

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) Sub Team for Data
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Michelle DeSmyter: Good morning, good afternoon and good evening. Welcome to the Review of All Rights Protection Mechanisms Sub team for Data call on Friday, the 8th of June, 2018. On the call today we do have Philip Corwin, Michael Graham, Susan Payne, Rebecca Tushnet, Kristine Dorrain and Kathy Kleiman, who has just joined us. Welcome, Kathy. We do have two guest speakers today: Greg Rafert and Stacey Chan from the Analysis Group.

If anyone has joined only on the audio bridge, would you please let yourself be known now? Okay, hearing no names. We also – we do have – we have no apologies for this meeting as well. From staff we have Julie Hedlund, Ariel Liang, Berry Cobb and myself, Michelle DeSmyter.

As a reminder, if you would please remember to state your name so it appears clearly on the transcription? Thank you ever so much and over to you, Julie Hedlund. Please begin.

Julie Hedlund: Thank you very much, Michelle. And again, welcome to everyone who's joined the call today. Thank you so much for joining us on this Friday. And thank you very much, Michael, for sending the revised Google Doc around and I had also sent it a little earlier. And we'll go ahead and put the link to that again in the chat. And I think that will be extremely helpful for us to start from the comments that you have made, and there Ariel has put it in the chat just now.

And just to quickly run through the agenda, we're going to talk about the proposed trademark brand owner survey questions and suggested changes by Analysis Group and this call is scheduled for 120 minutes but if we can end earlier, I'm sure we'd all appreciate that too. But we should take as much time as we need and want.

So then let me just – I'm going to go ahead and also just pull up the Google Doc myself. But I think I'm going to suggest that we – could do it the same way that we were doing yesterday which is to ask Greg and Stacey to run through the questions and in this case Michael's helpfully added his comments so we can address those as we go.

And I see Lori Schulman is just joining us. Thank you, Lori, as well. So are there any questions, any concerns, any other business that anybody would like to raise before we get going?

Michael Graham: One quick thing – this is Michael for the record, Michael Graham. As Greg and Stacey are going through it, there are a number of comments that have been added on the side, and I actually think that some of the top ones I cannot see; they sort of go off the page so I'm not sure if there's a way to view those, but might want to refer to those as well. And I don't know, I'll let you all decide how you want to deal with it, if you want to read the proposed revision as a talking point or the original.

Julie Hedlund: Thank you very much, Michael. That's extremely helpful. And, you know, Greg and Stacey, I'll leave it up to you, you know, how you want to do this. And actually let me just ask Greg, Stacey, if you have any questions before we begin.

Stacey Chan: This is Stacey. No, I just also wanted to clarify though that unfortunately Greg is tied up in another meeting so hopefully he'll be able to join us soon but currently it's just me.

Julie Hedlund: It's not just you, Stacey. We're very glad to – very glad to have you, of course, hope Greg can join but do you have any questions before we get started as we, you know, go through things?

Stacey Chan: No, not currently. I think the comments that are in the document are great. I've had a chance to begin scanning through them so thank you, everyone.

Julie Hedlund: And I see Kathy has question. Actually, Kathy, we're starting with the trademark owners questions. We did actually cover all of the registry operator questions. The document you see in the screen is unsynced so you can move it yourself to that section if you'd like or if you prefer staff can move it for you. And then why don't we go ahead and get started?

What we're doing is we're working with the revised document that Michael sent around and so – and that is for the trademark owner survey and we've got quite a number of comments as well also from – I see what you're saying, Michael, but that there's a comment right at the top that doesn't come through, it gets cut off at the top. I think that might be a comment from Analysis Group, something just seen from our guidance document that we do not want an explanation of why not.

Ariel, please go ahead.

Ariel Liang: Hi, this is Ariel from staff. Just a quick technical comment here. If you want to see the comment hidden on the top you can look at the sections or sentences that are highlighted in the Google Doc and once you click that the comment will be aligned to that particular section that's being commented on so that's the easier way to look at the comments.

Julie Hedlund: Oh thank you so much, Ariel. This is Julie again from staff. And actually I did that and so that one is – the comment – I think it's the same comment of reach of the surveys from Greg and it has to do with the responses voluntary and confidential and it says, "For discussion with the Data Sub Team and ICANN staff, we understand that there may be an interest in receiving the raw survey data from us and just wanted to ensure that if we do provide the data that it will remain confidential." So that is that comment that is sort of at the top. And I hope others have been able to see that too.

And so then back to comments and scrolling down, to Question 1, and I see that Michael has made some suggestions, "In what country do you current reside?" question mark. And then the next question, Question 2, "Where are you or your company based?" And go ahead, Michael.

Michael Graham: Yes, Michael Graham for the record. I see in regard to those first two questions, Susan has posted a question whether or not we need both of those, asking, "Don't we just want to know if they are answering on their personal behalf or on behalf of their employer and where the trademark owner, whoever that is, is based." I think that's probably true. I was sort of surprised by the two of them. But I think rather than replacing both of them we need to replace one of them with that question so it would be are you answering for yourself or your company? And then the other one would be the location, in what country are you or your company based, I guess you could use that. Thanks.

Julie Hedlund: Thank you very much, Michael. And Kristine, please go ahead.

Kristine Dorrain: Thanks. In this specific set, are we at all concerned about trying to figure out whether or not outside counsel is answering these questions or, you know, sort of maybe a consultant if you have someone – if a company has someone who's managing their domain name portfolio for them because, for instance, I can think of scenarios where, let's just pick on Mark Monitor for instance, they might have a variety of customers for whom they've been sort of maybe a trademark agent or someone that participates in these (sizes) on behalf of various brands, and the brands themselves might not be able to answer these questions and may wish to outsource the survey to Mark Monitor.

So do we want to try to, you know, I don't know how to deal with that question but I'm wondering if we want to make that an opportunity so that the actual brand owners themselves can give this to the right person to get the most data and perhaps that right person can answer the survey sort of multiple times for different clients. And so are there some demographics or some accommodations we need to make to account for that sort of scenario? I don't know, I'm asking. Thank you.

Julie Hedlund: Thank you, Kristine. And Michael, please go ahead.

Michael Graham: Thanks. Michael Graham for the record. In regard to that, I think you're right in terms of where some of the information is going to be gleaned. But I think I would see if there's a way – and I know we did this with the INTA survey, which was much easier to control, to ensure that it's being answered at the end by the trademark owner. And whether or not we want to include the question perhaps were you assisted in preparing your answers and ask for whether or not that was outside counsel or another source, we might do that.

Julie Hedlund: Thank you, Michael. And Kristine, please.

Kristine Dorrain: Thanks. Yes, point taken and I see Lori put in the chat that's also why they limited their survey to just trademark owners. I think that – I think that to – I know Greg has made this point multiple times, so I'm trying to be sensitive to

the fact that as someone's going through and if we're promising that it's going to take them 15-25 minutes, I don't know that having to reach out to an outside vendor and wait for information back is going to really be the best use of their 15-25 minutes and they may – so we may get some attrition, we may have people not able to complete the survey if they have to reach out to an outside vendor.

So I'm just trying to be mindful of that; I'm not going to argue this point at all, I just thought I would throw that out there for discussion and if people think that we can get around that by just asking the brand owners themselves, then that's fine and I know that people on this team have participated in surveys like that and that's okay. Thanks.

Julie Hedlund: Thank you so much, Kristine. And I did not a couple of things in the chat. Lori Schulman says, "This is why INTA limited the survey to TM owners and not outside counsel." Susan Payne says, "If (unintelligible) comments, if so it would be good if the provider answers as if the owner so they give location of owner and not their own location." And Lori Schulman notes the potential that many (unintelligible) and we want to keep the costs down and there's a risk of redundancy," and Kristine says, "Yes, Susan, that's what I meant."

And Stacey, do you have any questions about how, you know, about this particular aspect? And as – but first I see, Michael, you have your hand up. Please go ahead.

Michael Graham: Yes, Michael Graham for the record. And I guess it's a question for Stacey. I do not recall, and we may have been told previously how the universe of potential survey takers is going to be identified and selected for this particular questionnaire. I think that might answer part of our concerns.

Julie Hedlund: Thank you. That's a good point, Michael. Stacey, any guidance that you can provide?

Stacey Chan: I believe for this group we'll be working with ICANN to make outreach to trademark holders and that will be the case for all of the respondent groups other than potential domain registrants, where we'll be relying on the online survey panels that Research Now SSI has.

