me -- because I think that really speaks to ways that we can encourage the trademark clearinghouse or if potential problems are identified, we could, you know, encourage the trademark clearinghouse to - or encourage third parties to adopt similar uses of the trademark clearinghouse that would additionally protect trademark rights.

So I think that it's really an interesting dynamic as we think about how the trademark clearinghouse has benefited brand owners and served the purpose it was intended to serve, right, of protecting trademarks and how this sort of free-market has latched onto it as well and expanded that, so I think that's really fascinating and I would like to explore that a little more.

David Tait: Kathy.

Kathy Kleiman: Hi, following up to what Kristine said, on the flipside, what was created for the new gTLDs was a balance, both protecting trademark owners but also protecting registrant rights to use legitimate words in legitimate ways.

So is the extension of the trademark clearinghouse somehow adding to the chilling effect, perhaps? Is it going beyond the balance that was carefully crafted by the STI with the GNSO recommended these mechanisms to both the GNSO and the ICANN community and the board?

So I think we have to look at it from both sides and think about it in both ways. So, you know, both - yes, so I think we're going to see questions reflecting. I think there are a lot of questions about these - the protected marks list. So I look forward to putting them altogether.

I like the idea of circulating them, sitting on them for a week, refining them so that they don't reflect bias and then sending them out. I think this is an important inquiry. Thanks.

David Tait: Kathy, thanks for that. And just - I'll just note that Jeff Neuman has asked if you could possibly repeat your query so that we can clarify for the list of questions before it was exactly what we're hoping to get from that?

Kathy Kleiman: Sure. You know, let's - we have to look at the private uses of the trademark clearinghouse from all perspectives. And one of the questions we were asked in our charter was, you know, is there a chilling effect?

So I think that question applies to the sunrise period. It applies to the trademark notices and if we're looking at the private uses of the trademark clearinghouse, it would apply here as well. Thanks.



David Tait: Thank you, Kathy, and (unintelligible).

Man: Great. Thank you, David, for the opportunity. For the record (Unintelligible) is my name and good evening everyone. I just want to add here, just let me not advance on the (part) from where we are and take a minute and take back in my part, and my question or my observation that I'm sharing could be a little below the market as well.

But then I would still like to share that, and it's food for thought. My question is first, now that the first round of new gTLDs are over and we're looking at the second round, there is a lot of learning that is already there in the system.

As Kathy mentioned, the purpose was to protect the brand as well as enable the registrant to manage an expectation from the legitimate perspective. Legitimacy has to be protected.

Now, I also have an observation here that one of the extensions in the new gTLD program is actually withholding those brands, for example, for the sake of TMCH clearing and so on and so forth.

And what they're actually doing is they're actually pushing the price is up. So once the query comes up from the brand, and the paperwork starts processing, the pricing gets held onto.

And then what happens? So if there is, let's say, a \$10 pricing on a particular extension, the registry just goes ahead and take set up to, let's say, \$100 straightaway.

And then come you know, and they take three months down the line to give it an okay and the client has to take it. So the registrant is not protected. Can we not strike a balance to the approach in terms of reviewing in data collection?

And we can take about this. And I'm going to share this - I'm going to share a thought. One of the ways that we could perhaps do it, so one of the ways we could perhaps to do it is look at the regional advocacy of the entire process.

We could divide the entire globe into certain zones. We already have countrywide data that is being there. And when do we get a TMCH representative region-wide?

So let's it one representative sits in Singapore who could assist and queries and, you know, there should be a process, not just depending on the registrars, but there should be a process dependent on TMCH or DPML as a body.

Because the moment we leave that to either the registrars or the registry itself, I think somewhere there is a conflict of interest in the overall activity that is being performed by the individual registry or the registrar.

And I'm not trying to say that it's definitely there. I'm definitely discounting it but I think there should be a regional aspect of the entire exercise. And the scope of both DPML and TMCH integration into the system should actually get expanded. Thank you.

