

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) PDP Working Group call
Wednesday, 12 July 2017 at 16:00 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-review-12jul17-en.mp3>

Adobe Connect recording: <https://participate.icann.org/p7pwl0mzymq/>

Attendance of the call is posted on agenda wiki page: <https://community.icann.org/x/Z2jwAw>

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

(Terri): Good morning, good afternoon and good evening. And welcome to the Review of All Rights Protection Mechanisms RPM and all gTLD PDP Working Group call held on 12 July 2017. In the interest of time there will be no roll call as we have quite a few participants. Attendance will be taken by the Adobe Connect room. If you are only on the audio bridge could you please let yourselves be known now again by (unintelligible).

Hearing no further 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 any background noise. With this I'll turn it back over to our Co-Chair J. Scott Evans. Please begin.

J. Scott Evans: Thank you very much (Terri). Good morning, good afternoon, good evening everyone wherever you may be today. Thank you for attending this call our first conference call after the face to face three-hour meeting which we held in Johannesburg, South Africa. And for those of you that may not have been there nor have had time to review the transcript or the recording of that

particular meeting, it was co-chaired by myself, Kathy, and (Phil), each taking one of the hours.

And the way we broke it up was the first hour I moderated and co-chaired while Lori Schulman from the Sunrise Sub Team presented the refined charter questions to the larger group and took an input from all those in attendance not just members of the working group. In fact we tried to get (unintelligible) to nonworking group members given the working group members have these calls and the mailing list in which to provide their input.

The second hour Kristine Dorrain joined us from Seattle by telephone line. And she presented the Trademark Clearinghouse revised charter questions. And then the last hour actually it didn't turn out to be an hour it actually turned out to be about 45 or 50 minutes due to the fact that we were running a bit long we had a discussion with certain registrars and registries in the room given just the workflow of the Trademark Clearinghouse how it works, how it's been implemented, struggles, successes, failures that were seen by those. And I personally think everyone found that to be a very good discussion. You should have received a note from Amr telling you that the session was recorded. In regards to the registrars or registries it's about the last 45 minutes so that would be like at hour 215 that you would fall into the discussion regarding registrars and registries which is probably going to be the newest information for people that are on this call.

So now as we prepare to move forward we are going to be looking at again the Sunrise Registration charter questions and the input that we received during the meeting and also the - we hopefully the Trademark Claims Notice Subgroup and the input we received. I do understand that Christine Dorrain is not with us today and (Michael) is feeling a bit under the weather. So depending on whether he is able to lead us through that discussion if not we may have to depend on some of staff to assist us with that discussion.

And the co-chairs have had a meeting earlier this week and also by email we confirmed that we've asked staff to jump in at any time during this discussion to raise their hand to help us make sure that we're capturing as much as possible the input that we received during the face to face meeting in Johannesburg. So with that I do believe Lori Schulman is on with us today. Lori, do you want to give sort of a summary of where we ended up and what we took in at the meeting in Johannesburg?

Lori Schulman: Yes thank you J. Scott. Lori Schulman for the transcript. I thought we had a pretty good session. What we did we had two work products from the Sunrise group. We had the work product that we kind of agreed upon prior to (Joberg) that is a more substantive chart that has digital questions it has a comment section that way (unintelligible). The questions are, you know, (unintelligible) and then proposed assignments.

But we didn't actually create what I would call the written piece of work. So (Joberg) because the intention was to do a little more community outreach beyond the regular members of the group the staff put together a chart that took out the (unintelligible) and just included the revised questions. I thought the chart was very cool and helpful to the broader community in terms of where we think we are headed with the final questions in terms of the (unintelligible) charter.

We got a very good feedback. I thought participants (unintelligible) in terms of some definitions from community understanding about what we talked about (unintelligible) that are all on the same page (unintelligible) to some premium names (unintelligible). And (unintelligible) had suggested we thought it would be a very good idea to maybe even perhaps define standard prices. So I thought that was quite a lot of good input.

Rubens Kuhl also (unintelligible) which I thought was (unintelligible) about using the Sunrise period for registration on the terms that may have new a trademark for a particular segment that (unintelligible) trademarks and other

segments and just Sunrise (unintelligible). So that is something we did have to talk about extensively and we do have progress to report in that area.

So we had some takeaways here that some of the questions (unintelligible) some assignments (unintelligible) new definition. But overall I do believe (unintelligible) if anybody feels differently I'd like to know but at the end of the day I think we're well on our way to having our questions where they need to be in order to (unintelligible).

J. Scott Evans: Great. Lori I think several people I don't know if you - I think you may just be on audio are having trouble hearing you. Is there any way you could either adjust your mic or pick up a handset because you're difficult to hear. With that I'm going to turn to Amr who has his hand up.

Lori Schulman: Can somebody dial out then - I'll put a dial out number to Mary.

J. Scott Evans: Yes I'm not sure is Mary with us this morning? Yes there she is, yes I see her.

Amr Elsadr: Yes.

J. Scott Evans: Okay go ahead. Amr.

(Terri): And Lori is (Terri). I have your - I'll have the operator dial out to you.

Lori Schulman: Thank you.

Amr Elsadr: Okay thanks J. Scott, and thanks Lori in (Terri). I just before we did start the review of the refinements that were made in Johannesburg I just wanted to point something out very quickly that the documents you see in the Adobe Connect room in front of you as well as the one we will be sharing later for Trademark Claims has been slightly edited since I sent documents to the mailing list yesterday. And this has been done to include some of the notes

that I circulated with the agenda just to make sure that all of the information that's - that was presented in Johannesburg and that was shared by the community as well during - when the working group was seeking input via present during this call.

So initially the documents that were circulated only included the suggested refinements to the questions and charges but now you will see a number of comments and balloons on the side. And you should all be able to scroll through the documents your selves. But those should capture some of the notes that were shared as well during the face to face meeting. And I just wanted to point that out so that folks know what they're looking at. Thank you very much. And these documents will be posted to the meetings Wiki page and circulated to the list following this call. Thank you.

J. Scott Evans: Great, thank you Amr. So Lori can we go through the questions and look at some of the notes that are there? Are you with us again? Okay while she's dialing in Amr can I ask you to lead us through until Lori returns?

Amr Elsadr: Sure J. Scott this is Amr again sure. And Lori please when you are dialed in just let us know.

J. Scott Evans: I'm going to send her a private message to let her know that Amr. Go ahead.

Amr Elsadr: Okay so if you look at Page 2 of the report this is the page following the brief introduction. That here are the three definitions that the Sunrise Registration Sub Team came up with regarding reserve names, premium names and premium pricing. And I think noteworthy are some of the comments that we received her in the face to face meeting one from James Bladel on premium pricing and another comment on that same definition. So James has suggested that a definition be added for standard pricing to sort of set a benchmark for the premium pricing. And so this is something the working group should probably follow-up on.

The second comment was - that was made in the Adobe Connect chat by remote participants during the face to face meeting was a suggestion for a change in the definition of premium pricing. So you can see the suggestion in the balloon on the side of the document saying we're (unintelligible) shouldn't it just be...

Lori Schulman: It's online (unintelligible).

Amr Elsadr: ...higher prices charged from premium names?

