

**ICANN
Transcription
Sub Team for Additional Marketplace RPMs
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Coordinator: The recording has started. You may now proceed.

Julie Bisland: Thank you so much. Well good morning, good afternoon and good evening everyone. Welcome to the Sub Team for Additional Marketplace RPMs call held on the 28th of July, 2017. In the interest of time there will be no roll call. Attendance will be taken via the Adobe Connect room. If you are only on the audio bridge, could you please let yourself be known now?

Hearing no names I would like to remind all to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid background noise. And with this I will turn it over to our chair, Paul McGrady. Go ahead, Paul.

Paul McGrady: Thank you, good morning, everyone. This is Paul McGrady. We have a handful of people here today so that's great, not bad for a Friday as we said earlier. I checked the list for any comments to the revised Question Number 1. And I did not see any and so we'll ask one last time here, did anybody on this call post comments to the revised Question 1 on the list and I happened to miss them?

All right, seeing no hands and since we said we would consider Question 1 finalized, if no one posted any questions or comments on the list we will happily do that. And we will move on with great joy and accomplish to Question Number 2.

In terms of our agenda, I think our agenda is just to keep working our way through these questions until we're done. I did not receive - on a more global note, receive any feedback from the cochairs of the larger working group on the issue of whether or not we are supposed to be engaging in a substantive analysis of the various voluntary rights protection mechanisms that are out there. And we have to have a paradigm to keep moving forward so we don't get stuck.

And so I will take some liberty here and stick with the paradigm that I thought we were doing when we first put this group together and that is operating under the understanding that we are here to gather information about those additional marketplace protections, not to evaluate them so that we can take the information back to the larger working group and see if the additional marketplace protections fill in any gaps that we have concerns about and so we will operate under that.

If it turns out that we get feedback from the large working group, and we have to go back and reevaluate what the work we do here today, then so be it but we do need to be able to move forward.

I see Mary's - Mary Wong from staff, your hand is up, please go ahead.

Mary Wong: Yes, thank you, Paul and everybody. This is Mary from staff. Just to follow up on that, Paul, the chairs and staff do do a weekly prep call. This is on the agenda to discuss. So we will be sure as staff to bring it back up to the chairs who I think unfortunately are not able to be on the call today. In the meantime, we agree, and we do encourage this group to get on with the work with all the other questions that's before it. Thanks, Paul.

Paul McGrady: Thank you, Mary. All right, well let's do that. Let's take a look at Question Number 2. We have a proposal to delete Question Number 2. And we have the question itself. Let me read the question and then I will ask if there's anybody on the line who made the proposal to delete it and if they could talk to us about why that is. Look at the question first.

"How can TMCH biz be much more transparent in terms of what is offered pursuant to ICANN contracting policy? And what services Deloitte and IBM (unintelligible) to registries via private contract? Correspondingly, how can the working group and the public better understand what services Deloitte and IBM are offering to registries via private contract, e.g. private (unintelligible) using the Trademark Clearinghouse database and special webinars about these private services? What changes might provide a clearer line?"

Okay, so we have a proposal (unintelligible) this question. And so I will open the queue, if anybody can speak to that proposal. I see Susan Payne's hand is up. Susan Payne, please go ahead.

Susan Payne: Yes, hi, Paul. The reason for the proposal was put in the notes. And I think if anyone's still got the reverse redline it's in the notes at the bottom of the document. But it was basically that the language is drafted is rather conclusory and not particularly balanced. And so obviously it would be possible to redraft the balance, but my view was that once we did that we would essentially be asking the same question as we're already asking in 1. It didn't seem to me that we were going to be (unintelligible) by asking this question twice. So I felt it was unnecessary because it duplicates so that was the main reason I think.

Paul McGrady: Thank you, Susan. I do see (unintelligible) between Question 1 as clarified and this Question Number 2. Do we have, before digging into the substance of Question Number 2, do we have any supporters of Question Number 2 that would indicate that we (unintelligible) and I'll open a queue for that. And I'll

put it this way, keep Option A - keep Question 2 as is; Option B, keep Question 2 but revise it in some way.