David Tait: Thank you, and Jeff, you've got your hand up next.

Jeff Neuman: Yes, thanks. I want to go back to something that Kathy said because I'm still trying to grapple or get my head around the notion of a chilling effect. I believe that the chilling effect was only in relation to the claims service and that was whether the claims notice is scaring potential legitimate registrants away from registering names.

But I don't really understand the notion of a chilling affect with sunrise or DPML because by definition, sunrise chills everybody else because only the trademark owner can have the mark and so there's no chilling effect on a

potential registrant because the only one allowed to register it is the trademark owner.

So there's no - nothing - I don't understand it. And then the DPML is the same way. It prevents anyone from getting registering the mark. So Kathy, if you could just, again, I'm just confused as to what you mean by collecting information on a chilling effect from the DPML. I just don't - I don't know what information that would be. Thanks.

Kathy Kleiman: Okay, well, we could revisit - Phil, they want to jump in or do you want me to respond to Jeff?

Phil Corwin: Yes, Kathy, you go first and then I'll jump in.

Kathy Kleiman: Okay, obviously the chilling effect is not what we're investigating. We're looking for data. That's all we're doing here is we're looking for data. And now we've expanded our scope to look for data to put a little bit more to the surface that what's publicly available.

So we have every right, one thinks, and this is what we've concluded and our last meeting, to talk about the DPML and similar -- excuse me -- similar types of constructs that are privately using the TMCH.

We can go back to some of the arguments about the protected marks list which was (groundly) rejected by the STI. But basically, a question, the overall question, is our registrants being kept from registering domain names to which they would otherwise be entitled?

Are they being kept from registering domain names that are legal? And that, you know, to me as one of the key underlying questions that we're looking at in conjunction with the trademark clearinghouse. So we're just collecting data.

And I like some of the ideas that have come - were presented earlier about regional representation, that we have to look at this from the perspective of different regions. Trademarks are geographic and so I think that was an excellent suggestion that we got. And I look forward to continuing the discussion. Thanks.

Jeff Neuman: Can I - this is Jeff - can I just respond to that one before we go on to other comments?

Phil Corwin: It's Phil, Jeff. Go ahead will

Jeff Neman: Okay, thanks, Phil. Yes. No, Kathy, I have no objection to collecting data but I'm just saying by its very nature, I think the answer to your question is, yes, for both sunrise and for DPML, legitimate - potential legitimate registrants are being withheld from registering names which they might otherwise, under trademark law or any other law, have a right to.

That's a very nature of the service itself, right. The nature of the service is, by register in sunrise, then I can prevent everyone else from registering that mark even if they would, in some way, shape or form have a right to use it.

So I don't - again, I'm not sure what data you're asking to collect, like, what do you - I don't understand how you ask and what you ask. But the answer has to be for those two, yes.

And that was the point of those services, is to - for sunrise to give the trademark owner - a trademark owner, and it can only be one trademark owner, the right to register first.

And by definition, the right to register first prevents everyone else in the world from registering the name. So is there anyone else in the world that has a legitimate right to the name? Absolutely, but the first one in the first one that's a trademark owner gets it.

The same thing with the DPML which, by its very nature, is meant to block everyone else in the world from using it. So It, I'm not sure what data or what we're asking - what you would ask her what kind of data you want to collect. I'm just - I'm kind of, again, just a little confused. Thanks.

David Tait: Kathy, Phil...

((Crosstalk))

Kathy Kleiman: Phil - I'm going to wait for Phil on this, and I know there were other people in the queue as well, so I'm happy to take my hand down and listen to the discussion for a little bit. Thanks.

Phil Corwin: Okay. Thanks. Phil here. Phil here. Yes, I want to speak a little more broadly, just kind of blue sky this for the broader work of the working group, on the questions themselves, I'm generally okay with them.

I'm thinking about whether there's another one we could ask the registries related to these (walking surveys). I don't have one readily available. I'll way and if I come up with them. I think some of the questions that Kurt Pritz suggested in the email we got just before this, and some of his comments were useful.

