

**ICANN  
Transcription  
Review of all Rights Protection Mechanisms (RPMs) Sub Team for Data  
Friday, 02 March 2018 at 17:00 UTC**

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Coordinator: Excuse me, recordings have started.

Michelle DeSmyter: Thank you so much, (Ned). Well welcome, everyone. Good morning, good afternoon and good evening. Welcome to the Review of All Rights Protection Mechanisms Sub Team for Data call on the 2nd of March, 2018.

On the call we currently have Rebecca Tushnet, Cyntia King, Susan Payne and Kristine Dorrain. We have no apologies but Philip Corwin will be joining us later into the meeting. From staff we have Mary Wong, Berry Cobb, Julie Hedlund, Ariel Liang, Antoinetta Mangiacotti, and myself, Michelle DeSmyter.

As a reminder, please state your name before speaking for transcription purposes and please use your mute button when not speaking. I'll turn the meeting back over to Julie Hedlund.

Julie Hedlund: Thanks, everyone, for joining today. We really appreciate it. So we are continuing our discussion of the additional marketplace RPMs and then also on the agenda we have a discussion of the timing of future meetings and in particular ICANN 61.

So I don't know how you all want to do this, if you would like staff to lead the call today, we're happy to do so, or if someone else would like to lead the call, we would welcome that as well. I'll go ahead and pull the document up right now. And let me ask too if anybody has any other business they would like to raise.

I'm not seeing any hands up for any other business. And I am not seeing any volunteers for leading the call today. Oh, Kristine, you have your hand up, please go ahead.

Kristine Dorrain: Hi, thanks. This is Kristine. I hope that my voice – I'm sick so hopefully my voice isn't too awful to listen to. I just need to backup, sometimes when these calls start I have to like wrap my head around where we left off. So what we're talking about today – I see the doc on the screen – what we're talking about today is we're diving into the additional marketplace RPMs and we're going to try to figure out what data we need for that. But the point isn't necessarily to roll it into the survey, it is to figure out what other data we need and maybe also how we're going to get that, is that the correct understanding?

Julie Hedlund: Hi, thank you so much Kristine. This is Julie Hedlund from staff. That is I think the understanding. The survey is now close so we did identify a couple of things – a couple of different questions that we pulled out of here, at the last meeting, that were then added as sort of additional information that could be provided; they weren't added to the survey per se but additional information that could be provided for the data table. And Ariel Liang is saying, "Questions included in the survey data table are highlighted in the document." So actually if you scroll through, and it is unsynced, you'll see that Question 5 was included in the survey, Question 4, and the other Question 5.

So we did pull out some that we thought were in scope during the last meeting that could go into the survey for the survey providers. The others,

yes, we want to look through here and see what kind of data we might need to gather for these additional marketplace rights protection mechanisms and Ariel or Mary can correct me if I'm wrong in that assumption but I believe that's where we stand today.

Go ahead, Kristine.

Kristine Dorrain: Thank you. One more follow up question. Again, this is Kristine. So do you – can you remind me then, I didn't actually have time this week to listen to the transcript from last week, where did you guys leave off – I know I wasn't on the call last week.

Julie Hedlund: Thank you very much, Kristine. This is Julie again from staff. So all we did last week was try to see if could identify items that, you know, might fit within the scope of the survey. Those were the ones that are highlighted here. And so otherwise we didn't methodically go through this document so – but I could be wrong in that. Susan has her hand up so I'm going to defer to you, Susan, please.

Susan Payne: No, no you're not wrong at all. I just – I thought perhaps I'd leap in. We basically towards the very end of the call we were just very conscious – I was just very conscious that we have an extremely small window for if we wanted to get any of the data relating to these marketplaces – marketplace RPMs into the survey. And we had a cutoff of Friday. So we did really, really kind of quick canter through.

And, you know, it probably wasn't ideal in the sense that, you know, we all had to do it very much on the hoof but it was literally we kind of started at the beginning and I think we got all the way through to the end but literally going like, you know, is this question one where it fits within the survey both in terms of – it would be information we would be seeking from the people we're surveying but also it falls within the scope of what's been signed off on so that we wouldn't be expanding the scope of the survey in any way. And that's how

we ended up having identified those particular highlighted questions as one which did seem genuinely within scope and, you know, and to fit those criteria.

And so we didn't have a kind of deeper dive on what other data might also be relevant to those questions or what other data might be relevant to the questions we ruled out. So I think in that sense we could start again from the beginning effectively if people don't disagree.