I see no hands for keeping it. I'll just, for - to be completely safe, I will ask if there are - anybody - if I could get green checkmark for anybody who thinks we should delete it, I'll do a little like little nonbinding vote here. Green checkmarks for those who agree to delete it. And I see - going to wait another second for green checkmarks in favor of deleting it. All right, we have seven for delete, okay, and can you guys clear those please? And can I have a red X for keep - either keep it as-is or keep it and revise - a red X.

Keep it as is or keep it as revised. All right. I see one. David, would you like to give us your rationale for keeping it? You don't have to, since I opened the queue before and didn't see a hand but if you'd like to I'd like to give you full chance to speak. David, if you're speaking you are on mute. Going once. Oh okay, David, red X for revised. No phone right now, dad battery okay. So we have one for revised but not able to speak to it.

Well I want to give David his moment in - his moment to speak to it. David, could you give us some thoughts in text as quickly as you can. Right now it looks - we're leaning towards delete but I do want David - David says, "I can see I'm outvoted, no problem." Okay, well with that then we will move on then, I think that's okay. Not now, don't see it as a critical point, terrific. Got it.

Okay well so the consensus here not any defined sense of the word consensus, because we could spend a day on that, but it seems like we are looking to delete Question Number 2 so if staff could capture that, that would be great. We spent two weeks on Question Number 1 and we spent 10 minutes on Question Number 2, we're picking up the pace; that's terrific.

All right, let's move on to Question Number 3. Question Number 3, "Could registries provide the same or similar services without the use of the TMCH?" And again, we have here a proposal to delete. And I will - before I ask for

someone to speak to the reason to delete it, I'll say that I personally don't know fully what this question means specifically, could registries provide the ICANN required services or the additional marketplace protections?

I'm assuming that it means could registries provide the additional marketplace protections without the use of the TMCH? I think that must be what it means. Otherwise it's a question essentially getting at whether or not we should do away with the TMCH. So let's proceed on the basis of that's what Question 3 means.

There's a proposal to delete. I see Susan Payne's hand is up. Susan, if you could please go ahead?

Susan Payne: Thanks, Paul. My hand is up because I think this as a proposal to delete again so I thought perhaps I'd better speak to it. I certainly had read it as the way you were reading it. Could registries provide the additional marketplace RPMs without the use of the TMCH? And I think it's a, you know, perfectly interesting question but it didn't seem to me to be at all relevant - well, I wasn't - I couldn't see what relevance it had. I'd love to, you know, if people feel it does have and it's useful to do I'm willing to be persuaded.

But, you know, given that we're just - well, my view would be that we are just looking at the ecosystem in which the mandatory RPMs operate and we're not going into a deep dive and reviewing the actual operation of the additional marketplace RPMs, it didn't really - it didn't really - I couldn't really see whether it mattered terribly whether they could offer the same or a similar service without the TMCH or with it. But as I say, I'm really happy for someone to persuade me otherwise.

Paul McGrady: Thank you, Susan. Would anyone else like to speak to this? I see Jon, your hand is up. Jon, please go ahead.

Jon Nevett: Thanks, Paul. Without pride of authorship I believe I suggested this question in the first rewrite. And maybe it did come from 2 and maybe it could be added to 1. But I guess the relevance was if we're looking at issues related to the Trademark Clearinghouse and how are those - how that database might be used in additional marketplace services, I just thought the question would be relevant that, you know, could those services be offered without the use of the TMCH?

I don't care that - I don't feel strongly about it, so if the consensus is to get rid of it that's fine or if you want to kind of add it to 1 in a way because you say how are - how's the Clearinghouse used for additional marketplace services and we could say are such - is such use necessary or something like that. But I'm fine if you want to just kill the whole thing too. Thanks.

Paul McGrady: Thank you, John. On a purely selfish basis, I don't want to add it to Question Number 1 because Question Number 1 being finalized is the only thing I've ever accomplished in 14 years in ICANN-land and I don't want to reopen it up. Steve, I see your hand is up. Go ahead.

Steve Levy: It's Steve Levy for the record. Just to address Susan's point earlier, personally I feel that there really shouldn't be too many limits on what we are permitted to inquire into. You know, she used the phrase "mandatory RPMs" and I know that's still an open issue, you know, whether we're - how far we're digging into mandatory versus, you know, voluntary or marketplace RPMs. But the fact that we, as a sub team, exist tells me that we have at least some mandate to look into things other than mandatory RPMs.