J. Scott Evans: Okay. Here we are. Lori is back with us Amr. So Lori just to bring you up to speed on where we are Amr was talking about he had pointed out that we were going through the comments that we received just to let everyone see where we received comments. He covered the comment by James Bladel talking about premium pricing and standard pricing. And then he also he was just covering the comment we received by remote participant about the premium pricing definition which is all on Page 2...

Lori Schulman: Okay.

J. Scott Evans: ...of the document.

Lori Schulman: Yes. He - right thank you so much. Amr, if you want to finish a thought or I can just pick up from here? Yes...

Amr Elsadr: No please, take it away Lori. Thank you very much.

Lori Schulman: Okay. There was a suggestion and I looked at the suggestion and I think I might actually be a good one that perhaps we were complicating the premium pricing definition a little bit and maybe just say premium pricing is higher prices charged for premium names. And I think that is worthy of discussion. I did feel though that when we were writing these definitions that it was probably important to still have the baseline about what a premium name is

and why a price might be higher as opposed to just saying higher prices. But and clarity requires maybe something shorter we would certainly be open to looking at higher prices charged for premium names. We haven't discussed it as a subgroup yet as many people took last week off for some ICANN work, so did we.

J. Scott Evans: Okay thank you. Let's go ahead and move quickly on through these comments so we can do that. And then Lori I'd like to look at sort of at the end of this when we - let's pull through the comments fairly quickly. If anyone has any questions or concerns about comments or additional comments please raise your hand? And then I'd like to look at the data that we think we need to acquire and sort of have a look at what we're talking about gathering.

Woman: Thank you.

J. Scott Evans: So let's just go on through the comments.

Lori Schulman: Are we going to get - yes well we have the comments from the report but then Amr do you want to put the comments up on the - from our chart. I guess I'm confused about which document next we will be referring to the actual questions that we discussed the refined questions with the group or the work group work product? I apologize for the confusion on my end.

J. Scott Evans: Amr what document do you have up in the widow right now?

Amr Elsadr: Yes the document up on the screen right now is the report that was prepared by the Sunrise Registration Sub Team.

J. Scott Evans: Okay.

Amr Elsadr: It includes track changes in the refined questions. The ones highlighted in yellow are the ones from the Johannesburg face to face meeting. The ones that aren't are from the last call that we held before ICANN 59 which was on

21 June. And Lori you will also see that there are comments and balloons on the side. And those are just notes that were captured during the interactive discussion with the community members at ICANN 59. But that didn't necessarily result in refinements for the refinements to the questions.

Lori Schulman: Okay. That's great.

Amr Elsadr: But the document - yes but the document is the one that the sub team produced. Thank you.

Lori Schulman: Okay, thank you. I appreciate the clarification. I - yes so I just - we'll go through the highlighted comments and, you know, if anybody has any input from this group on it we're happy to hear it. One of the highlighted questions is when we're talking about what we called preamble questions we felt that there were clarifying questions that should be asked up front taking a group of questions that were running through the original charter you'll see there it's question one, seven, 14, 16 18, 19 and 22.

We combine them in a way to have what we thought were level setters. And an additional level setter aside from the first side (unintelligible) six have abuses of the Sunrise period been documented by registries and registrars. So that is another way to gauge, you know, we have registrants who feel there may be abuses, we have trademark owners who feel they may be there been abuses and so how are the registries and registrars also coping with what they may feel our abuses? So we will move on from that.

The next one is - and Amr are going to ask you to actually help me here as these comments are put into the chart. I am having difficult reading them on the screen on the group screen. But we had some threshold questions. And we - to reword things in a way that could possibly again help create greater clarity in terms of what we're reaching. We're trying to reach a balanced result between interest of registrars, registries, interest between trademark owners who these RPMs are intended to protect the rights not the owners I

should say the rights and the registrant who could be anybody. They could be domain investors, they could be the average small business operator, they could be big business so any - registrant encompasses in my mind the whole community.

So the threshold question we felt needed to be asked in terms of the premium names question which is on the side the original question is, is registry pricing within the scope of the RPM Working Group or ICANN's review? Is there evidence that registry Sunrise or premium name pricing limits trademark's ability to participate? Where I'm having trouble reading Amr is the bubbles. So I might ask the group...

Amr Elsadr: Thanks Lori, this is Amr.

Lori Schulman: Yes.

Amr Elsadr: Yes thanks Lori. This is Amr. So we have two sets of comments on the threshold question for number two. The first was from (Denise). And she recommended collecting data on pricing practices for sunrise as part of the beta collection effort. And the second comment was by Jeff Neuman who recommended that the question on scope - on the pricing being within the scope of the RPM Working Group be deferred and sent to the GNSO Council. But I will (unintelligible) that members of the working group did state that so far as this pricing affects the ability of trademark holders to be able to use sunrise effectively and that in those terms that pricing should be considered by this working group. So those are a couple of comments on this question here.

Lori Schulman: Thank you. Thank you. I think that the comment and I can read it a little bit that (Ameru), (Amadu), (Amdu), (Amadu) has suggested as well is pricing actually a deterrent (choosing) a remedy itself, you know, I guess this isn't really a remedy but the prescriptive action. So we'll move on. Question 3 where we had some discussion is should registries be required to create a

mechanism that allows trademark owners in the TMCH to challenge a premium name for the purpose of requiring it to release so that the trademark owner can register it during the period? And again Amr I cannot read the print on the screen. If you could read the bubble that would be most helpful?

Amr Elsadr: Sure, thanks Lori. This is Amr. And this was a comment by Jon Nevett. And it says need to balance the various interests here suggests that including some sort of standards to review whether it was appropriate for a registry to put a specific name example police under a gTLD on a premium list? This should also be done for reserve lists.

Lori Schulman: Okay, and then there's a comment underneath in the chat yes.

Amr Elsadr: Yes a second comment from the Adobe Connect chat by Ben Anderson was should we also be asking whether the list of trademarks the TMCH team used in an abusive way to create premium name lists in some registries? And then a final comment by Paul Tattersfield who was also participating remotely but I believe is on today's call is differential pricing between Sunrise and open registration impacting registrations?

Lori Schulman: Thank you. And then...

Amr Elsadr: Well I'm sorry I think that last comment by Paul I think was in relation to Question 4 not Question 3, so apologies for that.

Lori Schulman: Okay. Well we're - yes we're right on top of four it is related. And that is are registry operator reserved means the practice is unfairly limiting participation in Sunrise by trademark holders. And we do have (poke) comments there, you know, how would we find where the differential pricing between Sunrise and open registration is impacting the registrations though we would need some kind of data on that. And then there is - Maxim had also entered a comment as well that I can't read.

Amr Elsadr: This is Amr again Lori. And Maxim comments - Maxim's comment reads cannot have a one size fits all rule for open and unrestricted TLDs reserve names that match trademarks. And TMCH should not be the premium names. For community based TLDs there may be a reason. So I think he was...

Lori Schulman: Thank you.

Amr Elsadr: ...just trying to point out that you can have a standard rule covering different scenarios.