I want to make an observation. It's probably more for the full group, but at least raise it here. It seems to me, as Kathy noted, the idea of a blocking service was discussed in the STI and rejected.

Now, these are just personal views. We have a curious situation where the TMCH has, in fact, become the gatekeeper for these blocking services. You must register each market and the TMCH to have it blocked. And at least that, you know, sure is a certain quality of trademark and actual use to get the blocking.

But we've rejected universal blocking mechanism at all new TLDs and created - and there's nothing wrong with that, within the context of what's been done - a number of proprietary blocking services by different registries, the result of which is that for trademark owners, you've got a blocking system which is more expensive probably than a universal one would have been.

And it's also incomplete. And then you have, as Kathy noted, not just unique trademarks blocked like Microsoft, Google, iPhone, but generic words blocked from registration across, not just TLDs where there might be high potential for infringement but TLDs with the probability of their registration and use would be very low risk of infringement like apple and windows.

So I just wanted to - I think the questions are fine, but in the overall context of the results of deciding not to have a universal blocking service and the creation of multiple proprietary blocking services, it seems to me that we've created a situation which is, while it does create a perfectly legitimate profit avenue for registries in the current context, it's a less than optimal situation for both trademark owners and potential registrants.

And I just wanted to get that thought out there. It's beyond the scope of what we're discussing here on questions but I think there's just something I think is interesting and may - I may wish to bring it up in the broader group when we get into the TMCH and I'll stop there. Thank you.

David Tait: Thanks, Phil. Jeff, you were next.

Jeff Neuman: Yes, two things. First I just want to be clear for the record that the STI group that not reject the universal blocking service. When rejected was the notion by the IRT of a famous marks list, very different, although some similar aspects.

Obviously if there were marks that were on the famous marks list then they would be blocked. But the STI group did not spend any real time I discussing a universal block list.

And to the extent it may have come up, was in the nature of discussing Triple X and I believe during those discussions, and I can't remember if Triple X had formally launched yet by that time of their block service or whether it was just discussed, but I believe people said it was fine if individual registries wanted to run their own blocking service like Triple X was doing but that we didn't have enough data to determine whether we could do one on a universal approach.

So I just want to be clear. We definitely rejected at the time in the STI the famous marks list which is different than the blocking service. So I don't want, Phil and Kathy, just to be on the record, that we, the STI, have rejected the blocking service.

As far as questions for donuts, obviously I want the data on how many people have used it, the renewal rates of the block list, but in (some way), and I put this in the chat, I'd love to know how many people use the trademark clearinghouse solely for the purpose of participating in a DPML service that didn't otherwise participate in a sunrise.

In other words, the thinking there is, you know, were there any users of the DPML that would not have put their marks into the clearinghouse had it not been for a DPML-type service?

Did they think a sunrise and claims were just insufficient by itself but because donuts had come up with this idea of a block list, did they then say, okay, now I'm going to put my mark into the clearinghouse. Hope that makes sense. I'm not sure exactly how to ask that question but that's something I would like – I think it would be very useful data. Thanks.

David Tait: Thanks, Jeff. Kathy, you've got your hand up and...

Kathy Kleiman: Sure, thanks.

((Crosstalk))

David Tait: And just to wrap this up just noting that obviously we've got to look at the next list of questions for the next week and we've spent approximately 30 minutes on this topic so far so I'd ask that after Kathy and Susan we wrap the discussion here.

Kathy Kleiman: Okay. I think Jeff raises a really good question. I don't know whether Donuts is going to have that data. Okay so, Kristine, thanks for pointing me to the right hand side of the agenda. So let's look down – oh and to Jeff's question, I have a whole different memory of the STI and what led up to it in Sydney Australia. There was avid rejection of the protected marks list. But be that as it may we can go back into ancient history; we have what we have.