That being said, I'm a big fan of, you know, sort of being over-inclusive rather than under-inclusive. All of that of course does not go to the substance of the question itself. And, you know, I think it's kind of an interesting point. I wouldn't, you know, stand you know, my ground strongly if there was a consensus to get rid of it. But it is kind of interesting, I mean, it raises to me

the question of whether registry operators would really need to verify trademark rights on their own if they're not going to go through the TMCH.

You know, what sort of services could they provide with respect to RPMs that would not include a TMCH? I'm actually kind of curious, would love to hear from somebody as to a suggestion or an example of what kind of marketplace RPM could be provided that does not involve the TMCH or otherwise, you know, having to duplicate the trademark verification process. Thank you.

Paul McGrady: Thank you, Steve. I appreciate that. I'm typing into the chat now a proposed revision to Question Number 3. And I'd like to get people's response to it. I will read it as I type. "Could registry operators provide the same or similar additional marketplace protections without the TMCH? If so, would there be any increase in costs to brand owners?"

Because I do think that, first of all I think we should make it clear that we're talking about providing additional marketplace protections without the TMCH if we mean this question to encompass also the mandatory RPMs, then this question goes to whether or not we need a TMCH. And I think that question is outside our very narrow scope; I think it's arguably inside our scope if we're asking the question about additional marketplace protections.

And then secondly, without asking the second question, I think that it's sort of a so-what question. So if the answer is yes, registry operators could provide the additional marketplace protections without the TMCH, the question - the next question then is, you know, would that be a good thing or a bad thing? And if it's going to raise costs I would think that would be a bad thing. So can we just have some reaction to my proposed revision of Question Number 3?

Mary Wong: Paul, this is Mary from staff.

Paul McGrady: Jon says he's okay.

Mary Wong: May I ask...

((Crosstalk))

Paul McGrady: Sorry, go ahead.

Mary Wong: Hi. I just wanted to ask a couple of follow up questions if I may, from the staff perspective. And we offer this for hopefully purposes to clarify that the purpose of the question as pointed out by Kristine. And we're also mindful of Kathy's comment from last week that when we speak of the TMCH there is the TMCH validator's role which is Deloitte, and there is the running of the TMCH database by IBM. So first question is, when we say same or similar services or same or similar additional marketplace RPMs, as you're suggesting, Paul, do we mean the ones that they are offering at the moment? I assume we do, so that's really a clarifying question.

But the second question is more is about the phrase used of the TMCH and whether there is a need to be more specific about this as in, for example, accessing the TMCH database or using some service to be provided by arrangement with Deloitte. We don't have a view on the question; we just hope these are helpful clarifications to consider. Thanks.

Paul McGrady: Thank you, Mary. Steve, I see your hand's up. Please go ahead. Oh, all right, Steve's hand went down. So it seems to me, again I'm not trying to - I'm just trying to figure out some way to ask Question 3 in a way that provides, you know, information about what we're really seeking information about, which is the additional marketplace protections. So if people don't like what I proposed I think that's fine, please do speak up.

I take Mary's point and maybe we should say, "Could registry operators provide the same or similar additional marketplace protections without access to the TMCH database?"

Rebecca Tushnet: Hi, this is Rebecca Tushnet. I'm sorry, I'm on audio only. And actually I really like the way you just said it. Sorry to interrupt.

Paul McGrady: Thanks, Rebecca. Is that - I'm trying to work off of what Mary - what Mary's comment was, is that the question. Any reaction in addition to Rebecca on phrasing it that way? Because there is the obviously there's an interloper - I can't even say the word - the interoperation between registry systems and the database that, you know, provides the validation for sunrise registries and triggers claims notices.

I really would like to hear perhaps from Jon or Jeff, those with a little more experience in the operational area if either of you two could, you know, give me some thoughts on the revised Question Number 3.

Jon Nevett: Sure, Paul. It's Jon. I think the question as revised implies or assumes something that might be accurate. Because you're kind of assuming that we currently have access to the TMCH where at least for us we don't.

Paul McGrady: So, Jon, can you talk about - if you're at liberty to do so - what the interactions with the Trademark Clearinghouse database are for you at all? Is it for sunrise, you...