Lori Schulman: And I do want to point out in the chat that people are talking about whether or not included in the work unfairly in Question 4 is a charged word or not? We are again we strive for balance. We have worked very, very hard in our proposed questions to try to remove what we think is charged language. I don't know that I have a particular opinion on this at this moment but I do think it is a question for the group to look at whether or not we want to include work like unfairly or questions that might assume a bias. I'm going to move on from that. And down to Question 7...

George Kirikos: George Kirikos here. Can I ask a question?

Lori Schulman: Yes.

George Kirikos: I had my hand up. Going back...

Lori Schulman: Sure.

George Kirikos: ...sorry George Kirikos for the transcript. Number 3 I don't understand the question. It seems to be worded incorrectly or inappropriately because it says should registries be required to create (unintelligible) that allows the trademark owners to challenge a premium name for the purpose of requiring its relief? My understanding is that you could - that during a Sunrise you

could still register the premium name it just would just be at a premium price.
But the Sunrise...

Lori Schulman: No.

George Kirikos: ...refers to the ability to register, you know, any name. It could be, you know, a premium or non-premium it just, you know, who goes to the front of the line. So it seems to me that they want to register it during the Sunrise period at a normal price as opposed to a premium price. And so the wording doesn't seem to make sense to me. Maybe some of the registries might know differently about I was under the impression that Sunrise names do not all have to be at one fixed price. Thanks.

((Crosstalk))

Lori Schulman: Thanks George.

J. Scott Evans: Thanks George. I also - I noticed Lori that also Paul McGrady's hand is up. So let's...

Lori Schulman: Yes. So what I was going to do is maybe ask Paul to answer the question and to ask a question. Paul do you mind doing that in terms of the premium pricing or I can?

Paul McGrady: I have to admit that I was - I really didn't understand George's question. So if Lori if you understood what he was asking I'm happy to defer.

Lori Schulman: Okay sure. What I think George was asking is that his understanding is that you could register names in the Sunrise period for a premium price or a regular price any price. And that is actually not what's been happening. There has been premium names that have been reserved that are actually reserved so the premium name and the reserve name issued become confused, you know, because some names are just held back and many of those names

have been trademarks. So is not that clear cut. In terms of the confusion I think that's where some of that may come in where premium names are also reserved names. And I will go back to Paul.

Paul McGrady: Thanks Lori. I hate to do this but I have another question.

Lori Schulman: Sure.

Paul McGrady: And I - and this is based upon my inability to hold in my head what all of these documents said. I know we looked at them face to face. But do we make a distinction between when a name is given a premium price perhaps a high premium price that is the same consistent price to everybody versus when a registry will get a premium price and lets the brand owner know that if they don't buy it at the premium price they then intend to, you know, sell it to somebody else more cheaply and maybe even subsidize that selling. We've encountered that I think with at least one registry in the last round where, you know, it was much more directly targeted at the trademark owner as opposed to just having an outrageously high price which essentially has the same outcome as it being a reserve name. If it's so expensive nobody can buy it, it might as well be reserved.

And frankly a lot of Sunrise registrations are registered for defensive purposes and only and are put on a shelf. So again, you know, sort of the same outcome. I still don't like it but it seems less troublesome than when we've got two sets of prices one for the brand owner and one for not the brand owner. Do we get at that - do our questions get at that issue? Thanks.

Lori Schulman: I think that my response is they do to the extent that, that is part of the answer. You know, should registries be required to create this mechanism? And if we say yes or no then we document the why. And the why would be the circumstances that you just explained. As to a direct question to that particular process though I don't believe that we have one but I think that goes to sort of the evidence of why there should be a requirement or not a

requirement to create a mechanism that allows trademark owners to challenge which are premium names and why or even reserve names. Does that answer your question?

Paul McGrady: It does, thank you Lori very hopeful. And also thank you to all the folks in the chat who just chimed in as well. Appreciate it, thank you

Lori Schulman: Thank you. J. Scott would you like me to recognize Susan recognize...

J. Scott Evans: Yes.

Lori Schulman: ...the hands as we go or would you prefer to?

J. Scott Evans: Yes. And then we need to find out if George just has a new hand or if that's an old hand?

George Kirikos: It's a new hand.

J. Scott Evans: Okay. Susan...

Lori Schulman: Okay. So then I'll recognize Susan Payne yes I will recognize Susan Payne.

Susan Payne: Hi thanks. I was going to respond to George's point. I think George is correct. There are effectively there are two different issues. I mean some premium names the premium name issue is a pricing one (unintelligible) until after sunrise is finished or can be. You know, some registries perhaps choose to hold their premium names and have a sort of a period of release at some point but they have a, you know, a sale of premium names or something like that but some don't.

So some premium names are available in adjusted premium price. And this question was always meant to be about challenging premium names overall. It was not meant to be specifically about whether to get them released in the

sunrise it was meant to be about challenging in both senses. And I don't know quite how we've lost the sense of challenging the price but we appear to have lost it somewhere along the way.

Lori Schulman: Susan if we could - I think that's a good point. If maybe you could note it in the chat so that Amr could put it in the notes that would be very helpful.

Susan Payne: Okay.

J. Scott Evans: Okay. I think George and then I see Paul is that an old hand? I think it might be. We'll do George and then Jon Nevett.

George Kirikos: Okay, George Kirikos again for the transcript. If we go back to Page 2 we actually have the definitions of reserve names and premium names. So it seems that you can't say that the premium name is unreleased that the premium name is available. So the wording of Question 3 on Page 5 requiring its release doesn't make sense because it's not a reserved name. It seems to be unless it is a fourth class which is like a premium reserved or premium held back which we haven't ever defined anywhere.

So it seemed the Question 3 in the first column seemed to be more about challenging whether it should be a premium name at a premium price. And the way it got reworded into the new column it doesn't seem to make sense because it seems to be arguing whether it should be released or not. And it's losing the aspect of whether it should be at a standard price versus a premium price. Thank you.

Lori Schulman: I think that's a good point. I see - now I understand where your confusion is, is the word release. Amr I think that's a critical note if you could note that about looking at the word release or even looking at premium and maybe it needs to say reserves but there is the issue of premium pricing and reserves. And sometimes they cross. And if that's going to create confusion in the questions then yes we need to unwind the questions even further. To Paul's

point about addressing certain practices that we know have happened in the past. So Susan is that a new hand? All right then Jon.

J. Scott Evans: Jon Nevett's next.

Jon Nevett: Thanks Lori. So it just a quick point out why we're asking for unfairly to be inserted in two and four and we look at both of those questions and you boil it down is saying essentially is there evidence that domain name pricing at all owner's ability to participate during the sunrise? And the obvious answer is yes. Obviously if someone is charging there's going to be less availability and it's going to be a limitation that doesn't really help us at all.

And the question is we really want to get to the instances like Paul McGrady mentioned where you have two sets of pricing or some - what could be argued to be an unfair practice not just the fact that there is pricing. And so that's why we asked for unfairly in number two and the before it seems like it showed up in number four but not a number two. And to Mary's point...

Lori Schulman: Okay.

Jon Nevett: ...we wanted to raise that issue. And we want to get relevant information and not stuff that's not going to really help the group move forward on some kind of consensus recommendation. Thank you.

Lori Schulman: Jon thank you for your trouble. Does anybody else have - okay we can move on.