Julie Hedlund: Thank you, Stacey. And I see Michael, Kristine and Kathy please. Kristine.

Michael Graham: It's Michael. I've taken down my hand, sorry.

Julie Hedlund: Thank you. Kristine please.

Kristine Dorrain: Thank you. This is Kristine. I think that's part of my concern is that – if the survey relies upon ICANN reaching out to for, for instance, the Intellectual Property Constituency, most of the people in the Intellectual Property Constituency are outside counsel, have various clients that we may or may not know who they are. They would be funneling these clients if they're willing to do that or identify them. So that's my concern is that these questions actually would go to outside counsel unless there's a way to find in-house counsel. INTA's uniquely positioned in that you tick a box, I'm inside or I'm outside, and so INTA can just easily say, oh, we're outside counsel or inside counsel, send it there. I think ICANN's going to have a little bit more of a struggle there. I think that's kind of where my point was coming from. Thanks.

Julie Hedlund: Thank you, Kristine. Kathy please.

Kathy Kleiman: Coming off mute. Can you hear me?

Julie Hedlund: You're fairly faint for me, Kathy.

Kathy Kleiman: Sorry about that. But let me ask my question, this is to Stacey. Stacey, is there anywhere where we're going to be talking about the size of the company? How is it that small, medium and large trademark owners will be surveyed on this? And that we'll have some kind of reflection of small,

medium and large? Because we have questions to all three groups and I haven't seen those, but I might have missed something so let me ask.

Thanks.

Julie Hedlund: Thank you, Kathy. Stacey please.

Stacey Chan: Thanks, Kathy. So that is a great question. In this early section, we do have several questions about how many trademark registrations there are and I think that's intended to be – well, perhaps this question would benefit from clarification of where the trademarks are registered. But if there's another way that you would like to measure how large a company is, whether that's by, you know, annual profits or employee size or something else, that would be useful for us to know and we can certainly include that in this introductory section so that they can be used to screen future questions further down in the survey.

Julie Hedlund: Thank you, Stacey. Susan and then Kathy please.

Susan Payne: Yes, hi. Yes, I just put my hand up to kind of respond to Kathy's point. And I think it's a good one but I think that comes back to the previous question about how are we identifying the brand owners or how are we distributing this because you know, we're not, you know, unless we were picking specific companies and asking them, and I'm not suggesting we should, then, you know, then whoever we're choosing as the distribution method is going to select the – or may have an impact on the size of the company that responds, I'm not sure it, you know, necessarily matters but something about the size of the portfolio would give you a reasonable idea, probably, about the size of the company.

But I'd mirror Kristine's comment that 50 trademarks is not a big, I mean, you know, relatively lots of companies would have way more than 50 in their portfolio.

Julie Hedlund: Thank you, Susan. Kathy please.

Kathy Kleiman: Yes, still on the muffled phone, sorry, everybody. Stacey, may I suggest that you talk to Lori and Michael? INTA had some – at least question on this, and I don't know remember how they phrased it, net revenue, gross – but it was clearly a question or set of questions on this and that what they've already done might be useful in phrasing for what we're trying to zero in on. Thanks.

Julie Hedlund: Thanks, Kathy. That is a very good point. And we've taken note of that as an action and Stacey, we're certainly happy to help facilitate that as well to provide any guidance. Lori says she'd have to look back at the survey. Lori, if you did have a chance to do that, that would be extremely helpful if there was any guidance that you could provide.

And we'll also note – we have captured in the notes the issue of, you know, whether it's going to be outside counsel answering or brand owners and how they will be identified. I think we probably need to note a question that ICANN can work on with Stacey as far as how, you know, how we are going to identify the target for the survey and with respect to outside counsel or not. And then also then the question of whether or not we need a question that, you know, that indicates whether or not this is the brand owner or outside counsel.

Is there anything else on the couple of questions, I think it was mainly just Question 1 and 2 and then also touching on – starting to touch on Question 3 where we're talking about trademark registrations and how many. And I've seen there some guidance in the chat too on that and that's also where we could seek guidance on size from Lori as well.

So anything else on 1, 2, 3A, 3 and 3A, before we get to 4, which is, "Have you or your company recorded any of your registered trademarks with the Trademark Clearinghouse?" I'm looking for hands, not seeing any hands.

Anything on Question 4? The changes that Michael suggested seem pretty straightforward.

Michael Graham: I'm sorry – go ahead, Kristine. This is Michael.

Julie Hedlund: Yes...

((Crosstalk))

Kristine Dorrain: This is Kristine. My only flag on this is that I think there are multiple questions underneath there that sort of can only be registered if – only be answered if you have recorded a trademark with the Trademark Clearinghouse, like, "Have you participated in sunrise? Have you submitted proof of use?" So when we're all done I'm just thinking of making a note for the Analysis Group here, you may wish to go back and have a trigger so that the questions that don't apply, if you click, "no" to this answer don't show up. Again, with the not surveying the hell out of people. We might still want to know if they've filed UDRPs or if they've had problems because they didn't participate etcetera, but there are tons of questions that are contingent upon did you participate? And so we might want to go back and trigger those to make the survey shorter for people that didn't actually put their marks in the Clearinghouse. Thanks.

Julie Hedlund: Thanks, Kristine, that's a great point. And we'll make note of that. Michael, please.

Michael Graham: Michael Graham for the record. And I think Kristine has a great point. I had simply added in that if there was a no answer to whether or not a company had recorded, thank you for the correction of that wording, had recorded registered trademarks with the TMCH, that if the answer was no that the study would terminate after the question of whether or not there was a particular reason for that. But I think Kristine raises an interesting issue which

is even if there wasn't a recording perhaps we would want to ask a question later in regard to whether or not companies filed a UDRP.

However, my one concern with that is I think that that sort of question goes beyond the scope of what we were trying to ascertain through this survey, which was basically whether or not these particular types of RPMs are effective, if there are issues with them. So if we're now asking for someone to continue providing answers who has not participated in those I think we're going beyond what we're trying to seek and we're adding potentially a number of questions, Kristine, in terms of, you know, clarifications and personal opinion as to why they did not register.

So I would include the termination, I don't know that I would ask people who did not register or record with the TMCH other questions beyond why they did or did not register there. Thanks.

Julie Hedlund: Thank you, Michael. And I have Kristine and then Rebecca please.

Kristine Dorrain: Thanks. This is Kristine. Yes, I just wanted to clarify, I disagree, I'm sorry, I agree with Michael actually. I just was saying I don't – I hadn't looked through to see if there were any additional questions, I just think we should at the very end when we're all done and we know what questions we're about to answer if there are any, that should still be answered by trademark owners that did not participate in sunrise, we need to go back, you know, not show them the ones for the people who participated and only show them for the ones that did – only show questions that relate to people that didn't participate.

It may be at the end of the day all of our questions basically are for people who participated, but I just wanted to make sure that we didn't lose sight of that at the end of the day, that's my only point there; I wasn't trying to say that there should be a whole bunch of new questions, just – because with those – that could be a totally different area, that was my only point. Thanks.

Julie Hedlund: Thank you, thank you, Kristine. I have Rebecca and Susan please.

Rebecca Tushnet: Rebecca Tushnet. Thank you. So I actually – sorry, I'm trying to lower my hand and failing. So I feel like, first of all, these are RPMs so they are definitely important to us. I think it's worthwhile to ask some questions, in particular my understanding is one of our questions is, you know, are the right people using this? And if people are for example making a calculation like it's just going to be simpler for me to use the URS or the UDRP, that's actually a useful answer about the function the TMCH is serving. So I would definitely support having at least some questions in there designed to elicit that. Thank you.

Julie Hedlund: Thank you, Rebecca. Susan, please.

Susan Payne: Yes hi. Yes, I put my hand up in relation to 4B, I'm not quite sure if we're on it yet, I don't know if that counts as – but so I can comment on the question I have on 4B or I can pause until we get to that and I just wasn't quite sure.

Julie Hedlund: I'd say go ahead, Susan, they're somewhat related nonetheless.

Susan Payne: Okay. All right, and I'm, as I said in my comment in the Google Doc, I'm kind of two minds on this but I wondered whether the group, and indeed whether Stacey think it would be helpful for us to try and rather than have a completely open text field, to try to specify some of the likely reasons that we think people might give to encourage you know, them to sort of, you know, just because we talked a lot on the previous calls about the drawbacks of open text fields, so I, you know, I tried to come up with some possibilities that I just put there for consideration really.