Jon Nevett: We don't have any - yes, we don't have any interaction for - with the Trademark Clearinghouse with - or additional marketplace RPMs. We don't track - which we'll answer Number 1 but just I'm happy to let you know now that, yes, there's no separate agreement, there's no access to the database. The validation is done by the trademark holder.

Paul McGrady: Okay so the question itself presupposes that there is, you know, use of the Trademark Clearinghouse database in some way. Maybe the question is better asked, "Do registry providers who provide additional marketplace protections, need access to the Trademark Clearinghouse in order to do so?" Is that a better question, Jon?

Jon Nevett: That's fine with me as well, yes.

Rebecca Tushnet: Sorry, this is Rebecca Tushnet and I apologize for not being able to raise my hand. I wonder though if we then lose some of the question about, you know, what's actually going on? So maybe we could say, you know, where there is an interaction or even there is or could be an interaction, you know, does that change the costs or burden? And really, how does that work?

Paul McGrady: Okay. Jeff, your hand is up. Jeff, please go ahead.

Jeff Neuman: Yes, thanks. Jon, there's a little bit of interaction in the sense of we do rely - registries rely on the Clearinghouse for publishing a list of revoked SMD files or - so it's not quite 100% that there's no interaction, it's just that the way the question is worded assumes that we have like a direct connection to the Clearinghouse and - or the registries are directly interacting.

I mean, there are certain parameters that are checked to make sure, like I said, that SMD files are not expired or revoked and also that there's a list of names - not for the additional services but there's a list of strings that are sent by the Clearinghouse to the registry or pulled by the registry of names that are eligible for - or not eligible, sorry, names that match a claim so that we can tell the registrar to pull the claim information from the Clearinghouse.

((Crosstalk))

Jon Nevett: Yes, Jeff, I was just talking about additional RPMs.

Jeff Neuman: Yes, but okay, but, Jon, just to ask a question, do you still, for the blocking additional, don't you require an - valid SMD file?

Jon Nevett: Yes, from the trademark holder. We don't get it from the Clearinghouse.

Jeff Neuman: Right. But the - you don't get it from the Clearinghouse but you check the Clearinghouse to make sure that the SMD file hasn't expired or been revoked. That's tiny, I know, it's a tiny thing. But just wanted to put that out there.

Jon Nevett: Yes, and I don't even know if that's accurate or not.

Paul McGrady: Okay, thank you both. Kathy, I see your hand's up. Please go ahead.

Kathy Kleiman: Hi, all. Sorry to be joining late. Wow, did I just hear Jon say that SMD files may be used but not checked for expiration or revocation? Okay. So based on this discussion, isn't the...

Jon Nevett: Kathy, you didn't hear me...

((Crosstalk))

Jon Nevett: Kathy, just so - you did not hear me say that. Thank you.

Kathy Kleiman: Okay. Based on this discussion, then to Jon's - to Paul McGrady, should we be adding something that says all registry operators using the TMCH database and its features for additional marketplace mechanisms, if so, how? And also the question, "Does the current adopted policy allow this?" The STI did speak to this. And then, going onto could registry operators provide the same or additional mechanisms without access to the TMCH?

But let me read that again and I'll put it in chat. "Are registry operators using the TMCH database and its features" - and/or its features, I guess, "for additional marketplace mechanisms? If so, how? You know, we need to understand that, right? This discussion shows that. And does the current adopted policy allow this? Thanks.

Paul McGrady: Thank you, Kathy. There's a lot of additions and subtractions to this proposed question. And I've been trying to capture them all and put together a new proposed strawman question in the chat but it's moving so quickly. Any other comments on this? And I will see if I can - see if I can put forward something in the chat at least to sort of focus all these various ideas.

I'm wondering though - there's something about Kathy's question that sounds familiar. And I wonder if we have somewhere along the lines already asked that question. I hate to do this...

Jeff Neuman: Hey, Paul...

((Crosstalk))

Paul McGrady: Mary's hand is up. Mary, can you help me out? It seems familiar to me.

Mary Wong: Hi, Paul, everyone. This is Mary from staff. You know, I don't know if this is what you're asking but what I tried to put in the chat is that if folks will remember some time ago in the early stages of the working group, we did have a poll that went out to registry operators, actually I think it might have been in late 2016, where asked them a couple of questions that may be relevant to this discussion.