J. Scott Evans: We've only got about ten or 15 more minutes Lori so...

Lori Schulman: Okay.

J. Scott Evans: ...you can try to power through.

Lori Schulman: We'll move on -that's okay we'll power through. So we're up to Question 7 where there was a suggestion on the - which is now a new Question 5. The first part of the question was did the current 30 day minimum for Sunrise period serve its intended purpose? And there was a suggestion to add particularly in view of the fact that many registry operators actually ran a 60-day period. So that's just a question of well what's really happening in the, you know, in the industry in particular time frames?

And then I will go down to B there was a suggestion and the question reads in light of evidence gathered above should the Sunrise period continue to be mandatory or become optional? Should the working group consider returning to the original recommendation from the IRT and SPI of Sunrise period or trademark claims? So I think that's just a debate we're going to need to have.

Moving down it looks like the others were typos not substantive. Going down to Question 11 with the ALOP, ALPQLP periods. There is a suggestion from the chat. Amr I'm going to ask you to read that suggestion quickly.

Amr Elsadr: Sure, thanks Lori. This is Amr. So this was a suggested addition from a remote participant in the Adobe Connect chat which reads whether other lawful rights in some jurisdictions like family names are nonregistered used in trademarks were precluded from getting priority as a result of ALPQLP or LRP?

Lori Schulman: Okay. We'll note that as a consideration and then move on. All right down to Question 13 there was suggested rewording as well as some comments in the bubble. So the original question was...

Amr Elsadr: Lori.

Lori Schulman: Yes? (Unintelligible) from somebody?

Amr Elsadr: Yes sorry this is Amr again.

Lori Schulman: Sure.

Amr Elsadr: Yes. I just wanted to point out the highlighted bullets under Question 8. One of the comments in Johannesburg regarding the first bullet under the header the question asking are limited registration periods in need of review via the Sunrise period? I think one of the comments was that this should not be a yes or no answer and it should be qualified with the second question which was added. So this was a new the one highlighted in the (unintelligible) says what aspects of LRP are in need of review? So it was just a suggestion to expand on this question in order to avoid the yes or no answer. Thank you.

Lori Schulman: Okay thank you, thank you Amr. So we'll move forward to 13. The original question is on the side. It says is it possible to expand the charter questions to include some of the underlying TMCH questions concerning trademark scope and the Sunrise period? That's the main question. We considered that question 13 we reworded it and batched it with Question 18 because we feel it covered similar themes. And we boiled it down to in the light of evidence gathered above should the scope of the Sunrise registrations be limited to categories of goods and services for which the trademark is actually registered and put in the clearinghouse?

I think this goes to some of the comments that Rubens has made in terms of when it's appropriate to keep a word and people famously like to use police, police for music versus police for let's say a geographic term like police.nyc. This is a big question. We know Amr if you'd like to read the comment in the bubble that would be helpful.

Amr Elsadr: Yes, thanks Lori. Yes the comment in the bubble says for gTLD's jurisdiction of the mark in question should be added as well. But I also wanted to point out that this question reworded as a result of feedback that the original wording was not some very clearly understood. So the question - the rewording here was suggested by Susan Payne during the meeting. And - but

is of course open for further editing or finding if the working group feels it's appropriate. Thank you.

Lori Schulman: Thank you. If I recall we had considered Susan's comments in the open meeting and had suggested that they do be added to the chart. So I appreciate that they were added in between the meeting and now. Maxim I see your hand.

Maxim Alzoba: Maxim Alzoba for the record.

Lori Schulman: Yes.

J. Scott Evans: I think we just lost him.

Maxim Alzoba: Okay I hope you hear me well.

J. Scott Evans: We can now.

Maxim Alzoba: Oh yes just wanted to underline that we shouldn't forget one simple thing (cold) picket fence well known to each registry. Basically it said (unintelligible) in the registry (unintelligible) saying that ICANN is forbidden from certain things. And one of those things is the regulation of prices. Yet each (unintelligible)...

J. Scott Evans: He's fading in and out. If you could put...

Lori Schulman: Yes I can't hear Maxim at all. Maxim if you're on maybe you could type into the chat? That might be easier then we can note your comments in the notes. I think that would be helpful. I'm going to move on in the interest of time.

J. Scott Evans: Thank you Lori.

Lori Schulman: Yes so Question 17 we're down to Question 17 which is now Question 11. The original question was to Sunrise work for registrants and trademark holders and other scripts languages and should any of them be further internationalized such in terms of service providers, languages served, et cetera?

Maxim Alzoba: The rough work.

Lori Schulman: Yes please - somebody please type into the chat to please have Maxim...

J. Scott Evans: I will.

Lori Schulman: Thank you.

J. Scott Evans: He seems to have gotten it because I see him but...

Lori Schulman: Okay. We decided to rework this and accepted some feedback as how effectively could trademark holders who use non-English scripts languages participate in Sunrise including IDN Sunrises and should any of them be further internationalized? So that was the question. I don't believe that there was any further comment about it but this is the suggestion rewording.

And Question 18 that was included in Question 5 and nine. Amr there was an AC chat comment about it looks like Question 18. If you could please read that I would be much appreciative. I think it says consider also whether TMCH implementation for IDN followed the something rules technical standards, et cetera. I can't read one of the words.

Amr Elsadr: Yes thanks Lori. This is Amr. It says consider also whether TMCH implementation for IDNs followed the LGR rules...

Lori Schulman: Oh okay.

Amr Elsadr: ...(unintelligible), et cetera, et cetera. Note SSAC believe that this may not have been the case. This was a...

Lori Schulman: Okay

Amr Elsadr: ...(unintelligible) by Rubens in the Adobe Connect room.

Lori Schulman: All right I don't recall what LGR are means. So if you wouldn't mind putting the extended meaning of LGR in there for others including myself who may not recall that would be helpful.

All right moving on down to Question 22. There was some questions that were considered to be claims questions. And in fact we have determined were probably more rightly Sunrise questions. And so we reworded these to be geared toward Sunrise they are now are Question 12. And it should Sunrise registrations have priority over other registrations under specialized gTLDs? Should there be a different rule for some registries based on their published eligibility policies? This goes to the example that we discussed before when is it or isn't it appropriate to grant certain names sunrise status if the rules of a particular gTLD wouldn't necessarily lend themselves to that? And here you see the same as police the famous police illustration. Amr there is a comment there that I absolutely cannot read about a special purpose TLD. I just see the first three letters and I can't read anything else.

Amr Elsadr: Thanks Lori. This was actually an old comment by Christine Dorrain on a previous iteration of the table in questions. And during the last call prior to ICANN 59 we noted that this comment is no longer relevant so we can delete it. So I think you can just ignore it and move on.

Lori Schulman: Oh great thank you. So then we're through the questions. And we do...

J. Scott Evans: Great.

Lori Schulman: ...yes we do have some work to do. I think Susan Payne's hand is up.

J. Scott Evans: It is.

Lori Schulman: Is that a new hand Susan?

Susan Payne: Yes, it is. And it's a comment on this Question 12 or 22, I'm not sure what number I'm supposed to use, 12 I think.

Lori Schulman: Twelve for the reconstructed question.