But I – as I say – I'm uncertain whether, you know, whether we're sending people down a path if we do this or not. But I thought it might be helpful, you know, that – to say for example, you know, this is the – if you didn't record your trademarks why not, you know, as sort of, you know, I wasn't aware of

the TMCH, I thought it was too expensive, I wasn't intending to make a sunrise registration to feel that it worthwhile or, you know, I've already got a watching status so I don't need the trademark claims or just kind of, you know, new gTLDs just aren't important to me.

So it was – it really as a question for people's thoughts because as I say, I'm not wedded to the idea of it.

Julie Hedlund: Thank you very much, Susan. And Michael please.

Michael Graham: Yes, Michael Graham for the record. I note Susan has put those – some of those ticks in her comment and I would agree that we ought to give those as some suggestions. I think I would – the one that I would change perhaps is, "I rely on a watching service." I would maybe do, "I rely on a watching service or outside counsel," or make those two separate items. And then at the end of it go ahead and have the other with an open text field but I think suggesting those as possibilities and if others can think of other great possibilities, that would be the reason for not recording I think we should include those.
Thanks.

Julie Hedlund: Thank you, Michael. And, I don't know if we addressed this but I'm just noting that there is a – that you had a comment in the text of the – a little further above Susan, when you're asking, and I think it's relating to Question 4, "I'm wondering whether it is at all useful to identify brands/trademark owners who do not own any registrations. I think not but wanted to pose the question."

Michael Graham: Right. Michael Graham for the record. I had considered that but then after thinking about it I decided that that, again, would be beyond the scope of what we're asking and we could, you know, there are a lot of questions that all of us have but I don't think it appropriate for this survey. And I think it would bog down things since we're, again, looking at this particular reason why trademark owners use or don't use or what their experience is with the RPMs. I think going out on the limb to why did you or did you not register your

trademark just opens up a whole another avenue of questions that one, would be interesting and great to know, but two, I think would make this an unlikely to be completed survey. Thanks.

Julie Hedlund: Thank you, Michael. And Kathy, please go ahead.

Kathy Kleiman: This is Kathy. Still on the muffled phone. And Michael said some of it but I wanted to check with Stacey and just check in, Stacey, we're talking about an array of different strategies for trademark and brand protection and I just wanted to see kind of the whole milieu of what we're talking about is making sense, if you have any questions because I know we dived into the weeds whether it's URS and UDRP, Mark Monitor and watching services, I'm sure you're familiar with all of this, but kind of that throwing open the net and more broadly than kind of the specific questions we have in front of us as part of that trademark strategy. I just wanted to see if this is all making sense to you and if you have any questions as we go through?

Stacey Chan: Thank you, Kathy.

((Crosstalk))

Julie Hedlund: Go ahead, Stacey. Sorry.

Stacey Chan: Thank you. Sorry. This is Stacey. Thank you. Yes, so far all of the terminology that you've been using I am familiar with so I am following the conversation. Thank you.

Julie Hedlund: Thank you very much. Then, Kathy, I still have – you still have your hand up? Is that old or new? Not hearing you, Kathy, if you're speaking. Then let me ask if there are any other – any other things that people want to say with respect to 4A and B? And if not perhaps we can move along to Question 5. And I'm trying to bring up those comments.

And Question 5, the highlighted part is in order to take part in sunrise services and Kristine asks, "Do we want to suggest why? Some might have submitted proof of use to participate in URS. Do we care? If we don't care, why? Perhaps we should change this to e.g. to participate in sunrise, URS or other services." Folks have any thoughts? Kathy, I see your hand up.

Julie Hedlund: Not hearing you, Kathy, if you're speaking. Susan, please go ahead.

Susan Payne: Yes, sorry, I hadn't seen Kristine's comment so it took me a while to work out what that was about. Yes, I completely agree with that because actually I think, you know, I know from client feedback that I've had personally that some of our clients put marks in the TMCH not because of the sunrise but because they wanted to use some other service. So I think we should – I think we should be a little less prescriptive in this question.

Julie Hedlund: Thank you, Susan. And then I see – I think there's – let me just – and then Susan, I think I see a comment from you asking, "Would an if not, why not question be useful either open text or another tick all that apply?" and then you've got some suggestions there. Does anybody have any thoughts about Susan's suggestions in the Google Doc? Michael, please go ahead.

Michael Graham: Yes, Michael. I'm looking at this and there are a couple questions. One was to include a "why not" and I agree with that and I think it's probably best to put that with this question. And then to give, again, those possibilities I think that would be really helpful what Susan is suggesting. I haven't had a chance...

((Crosstalk))

Michael Graham: Yes...

Julie Hedlund: I'm sorry, you cut out, Michael.

Michael Graham: Yes, I was just looking at Susan's – what she's put there as draft ticks and I think those would be fine. There might be some wording changes in that but I think those are good general categories to include. Thanks.

Julie Hedlund: Thank you very much, Michael. And then next comment I think is Q4A but I think it's meant to be Q5A, "How many trademarks have you submitted proof of use for in order to take part in sunrise services, multiple deploy?" And Kristine is noting, "No one taking the survey is likely to know this unless they look up their TMCH record, which is a giant pain and they may not even have the agent for the TMCH record. I suggest reframing this as a percentage of – or most, all, some." And actually I see your hand is up. Kristine and then Susan.

Kristine Dorrain: Thanks. This is Kristine for the record. This was really sort of a background or historical context for Stacey and Greg. And I don't know if we came up with this list of numbers or if this was just a suggestion, but it kind of – you'll see this comment from me throughout. So if you think about it first you have a trademark portfolio, let's go with 1000 domain names in a small, midsize company's portfolio, they have international marks, they have logos, they have words. Of those they have to decide how many work marks they can turn to the Clearinghouse, of those they have to decide how many of those they're going to submit proof of use for in order to participate in sunrise, because of those they have to decide how many are going to be sunrise registrations.

So really you're asking people to kind of nickel and dime by these tiny little – like bands. So some of the questions I think we need to make the bands bigger to correlate to general portfolio sizes and I think that's where Lori and INTA can really come in and give us some good suggestions on four good band chunks. I would suggest that anything under 10 is extremely tiny and so having a band from 1, 2-5 and 6-10 is useless. And then of course you're going to have giant companies with thousands or hundreds of thousands of marks so that, you know, 50 plus captures a whole slew of sizes of

companies including by the way, very small companies that have portfolios of 50 or more.

So then when you think about of that, you've participated in sunrise or the Clearinghouse, or any of the other systems, I'm suggesting that we might want to talk about either as percentages, lumped percentages or I'm suggesting some, most, all, many, you know, some bigger group that allows people to give you a sense of, you know, of my, you know, 1500 trademarks, you know, I decided I was going to put all of them; or of the big chunk percentage I put 10% of my marks into the Clearinghouse and of those, you know, half I submitted proof of use for.

Trying to give you some sort of ideas of scale of what a company might choose to do with this data as they put it into the Clearinghouse and as they decide what to do with it to help the group come to a better idea of what the bands here should look like on these various questions. Thanks.

Julie Hedlund: Thank you very much. And – since you referenced Lori, I know the order says Susan, Michael, Lori, but if folks don't mind maybe I could ask Lori to speak first? Lori, please?

Lori Schulman: Hi. I just wanted to emphasize, and again I don't have perfectly memory, it's been a while, but I'm almost certain that we segmented along business volume and not portfolio size. It's very dangerous to equate portfolio size with business volume. I mean, yes, exactly, because larger portfolios are not necessarily owned by larger businesses. Sometimes larger businesses depend on, particularly in common law countries, on fame more than a – necessarily a large portfolio. It really depends. So I can't emphasize this enough, if you really want to look at – believe it or not, size doesn't matter in terms of portfolio.

Now if we decide philosophically it does because we want to know what percentage of a portfolio has been registered in the TMCH, that might matter.

But then again, I will say from experience the best practices from almost every brand owner I can think of has been to put maybe two of the three highest value or the most counterfeited or – there's criteria for putting a few marks in the TMCH. I think you'd be very surprised to find that you're not having owners putting in dozens of marks; it's just not how the best practice has been defined, at least to date.

Julie Hedlund: Thank you, Lori. I have Susan and then Michael.