So for the list of proposed questions for Donuts at all, I think we're talking about Donuts, Rightside, Minds+Machines and maybe a question for every registry but I'll get to it in a second. That means when we look at the proposed questions I don't think we can call them a DPML because that's the Donuts protected mark list. So let's call – let's define a new term, unless anybody objects, which is the PML, a protected marks list, or a PPML, a private protected marks list. Because I don't know what Rightside calls theirs, I don't know what Minds+Machines calls theirs. I don't know if they work with Donuts on it, you know.

Let's see if we can get basic question, which is how do you structure your PML? How many, you know, how many marks are in it? Are these descriptive marks? You know, can you tell us how many of the marks – similar questions to what we're going to be asking in the TMCH are, you know, basic dictionary words, are basic descriptive marks or basic geographic terms.



Versus how many of them are, you know, a different question would be how many of the marks in your PML would you generally considered coined and fanciful terms? So, you know, just kind of basic questions that I would recommend we put in.

I also have a lot of questions – okay so to the registries, now the list of questions we have for registries, I think we'd ask a question and help me find more neutral phrasing. But are you using the TMCH in a private way for additional purposes other than sunrise and trademark claims? That way we may find out that there are other types of services being used because as Jeff pointed out last week, as others have pointed out, there's very little information public about this but this is our job to kind of dig it up.

And per David's question, David, I've got to a lot to add to some of the other questions once – not a lot but, you know, things here and there – once we leave this topic so I'll stay in the queue. Thanks.

David Tait: Thanks, Kathy. Susan.

Susan Payne: Yes, it was – I've put my hand up when someone's – I think it was Jeff was talking about what would be good to see in terms of those people use the DPML when they perhaps didn't use the TMCH for other purposes, you know, so was the driver in putting marks in the TMCH? And I, you know, as I said in the chat earlier, anecdotally I definitely, you know, I know of it, you know, some clients of (Camdi) who say that that's the case.

But I don't think that Donuts are going to have that information. Donuts can obviously tell us about how many locks people have purchased. I don't think they're going to be able to tell us whether those people also purchased something somewhere else. So I would sort of put my hand up to say can we kind of brainstorm how – who we ask that question to or how do we try and

get that data? Because I don't think that data, sadly, is going to come certainly on its own from Donuts.

And then I just wanted to comment quickly on something that Kathy was saying. And I may have been misunderstanding it. But it seemed to me that we were going to – that what Kathy was talking about was sort of asking questions of Donuts and others about how they run their block which perhaps could be answered by us reading their rules.

And I may well be – have been misunderstanding what you were saying, Kathy, so I was more kind of wanting to seek some clarification but I think we need to be careful to have read their rules first before we just go and ask them a load of questions which, you know, the more questions we ask them the harder – the less likely they're going to be about, you know, enthusiastically responding.

David Tait: Thank you, Susan. Kristine, you put your hand up one last comment before we...

Kristine Dorrain: Yes, sorry. Before I move on, I just wanted a little bit respond to Susan's concern that maybe we wouldn't be able to get some of the information we're looking for. And I'm going to throw out a proposal that for the moment we not – we not limit ourselves to what we think we can get. I propose, and the group can soundly reject this, but I'm going to propose that we ask for the – that we just, you know, brainstorm because questions feed off one another and if we start policing our questions before we're done questioning, you know, I think we might artificially lose some.

So I would propose that we create a really, you know, a far-reaching list that – all the stuff we ever wanted to know and then go back through and cull and decide, yes, there's no way we could get that or here's where might get that or here's how we might be able to get that. I'm just going to throw that out as a suggestion.

I would hate to see our conversation I guess, you know, damped down a little bit by trying to second guess whether or not the information that we want is available.

David Tait: Thanks, Kristine. On a – following on from that and just on a last comment that – at least from a staff perspective, one of the things that was discussed last week was the possibility of asking Donuts or a similar PPML provider to meet with the subteam and just – to perhaps provide some answers to some of these questions directly.