Susan Payne: The text in the beginning with the highlights I think is new. And I'm not sure that that's helpful. I think that the wording that's been added that it isn't highlighted that Jeff says should there be different rules for some registries or it could say something of the different types of registries. I think that does the task perfectly but I'm not sure that we know what is specialized gTLD is.

And I'm not - I don't think that addition is helpful. The point was that we had language that had originally said something like should the Sunrise be still be mandatory for certain TLDs or something. And we were trying to make that a bit more measured and try to reflect the fact that doesn't necessarily have to be an on off process that there might be slightly, you know, some certain types of registries it might be appropriate to have some slightly different process which wasn't necessarily turning the Sunrise off altogether. And so that was why this question was being amended and I don't agree with the wording in the highlight.

Lori Schulman: Susan, thank you. I tend to agree. I think that the highlighted yellow there is a presumed priority that's why it's sunrise. I think the presumption is there. I don't know I think it might confuse it. I - I'm not sure but that's my initial reaction as well. So although Kathy I see in the chat is saying we heard a lot about specialized gTLDs in the third hour. I would not recommend changing that but at least let's talk about how we might clarify it then that it doesn't

confuse the two questions. I think that's something that the group will have to make some sort of decision on.

J. Scott Evans: Great.

Lori Schulman: You know, because it's a more basic question yes. So but we've noted the concerns from Kathy and the concerns from Susan today. So I think that's important. And then...

J. Scott Evans: Okay, well let's look...

Lori Schulman: ...do we have time to run through the data? I have one question though I would like to ask the group before we run through the data?

J. Scott Evans: Sure.

Lori Schulman: Okay. So the question is this what we've done is we had presumed upon ourselves that we were not to change wordings to the questions. That's why we have it - it looks confusing but it actually makes sense if you think of the task. We - here are the original questions all 22. We've done what we were asked. We've sorted them, we've bunched them we've clarified them to the extent that we could in the timeframe allotted.

We have now come out with a set of 12 multipart questions that we do believe clarify the issues that were raised. What I would like to ask this group if we're ready to remove the 22 questions and we can take the reworded questions and put them in the format similar to what we saw in (Joberg) and so we can keep moving forward with less confusion or do people still think it's important to have these other questions available for ready reference? So basically I'm asking if we can take the refined questions moving forward and have those be considered the questions for the group provided the changes that I've made in the notes and comments, George's questions, comments from Susan and Kathy, et cetera, are taken into consideration?

All right I will move on. People can answer in the chat although it seems to be we have a mixed reaction. So I would ask maybe the chairs at some point might ask the whole group to take a vote on this just to help us keep the work clear?

J. Scott Evans: Well and speaking as one of the chairs Lori the whole point of this exercise was to come up with a list of questions that were refinements of the charter questions that we could all agree on. So I would say and it seems to me that I'm hearing from the group just looking at the chat casually that they agree that once we come to an agreed upon group of questions the refined questions these that you've presented us today that, that would - is what we would proceed with.

Lori Schulman: Okay. So in further discussions can we remove the first one too in presenting them? That's my question.

J. Scott Evans: Well I mean I think they should be in an annex somewhere so we know what the original questions were because that's one of the things that we've seen as we've dealt with this is we know where we ended up and nobody can tell you how we got there. So as long as we have a record of what those original questions were I think it's okay.

Lori Schulman: Okay we will proceed with that assumption. And I'm going to propose that we remove 22, put them in as an addendum, and people can refer to them when they need to. And I think it'll clarify reading this chart which has become difficult I think. And do we have time now to go through quickly through I can throw it back to you J. Scott for data gathering but would you like to...

J. Scott Evans: Yes. Let's do the - lets - you take us through the data that you think we - you all have determined that we're going to need. And then we need to talk about how we're going about getting that data.

Lori Schulman: Okay. So we've highlighted the questions. And the - these are the reworded question numbers. So they follow the numbers in the thin column. It would be the fourth column on the chart you're reading. So the first one is the original Charter Question 2, is there evidence that registry Sunrise or premium name pricing limits owner's ability to participate in Sunrise? And so how extensive is this problem?

We do need data on this. Some of the suggested sources were the INTA survey which has already been done. It's been posted to the CCTRT wiki. And we can post it to the RPM list as well. There are - there is anecdotal evidence from trademark holders and registries regarding their experiences that may be helpful to the group. We've actually categorized that anecdotal evidence as well and are happy to post it by category if that could be helpful to the group. So we could use INTA survey. There - but there may be register and registry sources as well that we are not aware of.

Going down to reworded Charter Question 4 should registry operators be required to publish their reserve name list? What registry concerns would be raised by that publication and what problems would it solve? The sources here could be anecdotal data from different stakeholders including registries, registries that exist in jurisdictions that prohibit the publication of the specific word strings example profane language should especially be sought for input. So again this is about anecdotal evidence more than quantitative evidence at this point.

For original Charter Question 11 our limited registration periods in need of review vis-à-vis the Sunrise period, approve launch programs, qualify launch program or the ALP and QLP periods in need of review? The sources for these we suggested could be TLD startup information page that has data that can be mined as well as anecdotal data from registries. Dot Madrid is the only registry known to the sub team that has used in ALP but there may be others.

Original Charter Question 17 reworded Question 11 how effectively can trademark holders who use non-English scripts languages be able to participate in sunrise including IDN Sunrises? And should any of them be further internationalized in terms of source provide - service providers languages served? The sources here we would say we would need a survey of IDN gTLD registries for the number of Sunrise registrations that have taken place. We'd like to see volume here to determine whether or not there is an issue. Without understanding how the sunrise is being used in non-English scripts and IDNs it's hard to answer the question.

Original Charter 18 which was not reworded does the sunrise adequately address issues and registrant protection such as freedom of expression and fair use? For sources we could reach out to the SO, ACs, public interest groups, and trade associations, registrars and registries for information most likely anecdotal, review articles including investigative reporting articles about the registration of domains in Sunrise periods that have been noted to have an impact on free expression, fair use and the ability of registrants to register domain names possible additional questions for the reporters on their research and findings. I'm going to add here that this suggested - of expression side of things but an earlier questions this type of data would also be helpful on the trademark holder side were there's been very well documented reporting of trademark, you know, differential pricing for trademarks and so on.

Original Charter Question 21 which was not reworded. In the latest concrete cases case law and from the perspective of owners of protected signs and of marks which are the identified (unintelligible) of Sunrise? Anecdotal we determine anecdotal examples should be obtained. There may be some in the INTA study. In terms of case law our litigators out there I am not aware of any particular cases regarding sunrise but they may be there and it would be good to know if they are. And I will yield the floor back to J. Scott.

J. Scott Evans: Okay, thank you very much. I see that George has raised his hands so I'm on going to acknowledge him. George is that an old hand? Okay well then is - so I guess, you know, since we only have about 30 minutes left I'm going to - do we want to talk sort of about how we're going to go about getting this information the data that we've seen? I'm going to ask if Mary is able to speak if she has some ideas of things we might do and how we might go about getting this - the data that we've - that Lori has just identified for us. Mary.