Julie Hedlund: Thank you, Susan. That's a really helpful explanation. This is Julie again from staff. And we really I think only spent about 15 minutes or so on this on the last call. And as you said, we're really trying to work as quickly as possible to pull out what could fit into the survey by the deadline of last Friday. So I think that's an excellent idea to start from the top, excuse me, and I'm not seeing anybody disagreeing with that. And again, if you'd like staff then can, you know, walk through this unless someone else would like to – unless someone else would like to be the, you know, the leader or whatever. But staff is happy to walk us through the document.

And I see that Kristine, no, we don't want you to have to do that if especially if you're not feeling well, so yes, support staff is happy to take this on. And then what I'm going to ask is if there's any – since I'm going to walk through this then I'm just going to ask Ariel if you might be able to take a few notes of the things that we decide as we walk through this because I'm really horrible at trying to talk and take notes at the same time, it's like walking and chewing gum for me, so.

So let's go ahead and start at the top. And thank you, Susan, yes, I'm happy to do it. So starting at the top that the document is unsynced, but we're starting with questions for the working group. So these are questions directed to the working group and we have Question 1, "How and to what extent does the use of protected marks lists e.g. blocking services, affect the utilization of other RPMs especially sunrise registrations?" And there's a staff note

associated with this that staff identified this question as the overarching issue on the topic of additional marketplace RPMs and that it's anticipated that the working group will deliberate on this question following receipt and review of input on the other questions.

So given that staff note, let me just pause there and ask if we want to look at the other questions first and then come back to this overarching question? Any thoughts on whether or not you prefer to do that or we can go ahead and take this one at the start? I see Kristine is typing. Yes, I think we do. Yes, thank you. And yes, wait and review Question 1 until the end. Thank you for that guidance, that's really helpful. Then we'll do that. We'll come back to Question 1.

So moving to Question 2, these are – or Question 3 I should say, the numbering is somewhat odd. But Section 2 is questions directed to registry operators. And Question 3, "Are registry operators relying on the results of the TMCH validation services or accepting the current adopted TMCH policy? (Unintelligible) TMCH database to provide additional marketplace RPMs? And if so, in what ways is there language in the current adopted TMCH policy related documents that expressly permits, prohibits or otherwise addresses what's used by registry operators? Are registry operators able to provide the same or similar additional marketplace RPMs without relying on the TMCH validation services or access to the TMCH database? Will there be an increase in costs? If so, what will this be to stakeholders along the value chain, i.e. brand owners, registries, registrars or other registrants?"

And please, go ahead, Kristine.

Kristine Dorrain: Thank you. This is Kristine. I think one of the things we have to be thinking about as we're running through these really quick is that I think in our minds we sort of are – at least in my mind I go – I sort of substitute sort of the DPML list instead of when we heard the words "additional marketplace RPMs." But I do have to be conscious when we talked about – the reason we didn't use a

protected marks list, you know, the reason we used the words “additional marketplace RPMs” is because we were also including things like extended sunrise periods.

And so I think we want to be – when we think about how we’re going to gather data on this question I think there’s – we’re going to get two different answers depending on which type of rights protection mechanism we’re talking about. So when we’re talking about sort of the DPML types, that’s one answer versus the extended sunrise. So for sure for extended sunrise they would be relying on TMCH validation and accessing the TMCH database. So I think that’s an obvious answer.

I think what we go from there is if we’re still thinking about the extended sunrise we know that the documents say that either the registry operators can extend the sunrise; we know that they can't extend the traditional sunrise without relying on TMCH validation. What we don't really know is there some sort of an increase in cost for either the Trademark Clearinghouse or registrars or registries. And if it would be, you know, I suppose the cost only goes to the idea of if they don't use the TMCH, so never mind.

So I think in this specific question we know the answers probably to the sunrise portion, what we don't know is the answers to the DPML portion. Susan, I see you want to respond, go ahead.

Susan Payne: Thanks, Kristine. Yes, I do just because I wonder if – I’m slightly going to disagree with you, not that they're different and have different answers but I suppose in my mind I never really thought of an extended sunrise and being an additional marketplace RPM because there’s nothing that’s said in the rules that you have to run a sunrise of a particular duration, or at least there’s a minimum duration but it was perfectly possible for anyone to run a maximum duration, you know, sorry there wasn’t a maximum, you know, if you wanted to run a sunrise for three years, I think in theory you could do.

So in my own mind I haven't really been thinking about the – as sort of extended sunrise as being an additional marketplace RPM, but I may be the only one that thinks that way. Before I stop – I was about to stop and then for some reason I had thought about extended claims as being one and I don't know why I've made that distinction in my own mind now that I'm thinking about it. But I can see you've got your hand up so hopefully you're going to dig me out of the hole that I've just dug myself into.