Susan Payne: Yes, hi. We are on Question 5A, I'm hoping, so this is the one about how many did proof of use get submitted for, I hope that's right. And I'm assuming that I am right. I agree with Kristine's comments and I sort of scribbled a response to her to that effect in the Google Doc. My recollection, and I might be wrong, but my recollection from the staff report that they did a couple of years ago now or perhaps a bit longer, and from the review of the Trademark Clearinghouse that Analysis Group did, was that the vast majority of marks that have been put in the Trademark Clearinghouse actually also had proof of use, I mean, not – it's not 100% but it's a really high percentage.

So in a way, you know, the – like outright numbers are not really very relevant here. And I thought Kristine's suggestion of kind of most, some or all was much more relevant and probably, you know, many, many people responding to this would just, you know, will tick an "all" box because if they went to the trouble of putting their mark in the TMCH, they would also have gone to the trouble of putting in the proof of use.

Julie Hedlund: Thank you very much, Susan. And I have Michael please.

Michael Graham: Thanks. It's Michael for the record. As to Lori, portfolio size is not business size, I think that's correct but I think the questions are looking at portfolio size and then also the size or the number of recordations that you have so I would keep with that; I wouldn't confuse it with business size. Again, I think we're getting way into some other interesting weeds. It may be a requirement for

proof and there might be an entrance question on size of business but I'll leave that for other discussion.

In terms of some, most or all, or as Kristine has said, the difficulty of giving a number, there is no difficulty for us giving a number and if I don't have it on the top of my head my service providers do, all I have to do is give them a quick email and they will tell me. And I think some, most, all does not give me the sort of metrics, the sort of information that we are looking for and is subject to, you know, various understandings. So I would keep these numeric values that we're asking for.

I do agree with Kristine that we need to change those brackets to make them more reflective of what's out there, maybe 1-10, 10-100, whatever they might be and Lori certainly – INTA can provide some information on that and I'd ask her if INTA may have some brackets that they've developed over time.

Thanks.

Julie Hedlund: Thank you, Michael. Susan, please.

Susan Payne: Okay, thanks, Michael. In which case then maybe is it wise for us to go with percentages, because we've already asked these people how many marks they've shoved in the Trademark Clearinghouse and so then all we're really trying to get a feel for is the extent to which having put it in the Clearinghouse they've then also done the proof of use. Isn't that right? And so maybe some, most, all is a bit too vague, but then wouldn't it, you know, maybe would we not be better with doing something like, you know, up to 30%, up to, you know, up to 50%.

I don't you know, or, you know, up to 75%, up to all, you know, up to 100% or something because again, you know, I don't know what every single company did obviously. But I know from speaking to my colleagues in Com Laude that hardly any of our clients didn't put proof of use in, if they went to the trouble of putting the mark in there at all, I mean.

Julie Hedlund: Thank you, Susan. Michael, please.

Michael Graham: Yes, I guess I'm not sure what – what changing that address is. If I'm giving you a percentage, now I still need the same two numbers that I'm asking them for. And that very well may be the case that people who've registered in the TMCH are also submitting proofs of use. If that's the case we'll find that out. But I think I would rather ask the question and have the figures, you know, percentages lie just as much as some, most, all. Thanks.

Julie Hedlund: Thank you. I'm still seeing Susan's hand up. Susan, is that a new hand?

Susan Payne: I think it's due to my failure to put it down. But I suppose I'm just – I'm conscious that we don't want to make this unduly onerous. And I guess I just think, you know, like allowing someone to say up to 75% gives them, you know, gives them the ability to kind of put a finger in the air. I know it's a less certain answer but I'm just not sure how really relevant it is to know that, you know, X company put in 31 and, you know, that's all, I don't know, I mean, I guess we need to move on. I'm not going to die in a ditch over it but I think maybe it's just making it a bit easier for people to answer.

Julie Hedlund: Thank you, Susan. So, you know, we've got opinions both ways here. Maybe as you suggest perhaps we should just move on from this. Let's put a pin in it though. Right now perhaps we leave it as-is, but we'll just make a note that there are some concerns about it and perhaps move to the next question.

The next question, Question 6, "Have you applied to register any domain names matching any of your trademarks during the new gTLD during a sunrise period?" And then 6A actually has some comments. I see Susan says, "As drafted I think it might be answered as to how many TMs were (unintelligible) for sunrise, i.e. might only use one trademark but register 100 domains and you would only answer one. I think we want to know how many

domains overall, don't we, as so we need to amend to reflect my suggested edits to Question 6."

And Kristine's comment also on the numbering, "Again, I suspect most medium-large companies won't know. And I think the bands are too narrow still." And Michael, you have your hand up. Please go ahead.

Michael Graham: Yes, I just posted a comment in response to Kristine. I think in this regard with very few exceptions I would think, I think these bands are probably appropriate. I point out, we have at Expedia, thousands of registered trademarks but I only have a few Trademark Clearinghouse recordations and that's reflective of the fact that I register around the world, I register in various classes but still Expedia is only one trademark. So I think these bands probably are appropriate, although Susan might know if there are companies with far more than 50 TMCH recordations. Thanks.

Julie Hedlund: Thank you, Michael. Kristine please.

Kristine Dorrain: Hi. This is Kristine. I guess – and maybe this is the point of the problem, but Question 6 I don't believe is asking how many trademarks you've recorded. I think that Question 6 is asking how many domain names you registered in sunrise as a result of the trademarks you've recorded. So (unintelligible) 1000 domain names in its portfolio – or 1000 trademarks in its portfolio and it chose to register 10 of them in the Clearinghouse, how many of those 10 – well there's two different sides to the question and I think that's where the confusion is. How many of those 10 recorded marks were used to register domain names during sunrise periods?

And, the other question I think this is what we're trying to get at for Question 6A, is how many domain names did you register? So for sunrise record Number 1, did you register 10 domain names? I mean, there were 1000 sunrises, so did you register in 1000 sunrise periods? Did you use it 1000

times? Did you use it five times? Did you pick and choose how many times, you know, how did you pick and choose?

I think that's what we're going with on Question 6 because it's talking about participating in sunrise period, that's this category. And the way you participated in a sunrise period is you take a trademark you've already recorded and you then go register a domain name with it. So if we're going to ask a question about how many trademarks are in the Clearinghouse, that should go into a different section as far as how did you participate in the Clearinghouse.

But this section is about how did you participate in sunrise, which to me says how many domain names did you register using those marks in the Clearinghouse? So I think that's the problem with the wording in Question 6. So as Amazon, I might have only one mark in the Clearinghouse, but I might have registered, you know, 900 domain names, and I think that's what we're trying to get at here, but I could be wrong.

Julie Hedlund: Thank you, Kristine. Susan please.

Susan Payne: Yes, thanks. Yes, I think we might be – we might be asking amongst ourselves we might be having different interpretations of this question. And I'm interpreting it the same way Kristine is as in, I think what we're trying to get to here is how many domains did you register during a sunrise period? And that could be, as Kristine says, it might be one, you know, one of your trademarks in lots of different registries or you might have 10 trademarks and you might have done 10, you know, you might have registered domains matching all 10 of them but only in 10 registries. But the answer, you know, would still be 100.

And I think that's what we're trying to get to is, you know, you bought 100 domains or you bought 10 domains or you bought one domain. But I think looking at what Michael has been commenting, I think he's looking at this as

how many new – how many TLDs did you get, you know, did you buy domains in? And those are different questions. And so I think we need to answer – we need to know which question we're asking because it impacts the bands.

But in terms of whether it's easy or not to know the answer the question, I do think it's easy; I think the people who within a company are responsible for registering the domain name probably has a very good idea of how many they bought during sunrise periods and it wouldn't be – I think it wouldn't be that difficult to look it up. So I do think it's something that can be answered, I just – I think we need to be clear amongst ourselves which question we're asking.

Julie Hedlund: Thank you, Susan. Michael please.

Michael Graham: Yes, I was just going to posit it out there, who would be able to provide perhaps some more appropriate bands for this? And I agree, I'll revise what I was reading this as and go along with Kristine and Susan, I think in context, the way we're looking at it. And, you know, I think the only thing I would ask is if there's someone on this call who would be appropriate to provide some bands? I don't know that Stacey and Greg would be able to but Susan, if you would have, you know, some better idea based on your customers that would be great. Thanks.

Julie Hedlund: Thank you, Michael. And just a few comments in the chat that might be worth bringing out. Kristine said, "There should be a (unintelligible) and we should consider if the brand owner will amalgamate them for one mark or brand owner might register DMs in 200 sunrises and for a different mark might register DMs in 200 different sunrises, so that's two marks, 400 different sunrises." So what would that brand owner answer? Kristine, 200 max DMs (unintelligible) 400 max DMs total.