For example, one question that we asked was whether new gTLD registries were accessing data records in the TMCH for purposes other than providing sunrise and claims. And another question is whether or not they were using the capabilities of the TMCH other than for sunrise and claims.

You may recall that we got responses from only a few registries but they included Donuts and PIR. And Jon has already spoken, I think in this discussion today, about Donuts' practice in that they may look at the SMD files but the rest I put in the chat. I don't know if that's what you were referring to, Paul.

Paul McGrady: Thank you, yes, I thought that sounded familiar. So I think we've already asked the question of do - you know, whether or not the TMCH database - or really its cooperation from the TMCH operator, which would be a more umbrella concept. So I think what the point of this question really is, and should be, is could registry operators provide - actually I'm coming back to the original question. "Could registry operators provide the same or similar services as - same or similar additional marketplace protection services without the cooperation of the Trademark Clearinghouse operator?" Is that really that we're asking? Jeff, I see your hand is up. Please go ahead.

((Crosstalk))

Jeff Neuman: Yes, all right so I've been trying to think of how to word this, and I'm not 100% sure. But it's not cooperating with the Clearinghouse, it's basically relying on the Clearinghouse as a third party validation agent. It's not a contractual relationship but it's basically relying on the validation services performed by the Clearinghouse.

So in essence, the question is can registry operators use other sources of information or other third party validation services to rely on in order to deliver its services? I would say it's more like that that it's just, you know, and, Jon, you can correct me if I'm wrong, but essentially what's being done is that registries are relying on the fact that the TMCH did its validation and then is by virtue of being validated by the TMCH, is accepting that as eligibility to participate in its additional protection mechanisms.

So I don't know if that helps any. But it's not that they're using the capabilities, it's not that they're accessing the database but they are relying on the validation services performed by the Clearinghouse.

Paul McGrady: Thank you, Jeff. I wonder if I could - as we move onto Susan's hand here, if I could burden you with putting forward into the chat a revised question along those lines for us to look at. Susan, can you please go ahead?

Susan Payne: Yes, sure. Thanks, Paul. Yes, as Jeff was talking I was realizing that well firstly that I agreed with him but also the - it seems to me that the answer to this question is yes. We all know it's yes now, I mean, we don't - I mean, you know, if we want to keep it as a question now is fine, but we know now, you know, just as a result of this conversation the answer is quite clearly yes, other people offer validation services besides the TMCH. Someone could clearly -a registry could clearly choose to use an alternative rather than the TMCH.

So I guess I just - I still don't really know why we're asking this. You know, how does it take us forward I guess?

Paul McGrady: Thanks, Susan. I see here Jeff asks -here's the proposed question. "Could registries provide the same or similar services without relying on the validation services performed by the TMCH?" Yes, that to me - that seems like that's the question we're getting at but as Susan and Jeff both note, I think that, you know, the answer there is yes. Obviously there are other ways to validate trademarks before the existence of the Trademark Clearinghouse, that's why all the various countries maintain trademark databases. The point of the Trademark Clearinghouse was just to, you know, make it more convenient for both brand owners and registry operators.

So we can ask that question but again, I'm not sure if what we - without a second question, I'm not sure what this is meant to tell us. Any comments on Jeff's proposed rewrite in terms of tweaks to it or whether or not we should, you know, even bother to ask it since we know the answer? I'm happy to withdraw my question about - my second question about whether or not we have, you know, if doing so - providing these services without, you know, without the Trademark Clearinghouse as part of the mix would raise costs so

that's fine and I think that that's probably, you know, an additional concept that was not in our first set of questions and so it's probably, you know, a little bit of scope creep there.

Kathy, your hand is up. Please go ahead.

Kathy Kleiman: Paul, this is Kathy. Could you tell me what the current question is that we're evaluating?

Paul McGrady: Sure.

((Crosstalk))

Kathy Kleiman: ...which version of it because I'm not sure if I'm looking - if Jeff Neuman is add on to something else or whether it's now a standalone? Thanks.

Paul McGrady: Yes...

Kathy Kleiman: And then I'll keep my hand raised.