Kristine Dorrain: Thanks. This is Kristine. No, I think you picked me out of the hole I've dug myself into so thank you. Yes, I think you're right, I actually scrolled down in the doc and, yes, it's the claims service, not the sunrise so I think you are right. I think we – I feel like someplace along the way we have talked about the extension of sunrise generally as being a, you know, protect just to have kind of a long sunrise, but, yes, we didn't – looks like from the rest of the doc we didn't actually go there so, yes, I'll back off on that so let me retract everything I said about sunrise.

But even if we do think about just for the claims service, are registry operators who offer an extended claims service, you know, even then, you know, I think the main question of course if they're offering extended claims service they have to use the TMCH validation, right? They can't do it themselves as far as I know, that's all hooked up to the TMCH. So I think it really comes down to is there an increase in cost? Assuming that now I've corrected myself, and thank you again, Susan, for pointing that out, does anybody disagree that the main question here is, "Does extending the claims service affect cost?" I think that's the only question with respect to that. Does anyone agree or disagree? Oh it looks like Susan might be agreeing. Okay go ahead, Susan.

Susan Payne: Just so that – so you're not talking to thin air, yes, I think you're completely right. I think probably it is about the cost because I don't think that they were able to offer that without utilizing the same or SMD files that were, you know, the access to the same information that was in the TMCH. I don't think

anyone was offering some kind of an extended claims service, you know, in some other way, I don't believe.

And so, yes, the only thing I think would be potentially of relevance is whether it's increased the cost, although we haven't particularly focused on cost in relation to any of the RPMs. So really are you meaning was there an extra payment that people had to make in order to access that extended service? Is that what your thinking is?

Kristine Dorrain: Yes, this is Kristine. Yes, I was – and then I also keep getting confused by this question because the cost question it's a separate question but I think it really goes to if the registry operator has to offer it – offer their RPM, their additional claims service without relying on TMCH validation. So because there's the – because those questions aren't really linked I keep looking them as two separate questions. So perhaps we don't even need to consider the cost here.

I guess my point really is I think for this specific question we're specifically thinking about DPML type things, so we need to I guess maybe just – in my head I'm trying to make sure that we focus on the right, you know, sort of sub category as we answer these questions. So yes, so I think if we think about the DPML type stuff – and I'm sorry with my cold medicine is making me not make any sense today so I apologize, I can just leave the call if I'm confusing everybody. Thanks.

Susan Payne: No, no, don't leave. And I didn't put my hand up then but I'm just going to wade back in. It's Susan again. Yes, I think our challenge is that we have to keep remembering which additional service or additional RPM, which isn't – that is the issue isn't it. And I suppose in theory one could ask a question about, you know, if you had to run the extended claims without using the TMCH, would that increase the cost? But it seems to me that that's a – I'm not sure how useful a question that is.

You know, if we were as a working group if we were going to dispense with the Trademark Clearinghouse, then registries, if they were still required to offer claims, would be offering claims in some other way without using the Clearinghouse and then it would be, you know, they would take a view on whether they wanted to do it extended claims or just the minimum duration. But I'm not sure that we would – I'm not sure it would be a very fruitful path for us to go down in relation to that.

Whereas I think it is a fruitful path to go down in relation to of we were to say we felt it was, you know, that the TMCH shouldn't be utilized for something like a DPML, then I think that is a relevant question to ask around cost. You know, could it be done some other way? Is it, you know, is more or less expensive to do so? Yes, I think that's right. I'm not sure if I agreed with you. Kristine.

Kristine Dorrain: Thanks. So Julie, apparently – oh, Julie, you go ahead. I say apparently Julie, Susan and I are just talking the whole time. Julie, you go ahead and then I'll go.

Julie Hedlund: Thank you. Actually so it's been an extremely productive conversation that you've been having. I was actually just going to pull a couple things out of the chat and not something too that staff had put in as a – or that the sub team had put in also along with the staff note that the sub team – it also notes here that the sub team had noted that registry operators are likely able to provide the same or similar services to additional marketplace RPMs without relying on the TMCH. However the associated cost of doing this will require input from the registry operators concerned.

And then just looking at the chat, just to get these in the record, Susan says, "Yes, I think so re extended claims." Berry says, "Right, I don't recall any extended sunrise but for sure several registries have extended or open ended claims." Berry says, "Question is do they use the ICANN TMCH or the secondary system they stood up to offer other services, they being Deloitte."

Kristine asks Berry, "The secondary system is new, right?" And Berry says, "New as in a few years but have not only heard about it, no other intel." And Kristine asks, "So any of the other extended claims would have used the main service?" And Berry is saying, "Can't say for certain." So I don't know if that helps our conversation, just wanted to put those out there as well and then go ahead, Kristine.