Obviously the list of questions that we're drafting at the moment, and which we'll finalize hopefully next week, staff of course happy to translate that directly and to Donuts and the other providers we've been discussing. But the principle of inviting them to come and speak either to a meeting of the subteam or to the full working group, depending on what you feel is appropriate, is also something that's there. And we'd be obviously very keen to get your guidance as to whether or not you'd like us to extend that invitation when we send these questions along at the same time.

Kathy Kleiman: David, this is Kathy. Can we move on to some of the other questions?

David Tait: Thanks, yes.

Kathy Kleiman: Okay.

David Tait: Yes, absolutely.

Kathy Kleiman: Okay...

David Tait: So moving on to...

((Crosstalk))

Kathy Kleiman: Sorry, go ahead.

David Tait: So I was just going to say that we have a document – Kurt, who unfortunately isn't with us but has kindly circulated some immediate comment so, look, I think as you see his document, what we did was consolidate a lot of the comments and questions that were raised last week into this document recognizing this few that we've already had from the working group that in order to avoid bombarding each of the respondents with one-off questions we should consolidate all of them into a single approach. That's what we've done with this document so it has been expanded even since last week. And you'll see Kurt's comments there. So, Kathy, if you'd like to kick us off with your comments?

Kathy Kleiman: Yes, and I haven't had a chance to look at Kurt's comments. First, let me check procedure, David, is this going – are we – is the subgroup going to circulate these to the co-chairs? Is it going to request that these go directly out to the registries, registrars, Donuts, Rightside, I mean, what's the procedure we agreed on? Just want to double check. And then I'll go through some additional questions.

David Tait: Kathy...

Kathy Kleiman: Go ahead, thanks.

David Tait: Thanks, Kathy. It's my understanding that they would go up to the co-chairs and to sign off and then at that point they would be transmitted.

Kathy Kleiman: Okay, sounds great. So again, without reference to Kurt's comments, which came in just before the meeting started, let me try adding a few. I'm going to go down the list if you guys don't mind because I'm going to have to leave early to take a kid somewhere. So questions for the new gTLD registries, I think we have it on the right side but just in case not, "Are you using the

trademark clearinghouse for purposes other than sunrise and trademark claims?”

For both registries and registrars let me try this one – and you’re welcome to put this in in redline and so that people can see that it’s a new idea and object or edit or anything like that.

“Why do you think so many registrants are turning back when they receive trademark notices?” And this is something that came up in our outreach session and Brett Fausett came up to us kind of very upset about this from Uni Registry. So I would do that to both registries and registrars because they may be seeing it at different levels. Why do you think so many registrants are turning back when they receive trademark claims notice?

For the providers, and I apologize if it’s in there and I didn’t see it, but last time we talked about two questions in terms of education and outreach. So let me give you both of them or at least as I understood that we were talking about. “How much time and money did you spend – and I know you may want to edit the word “money” but how much time, money, resources did you spend on educating trademark owner about the sunrise period and the trademark notices?”

In light of the comment that we got earlier today from Vaibhav – I’m sorry, I’m mispronouncing your name, you know, in what regions were these outreach sessions held might be a good one. And we may find they were all online but I don’t think so. I know there was regional outreach.

Same question for registrants now, “How much time, money, resources did you spend educating domain name registrants about the sunrise period and trademark notice – trademark claims notice?” And then second kind of – and in what regions and in what languages?

One question I know that's being raised in various places also for the provider, the trademark clearinghouse providers, "How many design marks have you registered?" And then a separate question, "What is your criteria for registering a design mark? And can you give a concrete example?"

And they can give that example with or without a specific mark that's in there. But there's a lot of questions that have been raised in certain communities about the design marks so I think we should pursue that.

And I don't think we have a category yet for questions for registrants or user groups or customers and so I think we should think about a new category of questions as well for, you know, again the balance. And that probably has a lot to do with, you know, how much do you understand of the purpose of the trademark clearinghouse and sunrise periods, etcetera.