And Susan says, "I can have a think about this." So yes, if there are folks on the call who can give some guidance to Stacey and Greg, on what these bands should be, that would be very helpful. We're capturing that as an action item. Thank you.

And then let us go to Question 7, and I see that there are some comments with respect to Question 7 we have from Susan, "The factors taken into account may be different for different domains registered, e.g., some for use from the (unintelligible) match an important location or relevant goods/services, some because of the risk of fraud so someone might take 'all' most of these but that doesn't really tell us what the important factors are. Does that matter?" And let me just see – there's another comment as well. "And can we just make this change throughout please?" I'm not – okay register – yes, I think record as opposed to register I think perhaps is what you're referencing, Susan.

So Question 7, any further comments? Not seeing any hands up. It seem clear what Susan is suggesting. Any questions, Stacey?

((Crosstalk))

Julie Hedlund: Oh I'm sorry, Stacey, go ahead Stacey.

Stacey Chan: Thank you. This is Stacey. I just – no I don't have any questions. Thank you for providing these options.

Julie Hedlund: Susan, go ahead please.

Susan Payne: Yes, thank you. Yes, so just wanted to try and give a bit more clarification to my comments. I mean, I'm – I guess this is one again that maybe is for us to consider or for Stacey to comment on or to consider when she comes back to the documents. But I just wasn't sure how we would, you know, as it's currently set out I just wasn't sure how we were going to capture that there

might be different reasons. And I also, you know, wasn't sure if it matters. But we could just literally, you know, we may just get people who take every single one of those because in relation to different names, different ones of these apply. And I don't know how – it doesn't seem to me like that's terribly helpful.

So, you know, I'm afraid I don't have any suggestions on how to address it. I'm hoping that someone who's more expert on surveys could make some suggestions.

Julie Hedlund: Thank you, Susan. Michael please.

Michael Graham: Yes, Susan has – Michael for the record – Susan has a great point there. But I just inserted something, I mean, again the question that we would like to ask would be with each of those but, you know, in the aggregate I don't think that gives us any greater indication than asking someone to provide this and it may cover, you know, they may tick all of the answers as we go along, that may mean that, you know, it's in – indeterminate whether or not there's a specific factor that outweighs the others and that would be the finding.

You know, I can't think of a way that you would get to that real nuts and bolts information, Susan, other than asking for each of the domain names recorded with the Trademark Clearinghouse and for which a proof of use has been filed to answer this question. And I think you and I know that's never going to happen; we're not going to get that information. Thanks.

Julie Hedlund: Thank you, Michael. Kristine please.

Kristine Dorrain: Thanks. This is Kristine. Yes, Susan put my suggestion in the chat about ranking them. And I notice throughout they talk about this Likert, most likely, least likely, less likely. I like the idea of saying, you know, and addressing the aggregate issue because remember, we're going to try to find a way to gather, you know, entity size at the beginning, right? So yes, if you've got a

giant company like Amazon, we might have to tick every box because for a giant – giant portfolio of trademarks, you know, every single contingency is going to be a factor and that's going to be useless.

But what if somebody shows up as a small or medium entity? Maybe they've really only got three primary reasons why they participated. And I think we're going to find that out. I have a suspicion here that very large entities with very large portfolios will have a lot of reasons and much – and then entities with much smaller portfolios will have much – will have fewer reasons. And those who only chose to register one in the Clearinghouse and to apply for one domain name will have only one reason; they probably won't have 50 reasons.

And if Michael's theory is correct, that most people only registered a couple in a couple of TLDs, then I don't think you're going to have, you know, everybody checking 10 boxes here. So, yes, I think there will be some clutter for large portfolios, I suspect there won't be as much clutter for small portfolios and some of that will come out for those. But I do like the idea of learning more about this Likert scale and figuring out can we have them drag a slider as to how, you know, how much of an impact each of these factors was on their decision making when considering their sunrise portfolio in the aggregate. Thanks.

Julie Hedlund: Thank you very much, Kristine. And Michael, please.

Michael Graham: Oh sorry, old hand. But I agree with Kristine, and I think the idea not of ranking them against each other but ranking their importance or indicating their importance of each of these factors in the consideration would be a great way if we can obtain that. Thanks.

Julie Hedlund: Thank you, Michael. And Stacey, a question for you then, you know, mentioning the Likert scale or, you know, the discussion here of ranking that and comparison to each other, do you have any suggestions about how you

know, from the survey point of view we'd be able to facilitate that type of answer?

Stacey Chan: Yes, this is Stacey. Yes, based on the conversation, I do think that a Likert scale is – has begun to be suggested does sound like a great way to be able to collect this kind of information. The difference between the two options of ranking the options against each other versus having a Likert scale option for each is that if you do a numeric ranking of all of the options you won't be able to tell the relative importance of each so for example, say the first two options, trademark is a core business brand and new gTLD related to businesses, goods or services, are both very important to the respondent, they won't necessarily be able to rank those both, number one, one will have to be chosen as a number two. And then when we collect that data we won't be able to tell.

And similarly, suppose one respondent deems all these very important and they rank them in order of importance, however, if you were to ask them how important are these they would all be towards the very important side of the spectrum, versus someone who, for whatever reason, doesn't think any of these reasons are important, we wouldn't be able to tell a difference between those kinds of respondents so a Likert scale would allow us to collect a little bit more dimension.

Julie Hedlund: Thank you, Stacey. And I notice a couple – a question in the chat from Kathy, so we talked about adding availability of UDRP and URS as part of the thought processes on this question, and Kristine says, "I added it as a suggestion on the document." And Ariel is just noting that the cache for the notes is full, that does not mean we're not taking notes, it just means that we're taking them offline.

And I see I have a couple folks typing. So it seems to be – that we're ready to move on. Yes, note taking skills award goes to Ariel. So that takes us to Question 8 and I'm seeing a comment on Question 8 from Kristine. "We might

want to ask in how many instances in 1000 sunrises you didn't participate in N because of price or some other factor like not interested or ineligible." Any comments on Kristine's suggestion? Kristine, go ahead please.

Kristine Dorrain: Thanks. This is Kristine. I just wanted to clarify for Stacey's benefit here, so what I was really getting at here is we want to know did price affect your decision to seek sunrise period registrations for any of your trademarks? My concern here of course is if we say yes, it very much, you know, was a consideration, again sort of with the 1000 sunrise periods, it's very unlikely that it affected your decisions in all of those sunrise periods. There were probably as the list above, right, there's a giant list of why you might participate in sunrise; there's also an equally giant list of why you might not and price is one of those.

We want to dive into price here so we have a lot of questions about price. But I want to – as you're thinking about this grid and how you're going to map your Likert scale, we don't want to make it appear that if someone said, "I didn't participate due to price and I had 50 trademarks," that somehow we say 50 people didn't participate because price was such a big issue, when we have 1000 sunrises. So as we're sort of – you're writing your logistics on this matrix or this grid, we need to get at the fundamental core of was price a factor for some of your TLDs? Was it a big factor? Was it a lot factor, you know, I think that's what we want to get at, so I'm just trying to provide a little background context as we're talking through some of these price questions.

I know that a couple of places Greg had suggested maybe minimizing these questions but price is pretty important to this group and so to the extent that we can come up with some sort of a grid or a matrix to really get at how significant price was and how big of an issue it was, I mean, across 1000 TLDs if there were five for whom price was a giant problem, we want to know that, but we also want to know that it was really only five out of 1000. You know, so to the extent that we can at that information that would be immensely helpful to Stacey and Greg. Thank you.

Julie Hedlund: Thank you. Kristine. And, Stacey, do you have any comments or questions with respect to that suggestion?

Stacey Chan: Thanks. This is Stacey. I don't think I have any questions, Kristine, based on what you just said, it does sound like converting this question similarly to how – to a Likert scale of how – either how important was pricing in your decision or how – or a multiple choice that would be how frequently of the sunrise periods that you considered registering in was price the reason – I mean, the final reason that you chose to participate or not, that's not worded very well at all. But those are the two questions that I think I'm hearing from you. Is that accurate?

Kristine Dorrain: Yes, I think so. Thanks a lot. I think you're on the right track. My goal here really isn't to necessarily word smith it because I think you guys are the experts on that, but it was just to provide you with some of that background so that when you sit down to figure out what that scale looks like you can keep in mind sort of what we're trying to really try to pull out of the survey. Thanks.