Kristine Dorrain: Again, this is Kristine. Thanks a lot, Julie, for reading all that in. I think what could be useful here now that we've narrowed down the scope of this question and thinking about this really goes to DPML and what are the uses of the TMCH. So that's what I think this question is really going to as I'm dusting off the far recesses of my memory. And so we're really going to is the DPML type services using the TMCH? Do they have to use the TMCH? And if so – and if they can do it themselves will it increase costs and how will that affect the whole ecosystem, right?

So I think one of the things we can do, and maybe this is something that staff can pull out before we meet in Puerto Rico is the survey. I know that at least one provider took the survey and we and survey data. And there's only three providers that are offering this so this is not like this giant comprehensive black hole of information. Either the three survey providers are going to talk or they're not. And quite frankly, since we started this, Donuts has acquired Right Side and so now I think we're down to two providers really.

So I think that really comes down to just figuring out a little bit more about how the system works, and I think that Jon Nevett has been very, you know, open to talk about how it works and how, you know, what he does and, you know, he participated in the question writing portion. It might be useful to invite him to our little special session to ask him just point blank, like let's go through some of these questions, tell us a little bit about what you know and what you don't know and what you're willing to tell us.

Obviously we can't force him to talk but we can see how much of a conversation he's willing to have because really we're mostly talking about Donuts and the – I can't even remember anymore who the other one is – Minds + Machines I know was doing it too. But so thanks. I'll stop talking now.

Julie Hedlund: Thanks so much, Kristine. That was very helpful. And just to note again, a couple things in the chat in response to some of the questions. So Mary says, "Donuts in its response to the working group near the beginning of our work confirmed that it uses the TMCH especially the SMD files to provide DPML service." Susan says, "I know we have asked a question about extended claims." Mary says, "Yes we have (unintelligible)" or DPML, whichever it is and services being offered by the various registry operators – Berry is confirming we do. Six months ago staff presented data on launch as recorded on micro site, need to refresh that data but (unintelligible) all have extended or open ended entries.

And so, yes, Kristine is agreeing. And I see people are losing me. Anyway but hopefully people can still hear me. But so it would be helpful to get those results so we'll take an action item to poll the results. And can others hear me, just to confirm? Because I'm actually on a mobile so that could be affecting me. Susan's typing. Okay, I'm back, all right. Hopefully – and Mary is – so, yes, confirming we can get those results. So thank you for that. Anything else on this particular question?

And we'll also note the action item to see if Jon would like to chat also about this when we have our special providers' session in ICANN 61. Kristine, go ahead.

Kristine Dorrain: Thanks. This is Kristine. I just wanted to clarify, not the provider session, I think the provider session would be for the URS providers, and I think it needs to stay that way. I think that when we talk about – my suggestion really was that when we meet – it's my understanding and maybe I'm putting the cart before the horse, but it's my understanding that we were going to try to

meet as a tiny little team, you know, the seven or eight of us that are actually on this group, during one of the sessions and we were going to huddle in a corner and like (unintelligible) everybody else out and just seriously put our heads down and get some work done.

I really would love to get through this, this is not a long doc. I think if we sit down together we can huddle and hustle through. I would love to see if we could invite Jon Nevett to that and see if he would help us you know, sort of has this out. I mean, we don't need to do a fancy survey if he's willing to just answer all the questions while we're sitting there. So that's my suggestion. Looks like Julie says, "Kristine, noted, not the provider session that is URS for the sub team meeting." Perfect, yes, I just wanted to clarify. Thanks. Susan, go ahead.

Susan Payne: Yes, thanks. I mean, I put my hand up before you started speaking and I was going to say that I thought it would be really helpful to have a conversation with Jon, but to be fair it would probably be good for us to be able to try and identify to him what it is we're going to be asking him. But having to you, I think that's probably even better, it's almost, you know, this questions are actually because he was part of that group that worked on this additional marketplace documents. And so if we were to remind of this, you know, we're almost asking him to sort of work with us in helping to identify the data needs, aren't we?

We're basically going, you know, if we're looking for X, is that something that it's a worthwhile thing to ask you for? If at the same time he can also answer it even better. But, I mean, you know, even if what he was doing was sitting with us and going, you know, there's no point asking me for information about X or Y because we don't have it or we don't do it that way or we're not going to answer you, that would be as helpful as anything I think if he's able to join us.

Kristine.