Mary Wong: Thanks J. Scott, Lori and everyone this is Mary from staff. We've been thinking about this a little bit as well. And one initial comment I'd make is that we did get at least one additional suggestion for data collection in relation to Sunrise at the (Joberg). As noted earlier that was a suggestion by (Denise) that we also collect data on pricing for different Sunrise periods. And that can probably be done through the TLD startup page as well as through various other sources.

I think the general approach it seems to us might be to look at those questions that actually have been agreed to by the working group as charter questions to consider. So for example what is now reworded Charter Question 8 and 11. You'll recall that I think early on when we started the sub team process the idea was to get an early start on the data collection for those questions that will need the data. So J. Scott I suggest that perhaps as an initial step the staff and co-chairs can take a look at these data collection questions and try and...

J. Scott Evans: Okay.

Mary Wong: ...see which ones might require more time and which should go first? And we can do it in that order.

J. Scott Evans: Okay, that sounds like a good plan. That sounds like a really good plan. And I think that will assist us in - as we move forward. Do we - (Michael) are you still on the call?

(Michael): I am. Can you hear me?

J. Scott Evans: We can.

(Michael): Okay, hopefully I won't hack too much. I was going to - well I guess I did raise my hand to say something following up Mary. I think, you know, once we have both sets of questions and the data that has been identified by the two sub teams then I think that's what we can sort of put together. For example there are a number of references in both of these groups to seeking anecdotal data and once we can pull that together that would be good.

Some of the other more empirical data looking for particular sources to pull that together as well and hopefully at the end of the day then we'll have both an identification of the sources of data and also what we're going - what we can try to seek from them. And as Mary was saying which of those are going to require more time to obtain or more effort going forward.

J. Scott Evans: Great (Michael). Can you lead us through the claims document?

(Michael): I can as soon as Amr puts it up. And Amr I'm going to ask to sort of help out because I was not at (Joberg). I did hear most of the session but had some issues. So it's really going through as I understand it and correct me if I'm wrong from what we just did is going through the updated questions where there are comments or questions.

J. Scott Evans: That's correct.

(Michael): For example - right. So in the first updated question here which was, is the trademark claim service having its intended effect? And then there was a

comment from Rubens and (Amedeo) as I recall need to note that there may be other reasons for abandonment including software, defect on registry or registrar side, possible harvesting of claims notices and generally registrar abandonment.

And I think that would be the sort of information that we would try to identify in collecting and gathering of the information also we're trying to find from, you know, to the extent possible what the reason for abandonment was. And that sort of goes to the question of we have some figures from some of the surveys from other groups what do they mean? So I think that those comments Rubens and (unintelligible) would be something that would be taken into consideration in looking for the data.

Then the question I guess I raised is in connection with the B sub question here under one is the trademark claim service having any unintended consequences and - such as deterring good faith domain name applications? And my only question - well there were two things. One I changed - oh that was looking at the other one. The question I had was whether or not the last part of that was necessary and desirable or if it's slanted the answer? I really don't have an opinion one way or the other and I think keeping that in there at least serves to provide clarity as to what we're talking about as unintended consequences.

J. Scott Evans: Okay.

(Michael): So I would at this point leave that in there. I don't think there were any other comments on that. And then the other part of that and looking at the data available again 1B where we suggested looking for - and so - should I go ahead and handle that now or wait...

J. Scott Evans: Yes, why not...

(Michael): Okay.

J. Scott Evans: ...because your time is more limited.

(Michael): Yes. And so the question there was just trying to come up with a definition, you know, and the terms global, generic and others have been tossed around. And, you know, are - all of those are based on context whereas I thought dictionary terms would be a way of clarifying what we're talking about. So this would be dictionary terms versus those who abandoned attempts in response to distinctive trademarks. It begs the question in some cases I suppose of trademarks that are originally and in some context dictionary terms. But I think it clarifies it a little bit more than global. I think Jon put up his hand. Jon you want to...

J. Scott Evans: Yes we've got Jon and then George.

(Michael): Right.

J. Scott Evans: Jon.

Jon Nevett: Thanks. Yes thanks (Michael) and J. Scott. Just a quick point on one and two, I think we raised the issue and I see it later on but when we talk about the claims service the Trademark Claims service as a generic term we might get different answers depending on whether - which part of the claim we're talking about. Is it at the same notice to the potential registrant or is it a notice to the trademark holder? So as we suggested in Johannesburg breaking this up into two parts so it's not just the Trademark Claims service having its intended effect but breaking it up into two parts. I'm not sure if we capture that sufficiently in three and later on but I didn't want to lose that point that we raised in Johannesburg. Thank you.

(Michael): That's a good point Jon. I just wonder if that means that we would have to duplicate for clarity, locate the questions or if we would have those and how we might phrase that? That's something I'd have to think about. You know, I

don't think we had any suggestions on rephrasing of the questions so that we would clarify that. And I guess that's what would be left. Let me think about that and we'll come back. George...

George Kirikos: George Kirikos...

Amr Elsadr: (Michael) sorry this is Amr if I may just comment on that very briefly.

(Michael): Oh yes.

Amr Elsadr: Thanks. This is Amr from staff. And I just wanted to note that we did capture Jon's comment in Johannesburg as far as it concerned questions two and onward. But I can see now that it would make sense to also include Question 1. But I wanted to point something out so on Page 1 in Footnote 1 it says that the sub team agrees that as used in this list of charter questions the phrase Trademark Claims covers both the preregistration's claim notice that is sent to a domain name applicant who is attempting to register a domain that matches a trademark label at TMCH and the post-registration notice of the registered name that is sent to the relevant rights holder when the registrar proceeds to complete the registration.

So this footnote was meant to clarify that both types of notices are being considered with each one of these questions and should also be considered when the questions are being answered. I don't know if this footnote serves the purpose adequately the purpose that Jon pointed out or not or whether the working group feels that further clarification would be required. And I see that Jon says that it doesn't. And so of course staff is open to suggestions on possibly rewording these questions and making it clear that both types of notices are being referred to in these questions. Thank you.

(Michael): Yes. Let me go ahead and have George but after George Jon I'd like to come back and ask -- so you'll have time to think about this answer -- whether or not it doesn't is referring to the fact that it's being used as a footnote. And

might have the desired effect if we were to make this as a preliminary statement similar to the definitions we set out for the Sunrise section. But George do you want to go ahead?

George Kirikos: Thanks, George Kirikos for the transcript. Yes I just want to clarify that perhaps it shouldn't just be the word dictionary terms it should perhaps also include other widely used terms such as acronyms common geographic terms. For absence of using the word dictionary terms an alternative might be widely used terms and there are different metrics that one could use to determine whether something is widely used but for example there's a lawsuit that was filed yesterday or the day before regarding Point Lookout which, you know, Bryan Adams apparently used to own. And, you know, the current owner of it would consider it a widely used term because it's a geographic term. And so eliminating it I think just from the dictionary might be limiting in terms of what's a desirable and widely used term. Thank you.

(Michael): Thanks George. So would you be suggesting then based on inserting language in addition there so based on dictionary terms - dictionary and other widely used terms? I guess widely used I love my company's trademark so I hope they're widely used but...