Julie Hedlund: Thank you, Kristine. And I don't know if this is – and I think it's related to what you've been saying now but with Question 8B, and I didn't register my domain name and you're noting that this answer is odd. You can decide not to register an expensive TLD but we don't want to infer not registering in any – at all in any TLD risk because of the TLD sunrise price. Now we were talking about the grid and so on, is there – do we need to talk more about this particular comment? And I apologize if I'm being obtuse. Kristine, please go ahead.

Kristine Dorrain: Hi, this is Kristine. I'm happy to dive into it. I think given what I've just said I think it's probably pretty self-explanatory now, especially given that I remade my example below. But if Stacey has further questions about it I'm happy to answer, you know, any questions that might have been thinking about.

Julie Hedlund: Oh thank you so much, Kristine. And, Stacey, do you have any further questions or with all the discussion we've had here, is this clear enough?

Stacey Chan: Thank you. This is Stacey. Yes, I think I understand. Thank you very much.

Julie Hedlund: Oh thank you so much. And so onto Question 9, I see that Question 9 has some (unintelligible) with a comment from Susan, "Do we need this as well as Question 8? If so, the sub question options need more precision. You can answer yes to price impacting the decision, both if it's very high and if it's very low but the impact of the two is likely to be quite different."

And so Susan, please.

Susan Payne: Yes, sorry. Sorry, I'm finding it a bit difficult to work this Google Doc and work out where the comments are. Can I just say, the reason I put my hand up was that there's quite a lot of change happening in this Google Doc in sections that we've been through sort of say well we think going through the section and then someone is going in behind and changing stuff. And I'm just a bit concerned that there are amendments happening which we aren't looking at and we may not realize they're being made.

I don't know if – I don't know if people think, you know, perhaps it would be more helpful if we kind of keep the Google Doc as it currently exists, at least for the purposes of the call. I'm not trying to be really prescriptive but I just – I don't know, I certainly am finding it a bit challenging to see that text is being amended as we're trying to talk about it or even sort of after we talked about it, you know, and moved onto the next question.

Julie Hedlund: Thank you, Susan. Yes, I think that that could make things confusing. Kathy, I see you have your hand up.

Kathy Kleiman: Yes, this is Kathy multitasking because these meetings came in as other meetings already scheduled. But it's – I think what Susan may be referring to is the same theme of UDRP and URS that as we're looking at why – and that's why I didn't think there was any problem putting it in the chat as well as putting it in the document because it's the same thing. But so Q7, "What factors have you considered in deciding whether to register a domain name matching your trademark during any sunrise period?" And the factor that you could consider could be avoiding the UDRP or it could be that you decided not to register because of the opportunity to use the UDRP and the URS should a dispute arise.

So I added that to Q7, pending people's review. Also in the table, same kind of issue when we're looking, you know, when someone's going through that calculus, so Q8B, "In the new gTLDs that you decided not to seek sunrise period registration due to price, which of the following did you do? I waited until general availability; I didn't register my domain name; I registered it in a different new gTLD." And Susan's right, it should say, multitasking, I used or kept as an option to use the UDRP and the URS for dispute resolution.

So I would think that's kind of also part of that calculus of the whole thing, but I will pause and, you know, for questions and see what people think. Thanks.

Julie Hedlund: Thanks, Kathy. Kristine and then Susan please.

Kristine Dorrain: Hi. Thanks. This is Kristine. I'd lost Adobe and now I had to reconnect my audio. Okay, this is Kristine. And I actually disagree with Kathy. In this case the – and not that those aren't issues, I agree that they are considerations, but in this section, again, we're going to get into too much of the weeds with the brand owners, but this is, "Did you participate in sunrise? And what are the factors you considered if you were going to apply for a domain name?" And you don't get an opportunity to participate in UDRP if you apply for a domain name. You always have that opportunity.

So that's why I put in there originally – and I apologize for making that change – trying to avoid a UDRP. You would register a domain name in sunrise because you didn't want to have to deal with the UDRP later; not an opportunity to use. That exists regardless of whether you participate in sunrise or not. So I think that is not the correct wording here and I think maybe this is why Susan was concerned about additions because we don't have a chance to vet these if we add them after the fact.

And then same thing with if price affects your decision; the price of a sunrise registration would never affect your decision to keep UDRP as an option. Price will only affect your decision if you want to register a domain name in a sunrise period. Now you might balance is the price of a sunrise, you know, affected, you know, balanced against the cost of a UDRP or a URS, that might be an option but I don't think it has to do with it being available as an option.

So I'm a little bit concerned about that. I think that to the new question – is it 8B now, the matrix, I think the point is is that we're asking Stacey and Greg to go back and kind of make a new matrix so I hesitate to go through and add elements to the matrix that are going to be just kind of extenuating balance questions that we're going to ask later because we are going to ask later about how you know, the availability of UDRP and URS I think affected, you know, people's decisions to participate at all. So I'm not sure that they apply here. Thanks.

Julie Hedlund: Thank you so much. Susan, please.

Susan Payne: Oh thank you so much. Yes, Kristine has expressed my concern much better than I managed to do. And yes, so shall I move on now to Question 9, which is the thing that you thought I was going to respond on?

((Crosstalk))

Kathy Kleiman: I think we're still on Question 7 and Question 8. This is Kathy.

Susan Payne: Are we still? If we are then...

((Crosstalk))

Julie Hedlund: Go ahead. I thought we were moving to 9 and I thought we don't have agreement to add the material that, Kathy, that you had put in. So I don't know if you want to speak to that but otherwise I think we're poised to move onto 9.

Kathy Kleiman: Yes, I'd like to just – because I just – I think these questions lend themselves to various interpretations so again, for Q7, "What factors have you considered in deciding whether to apply to register a domain name matching," as Kristine said, price is an issue and if the price of the sunrise is higher than the price of a UDRP or URS, that may well be part of the calculus here and ditto for Q8B.

So I think we're missing something if we don't add this into the calculus because it is part, you know, it is exactly what Kristine said, something – and I know I'm coming to a different conclusion, Kristine, but it is exactly the calculus of, you know, price, any company is going to be dealing with price as part of the calculus, so I think we have to put it in. Thanks.

Julie Hedlund: Thanks, Kathy. I do think that Kristine – and not to put words in her mouth, did say that it is actually addressed someplace else and that may be more appropriately someplace else. And I'm just – I see Susan, you have your hand up. Is that an old hand? But I see Kristine's hand is back up as well. I'll go to Kristine because I think your point is maybe to this.

Kristine Dorrain: Okay thanks. Yes, this is Kristine. Yes, and I do want to – we can skip ahead and look at UDRP and URS. I'm not disagreeing, Kathy, I think I do understand that there's a big balance for pricing in all the factors that go into it, but I think calling out UDRP and URS is dangerous unless we do the same

as we did on Q7, which is come up with all of the various balancing tests with respect to price because price per- the strict price of the sunrise period is going to be balanced against the value of the trademark.

It's going to be balanced against the, you know, the cost of the UDRP and the URS and it's going to be balance against the cost of litigation if need be, it's going to be balanced against multiple costs, the costs of people to go in and manually watch this and add it to your watch list that various trademark owners have.

So I mean, I do understand the point of UDRP and URS but if you're going to open the can of worms all – on all of the different costs and factors that go into a trademark owner's decision as to what affected their pricing determination, we could be here all day. And so I think we're trying to keep it slightly high level and say did price affect your decision?

We don't necessarily want to know what aspects of price affected your decision, and if we do we probably need to schedule another call. But then we want to know if you thought it was too expensive for any of your business reasons that you have, what did you do afterwards? Did you wait for general availability to get it? Did you just say screw that TLD, I'm not even participating, I'm going to find a different TLD, you know, some other option.

And you know, what did you decide to do instead? And maybe and that's a situation in which you would say, and maybe that's where you're going with this is, you know, I decided to keep my options – my other options open, you know, such as litigation, UDRP URS, I don't know. But I want to be really careful that we don't start guessing all that different pricing variables that a business would go into here. Thanks.

Julie Hedlund: Thank you. And I'll just note that that was the original scope of the question, there was not a question relating to UDRP and URS, you know, in this particular section. So I'm going to go back to Susan and Susan, I know we

have a comment of yours on Number 9, and I think you were planning to address that.

Susan Payne: Yes. Thank you. Yes, so on Question 9, Question 9 – the first part of it is, “Did price affect your ability to seek sunrise registration?” But if you go back to Question 8, there’s a question, “Did price affect your decision to seek sunrise?” And I’m really – I just wasn’t sure that we needed both of them. I mean, again I’ll, you know, happy to defer to the group if they think that unless it’s something really usefully different but I wasn’t sure that we needed both.