Kristine Dorrain: Thanks. This is Kristine. Yes, I do agree with all of that. And again, you know, we're only going to get data I guess from these few providers and so to the extent that they're even willing to provide it, I mean, they may not; I mean, these may be confidential business information, this may be, you know, trade secrets that they have regarding how they are operating. So it's really a matter of not only figuring out what will tell us but not only asking them the questions so we know what data to get but it's also figuring out what data we're going to be able to get.

You know, these are private business practices and, you know, they don't have much of an obligation to tell us about anything that's not contractual. So I think that it's a matter of sort of an informal conversation and trying to get as much as we can. So, yes, and I do know – I agree that Jon has been through the whole survey exercise with us or the whole question drafting exercise with us so he knows what the questions are and he knows what he's willing to answer and what he's not willing to answer I think. Thanks.

Julie Hedlund: Great. Thanks, Kristine. Thanks so much Susan. This is Julie again from staff. So we'll take the action item to invite Jon to the sub team data working session that we're planning for ICANN 61. We'll be meeting with the cochairs following this meeting to identify exactly when that meeting will occur but it's most likely to be Sunday afternoon in our slot that I think goes from five o'clock to 6:30 because it looked like for the URS provider availability that that might actually work better for their schedules on the Thursday morning slot.

But we'll confirm that but we'll take the action at least to reach out to Jon and I know that we are also asking – I'm seeing in the chat here – good to have MMX and what about (Radix). Berry's not sure about (Radix), but CentralNic is their backend. Staff will take the action to see if there are others that we might be able to invite for this working session.

So let me ask, do we want to – go ahead, Susan, please.

Susan Payne: So yes, it was just a quick one. Actually I was just recalling that if MMX aren't represented in person Nominet are now their backend, they sort of transitioned their registries over, so it may be that someone from Nominet would be able to assist.

Julie Hedlund: Thank you for that, Susan, that's really helpful information. We'll take that...

Susan Payne: I can...

Julie Hedlund: Go ahead.

Susan Payne: ...if you like I can see if I can make some inquiries.

Julie Hedlund: Oh, that would be even better, thank you so much for that. I know a few people at Nominet too but if you might wanted to reach out to folks you knew and let us know how we can help that would be great.

Thanks then. That was a very helpful discussion. Do we want to move onto Question 4? And that's actually fairly lengthy so I don't know that you necessarily need me to read it here. If you wanted to just reference it in the Adobe Connect document. But I can read the main question, "What are each registry operators' rules for each type of additional marketplace RPM it offers, noting that some new gTLD registry operators offer more than one version of a protected marks list service."

And so then there are several sub bullets. We have three sub bullets, one has where a trademark holder uses a protected marks list service, a blocking service for one (unintelligible) services are they able to block another rights holder who holds the same trademark but for a different class of goods and services? And I'll stop reading and go to Kristine, please go ahead.

Kristine Dorrain: Hi, thanks. This is Kristine. I skimmed it. I think that this really rolls up as questions to registry operator, of course, I think this rolls up into Question 3 and it's one of the things we're going to want to talk about with the providers to the extent they will. But I think what's really important is the staff note. Staff you know, the starting point can be review the current publicly available information, and I think that is where – and maybe we can send something out to everybody with like set of links to where to find that. I see that there's links to the Donuts site and I didn't click on it to find out if that gets us to the – their actual DPML page. Yes, it looks like it does so perfect.

So we need to make a team goal. If you'd like to come participate in our working group you must have read and studied each of these. I think it's rude to invite the providers and not know what we're talking about. We should show up with educated questions and say, we have read your publicly available information and we have some questions about it. So I support adding – rolling this up into our question for Number 3 as far as meeting with the providers, but only to the extent that everyone has done their homework and showed up and actually read and understood what these programs are.

So I just know this – having been a former provider, and how frustrated I get when people show up and expect me to answer really dumb questions based on stuff that's currently publicly posted about my service and they didn't even bother to take, you know, five minutes and read what was there. So that's a super big deal to me just given my former history and I think it's a respect thing. If we're going to ask these providers to show up and talk to us about what they're doing we need to have done our homework before we meet them, so that's my thought. Thank you.

Julie Hedlund: This is Julie again from staff. Thank you, that's extremely helpful and we will note that as action as well. And I'll also see – I also see under the staff note that we have the working group's request staff has prepared a summary of the existing additional marketplace RPM offerings based on our review of the registry operators' websites. We'll poll that information as well because I think

it would be important for the sub team members to review that prior to the meeting if you all agree. And welcome to Kathy, I see that you are on a train so not on the phone.

And Mary notes, "Staff has created a page for the sub team that includes a set of questions which are the ones that an earlier sub team had sent to the full working group for discussion, the various registry responses to the previous survey and the staff summary. So that's all there on that link, so very good and we've included that in the notes as well. And Cytia is saying, "Good thought, Kristine." And Kristine is saying, "Perfect, Mary. Homework that we can study on the flights down to Puerto Rico." Indeed.