Man: What by multiple parties in terms of - now if you look at for example the word math. That's a dictionary term. Let's say an acronym of (play). It's...

(Michael): Right.

Man: ...by many organizations. People used -people had opencorporates.com there are literally thousands of companies that use that term in their name. And also geographical terms, you know, all Philadelphia in the dictionary some of the more obscure Geo terms might not be in the dictionary. But, you know, it would be, you know, widely used by different parties as trademarks or non-trademarks. So I'm not sure what the correct language would be but

limiting it to fair terms doesn't really capture what's desired by many potential registrants.

(Michael): Mary is suggesting in the chat that we consider a set of words or terms what the (unintelligible). Is that what you're getting at Mary and have people opine on that. I'm not sure what you're getting at. Do you want to clarify that?

George Kirikos: It could - George Kirikos again. It could be a set of just different terms. It could be acronyms, dictionary words, commonly used phrases and other widely used terms.

(Michael): Yes. I mean we've, you know, sort of a generic term that was used before as sort of a catch all and generally understood although incorrect. And I think that's one reason why we're suggesting dictionary terms. I wouldn't include acronyms because they are not generally understood and they have various meanings and may be protectable as trademarks as well. Yes it's - I guess what would be useful would be if you had a suggestion on what language we might insert there or clarification.

((Crosstalk))

(Michael): J. Scott is suggesting perhaps we use something rather than just dictionary terms using dictionary terms and other terms that have a non-trademark significance.

George Kirikos: George Kirikos again. Calling out what Susan is saying in the chat room what are we trying to do here? So it's like a term is a trademark but then how distinctive it is - is it compared to on the spectrum of trademarks, you know, where there's basically one potential a legitimate for lack of a better term user of it or registrant of it versus, you know, thousands of prospective registrants?

I don't know if, you know, we have the ability to measure that strength or distinctiveness. But that's probably what the question is trying to capture

whether, you know, one trademark is registered in the TMCH but then there are thousands of prospective registrants and one of those...

(Michael): Yes.

George Kirikos: ...perspective registrants that isn't in TMCH has abandoned their attempt to register it based on that one warning.

(Michael): I think probably - and Greg I don't know - why don't I ask Greg if he wants to jump in. I have an idea here but I saw that your hand was up there for a bit Greg. You might have a solution or a suggestion.

Greg Shatan: Thanks, Greg Shatan for the record. I'm not sure that I have a solution but I'm concerned that this assumes a false dichotomy between dictionary terms and distinctive trademarks. You know, at least in the trademark sense and I see Jeff Neuman's note here we should not be discussing trademark law here or the different levels of distinctiveness. And I agree with that.

A trademark can be distinctive and also be a dictionary term. Not to pick on J. Scott's employer but Adobe is a distinctive trademark. It's also in the dictionary. So if we want to get at anecdotes about people dropping - why people are dropping their applications maybe we need to ask about that rather than try to create some sort of categorization which is only going to get us, you know, down a series of rabbit holes.

And so, you know, the idea that any of these that is a deterrent for the right or wrong reason, you know, really has to do not only with the mark but with the intent of the applicant. So, you know, looking only at the string and not the reason only gives us half an answer anyway. It wouldn't be a worthwhile anecdote to know whether somebody to register adobe.software in order to sell bootleg Adobe software versus whether somebody want to register adobe.building in order to advertise their business of selling - of making adobe bricks for buildings or just provide information on adobe bricks. So,

you know, we're kind of, you know, dancing around a bunch of issues here perhaps, you know, each with our own innate positions about them. But, you know, just trying to load everything on to this question is going to end up with a complete lack of usable information. Thank you.

(Michael): Thanks Greg. And I think going back and looking at this it seems to me and I do not recall if there was a specific conversation on this and Amr and Mary you might it seems to me that the intent of this portion so there are two portions of 1B one is anecdotal data to address whether or not it's having unintended consequences. And the second one is looking at what terms actually were applied for and abandoned and understanding how many of those might have been generic descriptive dictionary terms as opposed to very distinctive terms so that we would be able to presumably draw some ideas or conclusions about the effects of the notice having an unintended consequence of preventing people from going ahead with these generic applications.

So perhaps, you know, that's what it was trying to get it. And perhaps it would be better simply to leave it more open if we wanted to try to get that information such that it would read more granular data about the nature of the terms of the domain name - the nature of the domain name applications that were abandoned in response to claims notices period. And...

J. Scott Evans: (Michael) I noticed that Mary's hand is up and then Greg's hand is up again.

(Michael): Okay yes. Mary, go ahead.

Mary Wong: Thanks (Michael). This is Mary from staff. So staff has been thinking about, you know, the sort of next steps for data and mindful what J. Scott asked for the Sunrise set of data suggestions as well. And our suggestion here is that rather than trying to decide what actual term to use in this 1B it seems from listening to everyone that folks more or less have the same general idea about what it means and what we're trying to do.

So to the extent (Michael) as you said that we go ahead with data collection on the anecdotal basis for this 1B we wonder if it might be actually more useful when the time comes and it may come quite soon to just decide on a set of what those terms are whether they be the descriptive words or a set there of and a set of distinctive trademarks and go ahead and get that data whether that would be more efficient. Thanks.

J. Scott Evans: Thanks Mary. I noticed that Greg Shatan's hand is up and then I see the Kathy Kleiman has raised her hand.

(Michael): Okay Greg, go ahead.

Greg Shatan: Thanks, Greg Shatan again. Just to reiterate I think any - if we're collecting anecdotal evidence we need to collect both the reason for the withdrawal or dropping of the application and not just the string because we don't know whether - we can't draw any conclusions about the reasoning. Maybe we could draw the conclusion if it's a fanciful made up trademark but even then we don't know what the reasoning was.

And if it's a trademark that is arbitrary, or suggestive, descriptive then we don't know anything about what the reason is for this. So, you know, as Jeff points out we don't know anything about the intended consequences or unintended consequences because we don't know anything about the intentions of the applicant. So I think any question 1B has - can't just ask for the string. Thanks.

(Michael): Thank you Greg, Kathy (unintelligible).

Kathy Kleiman: Responding to several of the issues raised - so this is Kathy Kleiman of course. To Greg sure we can ask both about the string and about the rationale to the extent that people can provide it that makes sense. Regarding the dictionary terms I agree with Mary. We all understand what we're talking

about here. So I would keep it because we know exactly, you know, we know the general category. It raises the same idea in everyone's head. If you want to expand to include in other commonly used terms in that case we're probably talking about first and last names among other things and geographic places well-known (unintelligible).

But for Mary I don't think that there's any way to identify ahead of time a class of words that we should be looking for. That's why we're going out to gather the evidence to try to predetermine what that is would, you know, it's pure guesswork. And we'd probably miss most of it. So no I wouldn't - I don't think we can do that.

I'd also expand this to, you know, anecdotal evidence from registrants, domain name applicants and probably from reporters. One of the ways we're getting our information is from some of the stories that are being written by some of the reporters that track domain name issues. And they're somehow party to evidence that's not public but they're publishing it based on their investigations. So I would add that as another source too many of the areas we're looking at data which again would be the reporters and the stories they're publishing both about Trademark Claims and Sunrise. Thank you.