Paul McGrady: Yes, Kathy, for sure. The question is as Jeff put into the chat, "Could registries provide the same or similar services without relying on the validation services performed by the TMCH?" And I, you know, putting myself slightly in the queue, would like to change it slightly so that it read, "Could registry operators provide the same or similar additional marketplace services without relying on the validation services performed by the TMCH?"

That way we're making it clear that we're not asking an existential question for the TMCH, we're just asking specifically about validation for additional marketplace protections. So with that said, Kathy, can you go ahead?

Kathy Kleiman: Yes, that means we've dropped some of the background material. I mean, I recognize that the people on this sub team are experts and live and breathe it

every day. But the other 150 members of the working group don't. So again, the question, "Are registry operators using the TMCH database and/or its features for additional marketplace mechanisms," is a basic fundamental question. You know the answer, but the rest of the working group doesn't, so let's ask it and answer it. And if so, how?

And then sorry, but we're a review team, we're looking at existing policy so existing policy matters. And the existing policy comes out of the STI and I think we should be - the STI and the IRT and what was adopted by the Council and the Board, and there are provisions in there that have to do with ancillary and other services of the TMCH database. And this seems to be the very appropriate place to be looking at that. Do the rules allow it? If not, should we be changing it? If not, should we be enforcing it? Don't quite understand why we're not looking at policy issues. Thanks.

Paul McGrady: Thanks, Kathy. Susan, if you could go ahead, please? And then...

((Crosstalk))

Paul McGrady: Yes, go ahead.

Susan Payne: Thanks. Yes, this just reminds me actually that a while ago - and I think it was in the context of the sunrise probably - we talked in the sunrise charter group quite at length about the SMD file and what it does and how it works and so on. And at that time, we did all agree that we thought it would be really useful because as Kathy mentioned, some people in this working group are not experts, it would be useful to have a bit of a teaching to just - so that people in this working group understand you know, how it works.

And it seem to me that had we had that teaching, we wouldn't then be having this conversation about how does the SMD file, you know, when it's used by Donuts or whoever. So maybe, you know, rather than kind of creating for

ourselves a charter question, which we don't really need, maybe the answer is we should have that lesson on how this works.

Paul McGrady: Thank you, Susan. Okay, well this has become a bit...

((Crosstalk))

Rebecca Tushnet: This is Rebecca Tushnet. Sorry, can I put in one more point?

Paul McGrady: Sure, Rebecca, please go ahead. And always feel free to jump in like this, never hesitate.

Rebecca Tushnet: I actually think this question is maybe a little unclear on the "could" I mean, we have a discussion of cost to trademark owners but we might also consider you know, sort of when we say, you know, could you do it without it, maybe what would substitute for it in their view because that might also be quite relevant. So it's not just a question of sort of physical possibility which I think we all agree on, but more practicality, pragmatism, you know, what would you go to next. Thank you.

Paul McGrady: Thank you, Rebecca. Jeff, your hand's up. Please go ahead.

Jeff Neuman: Yes, I think the way to think about the TMCH and the way it's, quote, being used, is kind of similar - if I can do an analogy, it's kind of like when companies or anyone does a credit check on a person. If they - or on a company. So let's say I wanted - I get a new customer in and I want to do a credit check. I will ask for their D&B number, like Dun & Bradstreet number, commonly used in the United States.

And I will rely on that information that they submit because I know that D&B has done the appropriate verification of business information that they're a real business. I have no contact with the Dun & Bradstreet to use that information, it's just an available source. So the answer to what would

registries do, if the TMCH didn't exist, they'd find another source. And whether that's, you know, downloading the USPTO information or anything else, you know, it's a source of data but not anything - it's not being, quote, used in the sense that most people think of the term being used.

I think Susan's idea of a tutorial, if you will, or what is an SMD file, how is it being relied upon I think is a good idea. But I just - I think the question that Kathy, you posed, is stemming from a misunderstanding of - or not a complete understanding of what the word used actually means in this case.

Paul McGrady: Thank you, Jeff. So we've had two people call for a little bit more of an education session on the technical aspects of how the TMCH works and specifically I suppose in relationship to - since we're the additional marketplace protections group - how there is interaction if at all.