Thanks, then. And is there anything else we want – I see there's another staff note. Oh I'm sorry, that's relating to Question 5. Do we want to move onto Question 5? Then not hearing any dissenting so, yes, yes, thank you. Question 5, "For registry operators that extended the trademark claims service beyond the required 90 days, what has been their experience in terms of exact matches generated beyond the mandatory period? For example, in terms of registration volume and numbers of exact matches?"

This also has a staff note, "As with the planned survey on sunrise and trademark claims, to be sent to trademark owners, this question can be added to the version of that survey that is sent to registry operators," which it has done. "And unlike Questions 3 and 4, it is not limited only to the registry operators who offered additional marketplace RPMs." So as you note, this has been highlighted because it has indeed been added to the materials for the bidders for the survey provider.

And I see Kristine and then Susan. Please, go ahead.

Kristine Dorrain: Oh that's weird, mine shows Susan first. Okay, this is Kristine. The quick question maybe for Berry, did we – do we have a list, because I think it's available on ICANN's site, if we're available – I'm not sure if it's sortable, but

do we know who – do we have a list of registry operators or TLDs that extended the trademark claims service beyond 90 days? Okay Berry says, “Yes.” So then I will – Berry says yes so then I will ask the next question because I haven't clicked on the link Mary posted yet. Is it in the link Mary posted? My homework link of things to do on the plane?

((Crosstalk))

Julie Hedlund: Mary says she'll put it in.

Kristine Dorrain: Awesome.

Julie Hedlund: Thanks.

Kristine Dorrain: Great, all right. Passing mic to Susan.

Julie Hedlund: Go ahead, Susan.

Susan Payne: Sorry, hello. Yes, so yes so with that knowledge that we do know who extended the claims and also with the knowledge that this was a question that we did feel was within scope for the survey work, it seems to me that hopefully we kind of addressed our data needs for this. I mean, I'm guessing if we – if we didn't get responses back we do know who we could go to and ask more targeted questions I guess. But it seems to me that we've included that in the survey deliberately and so hopefully we've got that one covered off. I'm not sure that there's much else we need to ask at this point unless anyone thinks we have anything else we can usefully do on this particular question.

Julie Hedlund: Thanks so much, Susan. And, yes, and Kristine is agreeing. Agree, Susan backup plan only for that one. Then perhaps we can go ahead to Section 3, which is questions directed to trademark owners. Again, Question 4 has been included in the materials that will go to the survey providers. “Have you been

blocked from registering a second level domain name matching your registered trademark in any of the gTLDs launched under the 2012 new gTLD program?”

And there's a staff note also associated with this, "Suggestion that the first bullet point of Question 4 rephrased appropriately be sent also to trademark owners by adding it to the survey already being planned." Okay, and that has been done. "The question will specifically target those who may have been blocked from registering domain names corresponding to the trademark's name as to obtain information as to whether a trademark registered under one class of goods and services can by its owner (unintelligible) objected marks list effectively block another trademark owner holding an identical trademark," etcetera.

And please, go ahead, Kristine.

Kristine Dorrain: Thank you. And again, my ignorance is going to show. This is Kristine. Was this question submitted just as written? The reason I ask is because you could be blocked from registering a second level domain name matching a registered trademark for reasons other than DPML. So do we assume or do we ask or are we making assumptions or did we just ask the question and assume we'll come back later and figure out why? What was this question that we decided to put into the survey? Thank you.

Julie Hedlund: Thanks. This is – go ahead, Susan, please.

Susan Payne: It may be I sort of leaped in though it maybe that Ariel is answering this more satisfactorily than I can. I don't think we – I don't think we got into the detail of what the question should be in the sense that we, as I said, we did a very quick run through. Actually I'm going to stop and let Ariel answer because she's got her hand up and she may well be answer to this better than I can.

Ariel Liang: Thanks, Susan. Thanks, Kristine, for the question. Staff simply copy pasted this phrase and put it in the survey for the section of the trademark owners so we didn't do any alteration or change or delve any details into that question.

Julie Hedlund: Thanks. Go ahead – thanks, Ariel. Go ahead, Susan, please.

Susan Payne: Thank you. Thanks, Ariel. So yes, so then I think – I think that was right because we, as I was starting to say, I don't think we have the time to be really focusing on precise wording and we just wanted to be sure that something got in there. I guess it's something we need to make a note for ourselves if we could that we may need to give the – you know, whoever is ultimately appointed to do the survey we may need to give them a tiny bit more guidance on this one because you know, to ensure that when they develop the question that they are gathering information about someone who is blocked because of a protected marks list rather than being blocked because someone else had already registered the name or because it was on a reserve name list or something like that.