Thanks. That was a lot. Thanks for keeping track. I can also type if up if you need it. I will take my hand down. Susan, go ahead.

David Tait: Sorry, Susan, just before you kick off. Kathy, yes, sorry, I tried to get all that down but you were moving quite quickly so if I could ask you just to drop those questions over an email to me when you have a moment so I can make sure they're included in time.

Susan Payne: Hi, it's Susan. I was just typing that in the chat at the same as I put my hand up, but the answer to that, the design mark answer, is in the TMCH guidelines. So I think it's a good thing to capture this, you know, in the spirit of what we talked about and what Kristine talked about earlier in terms of, you know, let's capture it as a question and not self police, but we should definitely be, you know, if the answer is there we should not be actually asking the provider that question unless the answer isn't clear enough if you know what I mean.

So I'm not saying we take this out, I think, as talked about earlier, we shouldn't be policing at this stage, but we do need to be, you know, if the information is there and very readily available we shouldn't be asking the providers to find this information for us.

David Tait: Kathy, you've got your hand up.

Kathy Kleiman: Actually I'm not sure we know how many design marks are in the trademark clearinghouse. And it seems consistent with the number of the other types of questions we're asking, descriptive marks.

Susan Payne: Sorry, I meant the criteria bit, I'm not sure if we do know – you're correct, I'm not sure if we do know the numbers. But the criteria bit.

Kathy Kleiman: But the criteria is still pretty broad so how it's being applied, how they're differentiating between design marks and kind of what's in them, what's out and where the gray areas are I know is of great interest to some. Thanks.

David Tait: So just returning to the document and I'll just go through the comments that Kurt has made unless there's any objection, in relation to question 1, which is to registries, oh sorry, Kathy, you've got your hand up.

Kathy Kleiman: Sorry, David, I was trying to take it down. Please continue.

David Tait: No problem. So Kurt had made the comment, "I don't quite understand this question." Sorry, "Are you asking how many (SND) files are required to block one name in all the Donuts TLDs?" I think (unintelligible) and so that's something that staff can do to prepare a revised draft of that question to focus more closely.

Are there any other questions – proposed questions in relation to the questions to the registries? Vaibhav, you've got your hand up.

Vaibhav Aggarwal: Yes, just a small question. I think Kristine had a very valid question five minutes back. This is Vaibhav Aggarwal for the record. What other services – okay, DPML is just I think I've been trying to look this around. And I think there are a lot of government organizations including trademark registrations in the regional aspect. So just to give us all an idea. And we can then take a call whether we want to, you know, look at this or not.

Now, there is – there is US (PTO), which is right in front of all of us, which does electronic processing of all the trademarks to be precise, and then there is Australia IP Commission, which does it and so on. Do they actually trigger TMCH in any way or can they help by connecting to TMCH? And shouldn't that be an easier approach to the entire process? Since TMCH is already automated. Thanks.

David Tait: Thank you, for that comment. Sorry, I was just slight delay there trying to capture the questions that were coming off the chat. Noting from both Kurt's comment and from Jeff suggesting it might be useful to take a little bit more time to submit or let some of these questions, we've already had some suggestions from Kurt which staff will take away and work on.

Jeff, are there any particular suggestions that you want to make at this stage or any of the other working group members of specific questions you would like to see finessed or finessed or redrafted? Jeff...

((Crosstalk))

Jeff Neuman: Yes, this is Jeff, David. Yes, I understand Kurt's question. I also understand what the question is trying to ask so I think that's just kind of a word-smithing thing. A question for the – and I can't remember, maybe you guys can help me with this. I know we got the overall numbers for sunrise registrations but did we get them broken down by registry?



I know that the registries were, you know, when the – when fees for sunrise were brought up at one point and people were complaining about the high costs of sunrise and that it didn't reduce the costs, registries were saying, yes, but we had to pay the TMCH \$25,000 in order to do this. And if you look at the amount of sunrise registrations we had it didn't, you know, it didn't come anywhere near making back the costs. So it would be great to get a breakdown of the number of sunrise registrations by registry.