(Michael): Yes Kathy this is (Michael). That's a really good point going to some of those sources with some of that information.

J. Scott Evans: I see George's hand is come back up.

George Kirikos: George Kirikos again for the transcript. Do we actually have a list of all the domain names that were attempted to be registered which one of them got the Trademark Claims notice and which ones was abandoned? Like if we had domain name by domain name then we could, you know, go back and kind of group them, you know, we could sort the domain names - sorry we can sort the TMCH string by length or whether it matches, you know, dictionary terms, geographic terms, you know, it's kind of a bit fuzzy.

But at least if we had all the data, you know, let's say, you know, the term Philadelphia was rejected 50 times out of 60 across all TLDs not just one single TLD then that might tell you something versus, you know, the term Exxon being rejected, you know, 99 times out of 99 times. So if we had all the data and then could go back and try to group it later that might, you know, allow us to ask that question.

J. Scott Evans: Thank you George.

(Michael): So George your question was whether or not there was a data that actually would identify which names specific names were abandoned correct?

George Kirikos: George Kirikos, yes like do we have that level of detail like that, you know, 10,000 people tried to register google.something string. And then...

(Michael): Yes.

George Kirikos: ...99% of the time, you know, they abandoned it versus, you know, 400 tried to register AAA and 350 abandoned it or something like that so we could then later go on and say, you know, the term Google is, you know, a fanciful mark, the term Philadelphia is both a geographical mark and a perhaps a dictionary term and so on.

(Michael): Right. I wonder Amr or Mary I know that the statistics that we have were from the Analysis Group Study and report with the number of claims in such and abandonments. I do not recall if we asked them if they had a list of the specific names that were abandoned. Do you recall Mary?

Amr Elsadr: Hi (Michael), this is Amr. And I was just typing this into the chat. The data that the Analysis Group included in its revised report did include a comprehensive list as what George is seeking. But if I recall correctly it did include the top ten strings that prompted trademark notifications or trademark files being

downloaded from the TMCH. So I don't think that's exactly what George is looking for but I believe it did include the most common ones but not a comprehensive list of all of them.

(Michael): Right. But suggests I guess Amr that they would be able to put together a list of all of them if asked that they were simplifying it for digestion.

Amr Elsadr: They probably could. But I'm not sure if they are in a position to share this information with the working group.

(Michael): Okay.

J. Scott Evans: Okay, Jeff Neuman.

(Michael): Jeff.

J. Scott Evans: Jeff you're a mute.

Jeff Neuman: Sorry it takes me a second to get off - yes well I was connecting the audio. I didn't have it connected. I was thinking about whether to make this point in the conversation or just on the chat.. I made it in the chat. I think at some point we kind of need to be real as a group here about data that we're actually able to get versus data that we may need to recommend on a go forward basis.

Other than potentially ICANN insiders or domainers that apply for names that may even know that this group exists to review things I don't see anyone coming forward or us being able to reach anyone that potentially applied for a name but then dropped it or even accepted it based on a claim simply because the information wasn't collected initially. And anyone that comes forward to tell a story is inherently suspect because there's no way you can prove they actually did or did not apply for a name.

So I'm just really, really concerned that we're spending a lot of time talking about data that we know at this point we can't get. I think to make any kind of determination as to a chilling effect or whatever at this point is not going to be achievable. But we could see a recommendation from this group to see if we can survey, or the clearinghouse or someone can introduce a survey as to why people reject it in the future without in the next review if we ever do another review. And we can actually use that information that's actually reliable, and (unintelligible) information or press stories that are seeking the controversial. The one exception to the rule I just - it's not reliable. I mean we could talk about it over and over again but I think we really need to get down to provable things as opposed to anecdotes.

(Michael): Thanks Jeff. George.

J. Scott Evans: I would - yes we've got George and then Kathy.

(Michael): Yes and we've got what four minutes.

J. Scott Evans: Yes. Make it quick guys.

George Kirikos: George - yes George Kirikos. I don't think the fact that we, you know, we're missing the data because it wasn't collected at the time is, you know, necessarily something that fully prevents us from being able to do our work. You know, if we had the data we're looking at and obviously the Analysis Group has it because otherwise they couldn't have completed their report it's a matter of whether they're willing to share it or not we're able to draw those inferences if we know that, you know, only 20% of the time hotels something was abandoned versus, you know, Exxon being abandoned 99% of the time. That tells us that, you know, then the TMCH isn't having a chilling effect but, you know, unless we have that granular data we can't make those inferences.

I agree that, you know, it would have been better if, you know, people had been surveyed at the time, you know, why are you not following through with

this registration? And have a survey at that time but obviously ICANN didn't think things through properly and didn't force registrars to collect that data.

(Michael): Thanks George. Kathy.

Kathy Kleiman: Okay very fast. This is (unintelligible) right why are people turning around at 93.7% when they see the Trademark Claims notice? As many people have said we never expected anything that big. So let's ask the question. If people don't want to answer it fine but we know based on public outreach that they've already tried to answer it including registries that worked with anchor tenants or pioneer tenants as some people call them. So let's ask the question if we don't get answers then we know the data is not there. Thanks.

J. Scott Evans: Okay thanks Kathy. With that I'm going to call the call to a conclusion for today. Oh Susan.

Susan Payne: Yes I - once I think we've asked this question already. The Analysis Group were asked to go back and try to determine better data that would enable them to understand the 94%. They couldn't get it. They asked for input they couldn't get it. We've asked registries and registrars for information we've got no responses. We are just wasting our time.

J. Scott Evans: Thanks Susan. Mary?

Mary Wong: Hi J. Scott. Actually I was going to go into the next steps for the agenda items. So I can desist if you want to close out this particular discussion.

J. Scott Evans: Yes. I just wanted to close this out. What I'd like to do is have either (Christine) or (Michael) on the call so we can finish out the claims service questions on the first like 30 minutes of next week's call. And then we need to start looking at these - the chairs will have already done it and maybe we can start presenting sort of a work plan for how to gather the data we're going to

gather so that we can get agreement on that and we can get that out. That was going to be my suggestion. Mary, I'll turn it over to you.

Mary Wong: Thanks J. Scott. And just to note that for the Sunrise portion we do have some homework to do. And obviously staff will get together with the working group co-chairs and if appropriate the sub team leads as well to reorganize those documents for Sunrise at least. And it comes after next week for claims. We just wanted to add two things. One is that the poll on the open TMCH questions because some folks were busy and traveling the week after ICANN 59 the co-chairs have agreed that the poll be kept open through the end of this week. That is this Friday which is the absolute last day to get your poll answer answers and in if you haven't already.

The link is an email sent by Amr. We can send that around again. And the only other thing J. Scott is to note that as Susan Payne as told us that the rotation for this particular I guess trimester seems to clash with the Registry Stakeholder Groups calls which was not intended to be the case. So we may need to move the rotational time and adjust them accordingly.

J. Scott Evans: Okay.

Mary Wong: And this is just to let folks know that that we will work that out. Thanks.

J. Scott Evans: Thanks so much. Okay with that I'm going to call the call to a close. Thank you everyone for your participation today. And have a wonderful rest of your week and we will meet again next week. Ciao.

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