Julie Hedlund: Thanks, Susan. Kristine, please.

Kristine Dorrain: Thank you. Yes, this is Kristine. And just lest staff be worried that this evolve into, you know, some sort of a crazy exercise, I think that Susan is right; I think it is really – I think it is really not that much to add. So have you been blocked from registering a second level domain name matching your trademark? And have you been notified or told or been made aware that it's because of a protected marks list service?

I mean, I don't think it – you know, we can talk about it a little bit more, but I feel like we – I know staff is really worried about us, you know, really like digging back into the survey and we don't want to do that. But I think we really can just add like a tiny little phrase here and we would get a little bit better, you know, better information that would help guide us here. Thanks.

Julie Hedlund: I'm talking with mute on. Thank you very much, that's very helpful. So we've taken a note of that. I see also Susan is saying, "Although of course I don't think in most cases the PMLs have operated to block another brand owner, so we're not expecting many positive answers to this." And Kristine is saying, "Right." Mary and Kristine are typing. While that typing is going on, and we've taken some notes on this, perhaps we can – we've got just a little over 10 minutes left, perhaps we could go to the next section, which is questions directed to registrars.

That is Question 5, this is also captured for the survey. "For registrars who operate an extended claims service, i.e. beyond the required 90 days, what has been their experience in terms of exact matches generated beyond the mandatory period (unintelligible). As noted above this question can be added to the survey already being planned," which is has.

And Mary Wong says, "We may not be able to add to what is published in the RFP right now but the proposed work plan does include an opportunity for the sub team to consult with the selected provider." Kristine is asking "Can we start a list?" Kristine, you mean a list of additional questions we want to ask in relation say perhaps to the ones that have already been identified here? Yes, of topics to remember to bring up. Yes, we can.

So go ahead, Susan, please.

Susan Payne: Yes, just really quickly because I don't really think we're envisaging, we're not really thinking about asking additional questions or, you know, as such. I think it really is much more about, you know, if we tried very hard obviously when we were doing that exercise on the survey questions to be giving useful guidance to the survey provider. And I think this is just one area where perhaps we haven't given them as much guidance as with hindsight we wish we might have done. So we're certainly not sort of opening up additional questions for them to have to consider that they didn't realize they were having to deal with.

Julie Hedlund: This is Julie Hedlund again from staff. And thank you, Susan, that's very helpful and Cyntia is saying, "Clarification." Ariel is agreeing, "Additional guidance to the survey provider corresponding to the charter questions can be included when the sub team is working with the survey provider." And Kristine says, "Plus one, Susan, yes, clarification like Cyntia said."

Anything anybody wants to say more about the question I just read, which is Question 5, which we indicated last week to be added – was added to the survey? Go ahead, Kristine.

Kristine Dorrain: This is Kristine. I'm going to ask the dumb question again, and Ariel can just pre-type the word "Yes." So we provided Question 5 as written to the – into the survey, right? We didn't nuance that or explain it or clarify Question 5 in any way, is that correct? Okay, so we need to add Question 5 to our list of questions that we clarify I think because this is super open ended and I think it's unlikely what has been their experience in terms of exact matches, for example, in terms of registration numbers of exact matches.

I don't think that that's going to be very clear. I don't think that's going – the survey provider is even going to understand what we're trying to ask here so I think we're definitely going to want to add this one to the list also to make sure that we really clearly go through and make sure that the survey provider is asking the question that we want asked here. Thanks.

Julie Hedlund: Thanks, Kristine. This is Julie. And we will note that as well that this is one that will need additional guidance for the survey providers. Thank you very much for that. Then moving along to the last section, Section 5, and this is questions directed to the TMCH providers. Question 2, "What information on the following aspects of the operation of the TMCH is available and where can be it be found?" And I won't read those out. And then we also have Question 6, "What role does the TMCH provider front end play in servicing the additional marketplace RPMs?" And then there are examples.

There's a staff note here that "Some of the materials noted above, e.g. the TMCH guidelines, requirements and functional specifications may provide information relevant to answering this question. Fuller answers can be obtained through direct outreach and to contact with the TMCH providers." So any discussion here on these questions?

And I'm not – oh okay good. Thank you, Kristine.