However, if it – if we did have both my point was that in Question 9, price might well affect your ability to seek a sunrise registration, but that could be because the price is really high or because the price is really low. So assuming I’m answering this and I think, yes, the price was really low so that made it much more – made me much more able to get a sunrise registration, then when I get onto 9A, it’s now made it much more likely that I’ll register a sunrise registration.

But if I’m answering this, you know, wearing the hat where I’m thinking, yes, the price was too high and therefore that made it more difficult for me, then, you know, in both cases I’m saying it affected my ability but I’m answering Q9A in diametrically opposed ways. That was what I was trying to say. I hope that made sense.

Julie Hedlund: Thank you, Susan. And Michael, please.

Michael Graham: I may actually put my hand down; I think Susan raises a good point. I was reading this as really going after primarily on the negative side but I think it could be viewed in both ways. I think it’s also a different question though whether it had to do with the effect of the pricing where here it’s the ability. I’m not quite sure what to do with it. I like the question but again, I was

reading it more as a negative in looking at whether or not there was an adverse effect from the pricing.

Julie Hedlund: Thank you, Michael. So it sounds like we could have two questions here that get at the two different aspects. I'm just wondering what guidance you want to try to give to Stacey and Greg if we know and if we don't? So I have Kristine, and I note also, Kristine, that you do need to leave in about 10 minutes. Thanks.

Kristine Dorrain: Thank you very much. Yes, this is Kristine. And I'm sorry, maybe I didn't understand you, Michael, but I think that – I think we're in agreement that basically we can smush 8 and 9 together. It looks like Kathy is probably in agreement as well in the chat. "Did the price affect your ability?" And that can really go to affect your decision, or your ability, either one. I support merging them together if there's something – Kathy likes my word "smush" I like the – I like to create new vocabulary. Unless we've all missed something, Michael, maybe you could like re-explain but I think we can mush – smush 8 and 9 together. Thanks.

Julie Hedlund: Thanks. We've noted that technical term, Kristine. And so 10, let's move to 10...

Lori Schulman: Yes, this is Lori. I'm sorry, I support Kristine.

Julie Hedlund: Yes, go ahead.

Lori Schulman: I got kicked out of Adobe so I'm on audio only and I'm following the questions just out of Word. I agree with the smush technique.

Julie Hedlund: Thank you, Lori. That's very helpful. Question 10 we have a comment from Susan, "Do we want information about pricing? And we already know that registries and registrars are unlikely to give us this whereas brand owners might do. What we want is some way to elicit what brand owners were paying

or being asked to pay during the sunrise as compared to what they are or anyone else would have (tranche) after the sunrise.”

Any comments? Please go ahead, Susan.

Susan Payne: Yes, thank you. And again, this is one where it's – I'm willing to defer to Greg and Stacey in terms of how to draft this to elicit what I think we were trying to get. But what I was really just trying to say was that, you know, I think this is information, you know, that particular sort of pricing type information is something we do want. And I do respectfully disagree with Kristine's comment where she says that she thinks many brand owners can't answer that. I think they can. I think there might be, you know, as we talked about in some of the previous questions, there might be some outliers who registered so many that they just don't have a handle on it.

But I also think that there are many, many won't be in that situation and even those who registered a lot of names you know, when someone said to you it's going to be \$10,000 to you in your sunrise, take it or leave it, I think you remember that. I'm pretty sure you do. You know, and if you don't then the registrar that you worked with who, you know, dealt with that pricing outrage will remember it.

So I agree with Kristine's suggestion that maybe we need to make this sort of optional so that people don't get hung up on it if they can't answer it but I think people can answer it.

Julie Hedlund: Thank you, Susan. I have Kristine and then Michael, please.

Kristine Dorrain: Thanks. This is Kristine. Yes, I understand Susan's point on this. Maybe I'm being too literal with the wording here. And I do like the idea of saying, you know, we have like – we have, you know, three follow up questions in which we're seeking detailed information about the prices you were charged, you know, click here if you don't want information with us and move along. But

then, you know, we would really appreciate if you would, something like that because I'm looking at it very literally.

In 10, "In what new gTLDs, if any, did you decide to seek a sunrise period registration?" Okay, so I thought – I'm going to just use this as an example – 200 sunrise period registrations, I went to go try, I instructed my registrar, I was told pricing for all 200. Of those 200, if you're willing and recall, indicate the price you paid. So I have to come up with the 200 TLDs in which I decided to seek a sunrise registration, that's Q10, I've got to list my 200. Then if I – I need to list the price I paid for each of those, right? That's going to be pretty hard to do without going and doing a whole bunch of homework.

So then, "How many did you decide not to seek a sunrise registration due to price?" That's going to be easier especially if there's a \$10,000 mark. But what if my company has a cutoff at well we don't want to pay more than \$300, so now I've got to go back and look at that 200 sunrise registrations, and decide how many of them were cutoff because of price reasons versus other reasons. And then what was that price?

Agreed, if you've got a super egregious one, that's going to stick out as an outlier, but maybe I'm just being too picky with the way the question is worded and maybe there's a way that we can take Susan's point of trying to get at this question. And since we're asking open ended questions anyway, maybe we can honestly say like, you know, tell us about the most egregious pricing situations you've had. I mean, just be straight up, you know, don't tell me all, tell me about the ones that stuck out in your mind as the worst and maybe that's you know, the best way to get at it, just a suggestion.

Julie Hedlund: Thank you, Kristine. Michael please.

Michael Graham: Yes, I'm troubled by how we approach that as well. And sort of like if you're willing and recall what price you would have paid, well I'm old enough in this group to remember when I would have paid \$3 and that would get my any

dotCom I wanted. But I think perhaps what we need to do is to approach it in a way that Kristine was suggesting of rather than trying to get the entire field of experience, pick out the ones that are, you know, are those that the respondents will remember, will be able to give us specific information on.

And I don't think asking, "What would you pay for it?" is really a good question, it's so open ended. "What were you asked to pay for it, that you felt was too much," might be the better question. But I think we need to think about how to approach these two so that we do get this information which I think Susan is accurate, we do want this information but of getting it in a way that's one, going to be useful, and two, going to be something that will encourage respondents to respond and not just pass this question and not give the information. Thanks.

Julie Hedlund: Thank you, Michael. So Stacey, do you have any questions with respect to some of this guidance and any ideas of, you know, what we want to try to do with this question based on the comments and what you've heard here?

Stacey Chan: Thanks. This is Stacey. I do have just a few questions. I think so I'm hearing some questions that sound to be in the vein of, you know, basically is there a price above which a brand owner does not want to pay for a sunrise registration? I don't know if that's the kind of – if that would rub anyone the wrong way or if that wouldn't be collecting the information you want. Otherwise, we could certainly alter the question along the lines of, you know, what is the most extreme or an example of an extreme price that you were unwilling to pay?

And Susan's comment on the document, it sounds like there's a different – a slightly different question there, which is, "What is the difference between the sunrise registration price and the general availability price?" And I'm not – in this most recent discussion on the phone, I don't think that I really heard that question come up again so I'm wondering if we want all of that information or if we are more interested in – what's the sunrise registration price that you

were offered that you, you know, did not accept? I think either way is fine. I just wanted to make sure that I understood what the group wants.

Julie Hedlund: Thank you, Stacey. I have Kristine and then Susan, please.

Kristine Dorrain: Thanks. This is Kristine. I'm going to be quick so I can jump to my other call and then let Susan pick up the flag on this. The price that a brand is willing to pay depends on the value of the brand. So some brands, they're willing to pay much, much more because the cost of defending it so much higher versus some brands that they decide aren't quite as worth it. So asking an absolute like what's the – that was your top dollar, what price beyond which were you unwilling to pay, that's not going to be a good question.

Asking for the anecdotes is a better question. I know I said "horror story" in the chat, but I don't think we want to say the word "extreme" because we want people to highlight anything that they think is worth telling, right? So we don't only want to hear about the \$10,000 price, but if one company is a maybe small to medium size company and they were aghast at \$200 price, we want to hear about that. Maybe we're going to have 50 stories of companies that were aghast a \$200 price, I don't know. But I think if we say "extreme" we might get people to say well, I don't know that it was extreme because I was asked to pay that, you know, 20 times.