But before we talk about that, because I think that that is something that we - if we're going to do that we need to do it sooner rather than later so that we don't get hung up on technical questions for the remainder of the questions that we need to get through. I would like to - I see there's some back and forth in the text about a way to handle this question since we, you know, whether it's, you know, essentially if it's in the format that Jeff last proposed it, I think we know the answer is yes. But how do we capture that?

And I'm hoping that - I see some back and forth with Kristine Dorrain and Susan Payne on that. And it looks like maybe other sub teams have come across these kinds of questions which are essentially asked and answered and they were dealt with in the report in a particular way. Is - Susan or Kristine, could I get one of the two of you to speak to that?

Hi, Kristine, I see your hand. Thank you so much, please go ahead.

Kristine Dorrain: Hi, thanks. Yes, Paul, this is Kristine Dorrain. Yes, in the claims sub team, and I know in the sunrise sub team as well and even in the previous

Trademark Clearinghouse charter question sub team, we've had sort of a column of notes where when a question - when we were working on a specific question if there was data that we had already gathered or data that we knew or places where we knew where to find the data, we linked that so that when we actually got to discussing the information with the broader sub team it was available at our fingertips.

So not only did it become a list of questions for the full working group to consider but it became a list of resources that had come up along the way. And I think that's useful here. I know we've ended up turning all of the work into a chart, but so where something has - the answer is clear, then we could post a link to the answer. Where we know that there's specific information on how to find the answer, we can link to that as well. So it becomes a running collection of research.

So when we get back to it in two or three or four months, we can say oh yes, that's right, we've already done that, you know, research, let's just click on the links and do our homework now. Thanks.

Paul McGrady: Thanks, Kristine. That's very helpful. And I think a good way to capture the past work - the past questions that have been asked on this. Kathy, you indicate that the question is asked but not answered, if we - the question really boils down to I think could the additional marketplace protections, you know, could they be provided, you know, even if there wasn't a Trademark Clearinghouse, right?

And I think the answer - since the Trademark Clearinghouse only contains trademark information that are, you know, it's essentially otherwise available from sources that, you know, preexist the Trademark Clearinghouse and will exist after the Trademark Clearinghouse becomes an interesting historic footnote, whenever that occurs, that I think guess I don't understand why the answer isn't yes and therefore the question isn't answered. So Kathy, please go ahead and help me understand. Thanks so much.

Kathy Kleiman: I think the fact that this group of expert people has just spent half an hour on this question with all sorts of verifications and concerns indicates that an issue has been raised for the rest of the working group. Here we're talking about ancillary services, additional marketplace services. That's different than our discussions of the SMD file under sunrise. Yes, we talked about the SMD file a lot and said in the sub teams and said that there are issues to be raised for the working group.

But it's a different question when you're talking about the uses and ancillary services. And again, going back to the policy question, if the answer is yes then is it allowed under policy? Are there policy restrictions on the TMCH database that we need to look at and apply and think about? That's - I thought that's the purpose of this whole sub team, frankly. Thanks.

Paul McGrady: Thanks, Kathy. You raise an interesting point which is - which we spoke to at the beginning of the call. And it sounds like you're advocating for the position that you took on the last call which is that you believe that this sub team's job is to evaluate substantively the additional marketplace protections while others believe that the purpose of this sub team is to gather information about those and to take it back to the larger working group who can then ask that kind of question that you're talking about.

Since you may recall that we asked the cochairs of the larger working group, of which you're one, to take that question back to the larger working group and I don't believe that's happened yet.

And so when we first started this call and admittedly, you weren't on it at the beginning, we decided that we needed some paradigm with which to move forward and since we did not have a response from the cochairs essentially telling us what the working group's feelings are about whether or not we need to move forward with those sorts of substantive questions, that we would move forward under the believe, which I had when I joined this call, and I

think others did too, that this was an information-gathering exercise that would then be taken back to the larger working group where those kinds of questions could be asked if the larger working group wanted to do that.

And so to the extent that cochairs come back and tell us that the working group's will is that we ask those more substantive policy-driven questions here, as I said at the beginning of the phone call, we may have to go back and revisit some of our work. And so I think that may be where the disconnect is. Kathy, please go ahead.