Kristine Dorrain: Of course, it's Kristine. I have something to say, always. Question 2, so I know that the survey is not going to TMCH providers, so and we know we've surveyed them ad nauseum, I don't know what the best way to get information from them is. Part of me is wondering, and this is just a comment open for discussion, feel free to weigh in disagrees with me, but for Question 2, I wonder if we'd like to see what we can learn from any providers that want to show up to our sub team meeting and talk about RPM – or private additional marketplace RPMs, because it may be that all of the providers we talk to say, you know, we just use the SMD file or we just you know, what I mean?

They might say we just do this one thing in which case we might – it might limit what we need to go back and ask the TMCH for. And it might redirect us, we might find out that they used something – that we didn't think that they were using and then we can go back and ask the TMCH. Part of me wonders if we're putting the cart before the horse asking the TMCH providers for questions before we've really talked to the additional marketplace RPMs providers. But I'm willing to entertain a debate on that because I'm not entirely sure of that; I'm still sort of solidifying my thoughts on that. Anyone else?

Julie Hedlund: Go ahead, Susan.

Susan Payne: Yes, hi. It's Susan again. I think I probably agree with you there. I suppose what we could do if we could tell the TMCH assuming representatives from the TMCH are likely to be in Puerto Rico and they do sometimes come to the ICANN meetings, I guess, you know, without requiring their attendance we could tell them about the session and say to them they'd be very welcome if they wanted to come along. But I agree with you, I think we may well have some more targeted questions after we've answered some of the rest of it.

And again being conscious that we've asked, you know, we've met with the TMCH providers a number of times and we've asked them a number of questions already so, you know, without being more targeted it's hard to know what more we're going to get from them that we haven't really had already.

Go for it, Kristine.

Kristine Dorrain: Okay thanks, Susan. This is Kristine. Yes, and furthermore, I mean, we don't want to have to ask them – we don't want to have to ask them to come join us multiple times, right? So I'm thinking, you know, as we're thinking about the how of how we're going to get this data from them, you know, these are just a couple of relatively short questions, some of this might be available publicly, I get homework, you know, looking on the sites to figure out what it they're offering and how they're offering it.

So I think assuming we meet with the additional marketplace RPMs providers, and assuming we've done our homework with them and we've done our homework with the TMCH's Website and dug into what they're offering, then I think what we do is maybe when we get from Puerto Rico we then sit down and figure it out what it is we still need to know and we invite them to just a phone call, join us for a one hour on Friday morning or Friday afternoon, I guess whatever, I guess it would be their Friday afternoon, and, you know, just let's talk through some of this stuff and we'll collect data, it'll be a recorded call so it's not going to be confidential.

You know, and then let people, you know, just get the answers to the last questions that we have. You know, I think that might be the simplest way to try to get this but also the way that involves the least amount of hassle to the TMCH provider.

((Crosstalk))

Kristine Dorrain: ...if anybody disagrees or not.

Julie Hedlund: Yes, I'm seeing that Susan – this is Julie again. Susan is saying, "Yes, good idea." Mary Wong is saying, "Someone may have mentioned earlier on this call, Jon Nevett has said previously he'll be happy to chat." Right. Kristine is saying, "Yes he has." Cyntia is typing. It looks like we've got agreement that it's a good idea to talk to the additional marketplace RPM providers first before coming around with specific targeted questions to the TMCH providers.

Not seeing anybody disagreeing with that except for Cyntia is still typing. Kristine says, "Plus one." And Kristine says, "As these groups are aligned but still has separate objectives needs, I think I'd still like to ask the TMCH the questions here." Right, Cyntia, and I don't think anybody is disagreeing with that approach, but I see Kristine – yes, yes, I think we will. I think we're just talking more about timing as opposed to not approaching them but refining these questions perhaps after talking to the additional marketplace RPM providers – providers and well, Jon Nevett in particular.

Kristine says, "I think we might add or change some of it." Susan Payne says, "Yes, just timing." Kristine says, "After we know more." And Cyntia says, "Got it."

So we've come to the end of this document. Does anybody have – we've got three minutes left, does anybody have anything they want to say about

Question 6 before we sign out here today? Kristine is typing. Okay, yes lumping it with Question 2. Okay, that's actually very helpful, Kristine, we'll make a note of that.

We do still have the overarching question of Question 1 but I don't see that we have time to address that here today especially since we want the rest of our discussion to inform Question 1. And as we do have time at ICANN 61 we'll confirm that time, like we said before, it looks like it's likely to be Sunday afternoon, we'll confirm that with the cochairs and let you all know. Is there anything anybody else wants to say today before we sign out?

All right. Thank you very much Kristine. Yes, happy Friday to all. And also I hope you have a wonderful weekend and very safe travels to Puerto Rico, we'll be very much looking forward to seeing you. So thanks again, everyone, for a great call.

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