Susan Payne: Hi, can I just leap in? It's Susan. I don't think at the moment we've got that breakdown. But that link to the CCTRT page that I put in the chat a bit earlier does seem to have that information up to December 2015 that they've gathered, I think. So it has, yes, so like, you know, it goes, you know, starts at (Academy) and says, you know, 265 sunrise registrations; accountants, 51, etcetera, etcetera. So I think that data is in there.

Jeff Neuman: Thanks, Susan. This is Jeff. I think that's great data, we should capture that and...

Susan Payne: Yes. Yes, definitely.

((Crosstalk))

Jeff Neuman: ...we should actually – we should probably ask the CCTRT where they got the data from to make sure that we're copying accurate data or know the source of that data. But, yes, that's great data for us to have too.

Susan Payne: Yes. Yes, I'm not sure. It would require a bit more reading to work out where they got it from I think. It says source trademark database records. I don't know – is that the TMCH? Not sure.

David Tait: Thanks, Susan. So certainly then to the – and I've tried to capture that in the questions at the side and also note that staff will add a link to the CCTRT

data to the working group list to make sure that gets through. So returning to the questions now I think we're down to the questions for the TMCH providers.

There were no comments from Kurt on that. Do we have any comments from – and anyone else at this stage? And I'm just missing Kathy's comment in the chat. Okay so not being any comments on that section.

We'll perhaps move on to the points that were raised below which are from the working group and charter discussions, again, we don't seem to have received any comments on those.

And moving on we added following discussions last week, additional questions for the CCTRT and also for the Analysis Group. And as you also see we added some additional ongoing work that staff will do to keep the data updated as and when it's received. And this perhaps relates to – perhaps a good time to just as we reach the top of the hour, discuss item 3 in the agenda which is staff update and further data extraction.

We've continued to progress with our colleagues who work directly with the TMCH providers and we're in the process of – hopefully getting access to the most up to date data and we'll continue to – as and when that is available, which we're hoping will be in the next two to three weeks, we will continue to update the tabular document which we just displayed previously and incorporate any new data that becomes available so staff have continued to progress that and we hope that within the next few weeks we'll be able to make a substantive update to the document we've already produced.

So at that point are there any other comments on the document or the questions to – and identify data that we want to see over the next few weeks? Okay, as nobody has put their hand up or raised any other comments then I think this is probably an apt time to bring any (unintelligible) 1600 UTC and staff will prepare an updated copy of this document and take into account the comments we've received so far.

And we'll hopefully provide – oh, sorry, just up there and missing comments coming through in the chat.

Vaibhav Aggarwal: Hi, sorry. Do you guys know about this? This is Vaibhav for the record. (Unintelligible) published an international trademark repository of all the trademarks that get registered. It's like a catalog. So every time you want to register a trademark you could actually go to them and check. And they're a private body but, yes. This would be interesting to study.

David Tait: Staff would be – we can add this to the reading list to be tracked through as well by the working group. So just before we close out the meeting just to note that staff will prepare a revised list of these – of the action items, suggestions and questions arising from the various subteam calls updating it on the basis of the comments we've received from Kurt and from those in the meeting today. And this – we will also circulate the list of proposed questions for what we're now calling private protected marks list providers.

And we'll circulate that for the working group – for the subteam to discuss further over the coming week and that could be added as a new section ultimately to the sort of master actions items, suggestions and questions document.

David Tait: Okay, if there are no further questions then I'd like to thank you all for joining us this afternoon and wish you a pleasant weekend.

Jeff Neuman: Thanks, David.

David Tait: Apologies, just to confirm the call is taking place next Friday at the same time. Next call is next Friday at the same time.

Michelle Desmyter: Thank you. Again, the meeting has been adjourned. Operator, please stop the recordings and disconnect all remaining lines. Have a great Friday, everyone and great weekend. Bye.

END