Kathy Kleiman: Yes, Paul, if I might, I think you just answered your question then, should we keep the questions here? Absolutely, because it's the placeholder to this entire discussion for the rest of the working group. And then the hook by which we'll be discussing policy I guess if it's appropriate, based on what you said, but I think you've just answered your question brilliantly that we keep it for that reason. Thanks.

Paul McGrady: Yes, Kathy, I think that the question of whether or not it should be asked, that second question on policy should be asked here or some other place has not been, you know, we've not essentially we've not heard from the working group yet that it should be. If we hear that then - and obviously we'll have to revisit some of these things. If we don't then again, that doesn't necessarily bar the working group from asking them someplace else.

You know, I'm not, you know, I'm just a working group member so I would have to, you know, obviously take the cue from the working group's larger will on that question. So I don't want to get too bogged down on that. I do think that it makes sense to take up Kristine Dorrain's proposal of essentially - it seems to me the outcome here is to adopt Jeff Neuman's revision to this question with my little tweak making specific reference to the additional marketplace protections, essentially say, you know, here is a question and here are links to some of the answers to similar questions that have already

been asked. Those are the things that Mary Wong mentioned earlier that will help us understand this question.

And then I do think it would be entirely helpful to us to understand a little bit better as Susan Payne and Jeff Neuman suggested understand the technical interaction with the Trademark Clearinghouse and specifically if we can do that in relationship to the additional marketplace protections. So I guess my question then to - staff, and I'm so sorry, and if you need some time to look into this and respond to it on the list, but my question is who do we get that information from? And how quickly can we have that?

And if we have already had that, and it's recorded somewhere, can we get a link to that? And if not do we take one of our, you know, upcoming sessions to become better educated about those issues? Because there does seem to be a bit of a, you know, difference between, you know, our two resident experts, Jeff and Jon, about how much interaction there is.

Mary, can you please - oh thank you, Mary, your hand is up. Thank you. Rescue me.

Mary Wong: Hi, Paul, everyone, this is Mary from staff. So what we would - had proposed doing was to recirculate the information we had sent to the working group about the TMCH functional operations and including the SMD files. And, you know, see if there is interest in doing the tutorial.

If the tutorial is to be done, then I would suggest it would not be policy staff, it would probably be our GDD colleagues. So one thing is I don't know how quickly we would be able to arrange a system. We could use a working group session but that would obviously take valuable time away from the policy discussion but if it should be done then it'll be done. Alternatively, we could arrange for an alternative time, say, one of the sub team slots on Friday, although that may not be ideal.

Either way, if we do do a tutorial, we will try and do it quickly and it will certainly be recorded so that folks who can't make that session will have access to it.

Paul McGrady: Thank you, Mary. That is extremely helpful. I think that it makes sense to have it at a different time if we can do that and to record it so that those who can't make that other time slot are able to get the full information. So since we are pretty much out of time, why don't we do this, why don't we make that - make this question, revise it along the way, along the lines that Jeff proposed with my little tweak making sure that we did and we're asking the question about the additional marketplace protections and make a note that it's still a bit of an open item and ask staff to pop in close to it those links to similar questions already asked of providers in this space so that we have the full context to make sure that this question isn't redundant with other work that's already been done.

And then with staff checking into the tutorial, which I think is a great idea, maybe we can hear some more about that on the list. Obviously the GDD staff is busy but - and it's also a holiday season of them. So I suggest that we, you know, run parallel there. And then in our next call see what we can do with Question Number 4. If we run into similar technical questions for Question Number 4 we may have to, you know, put that one aside and move onto the next one until we get to some that we can answer before the tutorial. Although I think Question Number 4 seems to me to be a bit more straightforward since it's, you know, has to do with preexisting documents.

So hopefully that sounds okay to everybody. We have four minutes left; I'll open the queue for AOB. Okay, seeing no hands, everybody gets three minutes back; use it wisely. Thanks, everybody, for such robust participation on today's call. I think it was great. And, you know, it's always good to have lots of views and lots of hands raised so I thank you very much. And I will see you on other ICANN calls. Thank you.

Susan Payne: Thanks, Paul.

Julie Bisland: Thanks so much, everyone. Have a great day. And, (Shay), Verizon operator, would you please disconnect the recording? Thank you.

END