So I think we need to be really careful about leaving this open ended enough that you're trying to get at the stories of the outliers and maybe why it was an outlier to your company without limiting it too much. And I know Susan can speak to this, this is sort of her expertise. Thanks, all, for everyone. I'm going to drop after this. Thanks. Oh, and to Kathy, it participates – or depends on the gTLD also, absolutely right. Thanks, everyone. Talk to you Monday. Bye-bye.

Julie Hedlund: Thanks much, Kristine.

((Crosstalk))

Julie Hedlund: Have a great weekend.

((Crosstalk))

Julie Hedlund: Bye-bye.

Lori Schulman: Hi, this is Lori. Can I jump into the queue?

Julie Hedlund: Yes, Lori, you will go after Susan so first Susan then Lori.

Lori Schulman: Okay.

Julie Hedlund: Thank you.

Lori Schulman: Thanks.

Susan Payne: Oh lovely. Thank you. Yes, and I was sort of – Kristine’s covered a lot of it but I – yes, Stacey, I think I was – in my mind I was thinking that a – some kind of reference back to what the general availability pricing is has a relevance because – and this may be what Kathy means by that it depends on the gTLD, because I’m trying to think of an example, I think dotSecure or Luxury I think it was, I think you know, the base price for a Luxury name was something really high like – and I’m guessing here, \$10,000.

So, you know, the base price for anyone is \$10,000 then the fact that it was \$10,000 in the sunrise is like, you know, is, you know, you might be shocked and aghast at it but that’s the price for everyone. But if, you know, but if it’s \$10,000 to everyone else but while you were trying to buy it in the sunrise it was \$20,000, then that’s, you know, that’s a different issue and that’s – I think that’s the kind of issue that we’re trying to tease out with our questions about

pricing. I'm saying again, you know, those were guesses on my part, they're not the actual pricing; I can't recall the actual pricing.

Julie Hedlund: Thank you, Susan. Lori please.

Lori Schulman: Hi. I guess I'm going to come back and in and emphasize something that Kristine and Susan are saying on both sides the equation of whether you're a registrar that may be setting a price or a trademark attorney that's trying to figure out whether to pay a price. And this is what's made forming these surveys so vexatious. So if you have suggestions, we'd be open.

So on the registrar side, to Susan's point, there were some sunrise periods – notable sunrise periods where we know that the registrars were setting prices that were – if you were a trademark owner you were actually charged more than if you were not. Okay? There was discriminating pricing within a single – within a single, I don't know what the word is but a single category of a sunrise purchase.

So if you were a trademark owner in a sunrise purchase in asserting a right you were charged one price; and in that same sunrise period if you were not a trademark owner you obviously couldn't buy it, but if the mark wasn't bought and went into free range then you could buy something very low. So there was this, you know, opportunism in the sunrise period that trademark owners found very difficult to cope with.

But on the other hand, you have trademark owners trying to decide, okay, where am I going to put my money on this \$10,000 sunrise ask of trademark owners. If I have a mark that has been frequently counterfeited as much as I hate that \$10,000 price tag, maybe it is worth it for me because this brand is so important to me while I would never pay that kind of money for maybe a different brand.

So both sides of this equation are trying in a sense to game the system, trying to maximize or minimize depending on which side of the equation you're on what price you're going to pay at what point. And what the task of the Data Subgroup and the RPM group in general is to find out within these pricing mechanisms, has there been unfair competition? Has there been an unfair state of play? Has it deterred buyers from buying what they might otherwise have bought? You know, has it – those are the sort of very broad outlines of the problems that we're trying to get at with these questions.

And I think that the difficulties that we're having right now kind of reflects the complexity of some of the pricing that went on particularly in the sunrise periods. So I, again, this is a contextual comment, I don't know how to solve the problem, but basically on both sides of this equation you're going to have multiple factors.

I don't know that you could say definitively you know, price is the factor, not the factor because it's going to always be weighed against – and I think Kristine or Susan had mentioned – that the cost of actually defending a trademark let's say not inside the domain universe but outside, going to a court, going to some administrative law procedure that may not be the UDRP, or may be the UDRP, the cost of that versus buying something up front versus being a so-called emerging business, little guy, but if you're a little guy and you're building a business on one brand and it's a brand that could be very easily counterfeited, then that maybe that \$10,000 is exactly what you're going to spend.

So this goes to my earlier point too about not, you know, thinking that calculating portfolio size and spend or business size are all going to align because typically they don't actually. I mean, I've worked in the private sector working for charities and Fortune 50s and I can tell you on some charitable brands more money is spent than in the Fortune 50. And again, I don't know if this is helpful but when I'm hearing my colleagues speak what I'm really hearing is the conflict that's playing out between all of these factors and why

decisions that might have seemed more straightforward to a brand owner when in fact they were not straightforward at all.

Julie Hedlund: Thank you, Lori. Susan, you have your hand up. Or, Susan, is that an old hand?

Susan Payne: No, according to mine I don't have my hand up, but maybe I'll raise and lower it again a couple of times and see what happens.

Julie Hedlund: I will lower it for you. And okay. All right, so, Stacey, based on all of that background and discussion, it sounds like do you have a sense of changes that we are seeking for this question? It sounds like we're looking for some anecdotal information but let me see if you've got questions and let me let Stacey go first, and then Kathy, I do see your hand up.

Stacey Chan: Thanks. This is Stacey. Yes, I do agree, it's sounding like we're at the point where it's complicated enough information that asking for anecdotal experiences may be the best option here.

Julie Hedlund: Thank you. And Kathy, please.

Kathy Kleiman: I just added something so I thought I'd flag it. Q11A, I think, but it's hard to see – yes, Q11A, "If you were willing and recall," and I'm going to use it as edited, "please indicate what price you would have paid," I want to say in that gTLD, because you know, if – to register your trademark during the sunrise period.

If that's really what we're asking is like how much would it have been worth to you, then I think it might be gTLD relevant so that somebody was talking about dotLuxury earlier, and if that's \$10,000, that might be reasonable for Rolex but it dotBike, my little local bike store that I love the Bike Club, you know, \$200 as somebody mentioned earlier might be high for that. So this

may be gTLD-specific so I thought I'd see if everyone agreed about putting that gTLD specific information into the question.

Julie Hedlund: Thank you, Kathy. Does anyone have any objections to adding that change? Not seeing any hands up. And I suggest we go to Question 12. I've got an edit in there, a couple of edits in there. I'm not – 12 and 12A, I'm not seeing any comments on those. Does anybody have anything they want to raise? And I'm looking for hands. Not seeing any hands.

And I'm going to suggest that we go to Question – there's Question 12 – I see there's Question 12A, 12B, and 12C. I don't see any comments again associated with them, just some edits. Thirteen and 13A, I don't see any comments there. Fourteen has a comment. "In the event a registry has placed terms in its reserve names list," Kristine says, "This wording is way better than what we have in the registry operators' questions list." Okay.

I don't want to be moving too quickly but I'm not seeing any hands so let's say Question 15 has a comment, the same edit as Question 14 above, okay that's from Susan. So we can carry over that edit from Question 14. And Question 16, got some edits but I see no comments. I see a comment in Question 17 and that says, "Duplication, Question 6 an 12," and the Question 12 is about trying and being unable to register and Susan, please.

Susan Payne: Yes, I thought it would be easier if I just speak to it. It's just that we – when I looked at this I thought I can't believe we've got this far in the survey and we haven't already asked, did you attempt to register any of your trademarks in, you know, in a sunrise. And so I looked back and it looked to me like we've already asked this or sort of variations on this multiple times. Now this might just be – it might just be the way it's drafted at the moment.

You know, it might be that actually what needs to happen at this point is that we say to someone, you know, you previous said to us that you'd attempted to register your trademark in the Clearinghouse or whatever, you know, rather

than kind of asking them about three different times whether they put their marks in the Clearinghouse and attempted to register sunrise registrations. I just – I felt we seemed to be asking the same question more than once.

Julie Hedlund: Thank you, Susan. That seems quite clear. So perhaps Stacey, when you go back to look at those previous questions perhaps we can economize. Goodness that we would – if we can reduce the number of questions and avoid duplication, that would be helpful, so see if there is a way we can roll this back and not have it duplicating earlier questions. And Michael says, “Quick reminder of sunrise period registration in 18.” Okay so that is – so that’s in 18 saying to include the reminder of sunrise period registration into – in intro to 18. Okay so we will note that in the notes.

I’m not seeing any other comments on 18, but we do have a comment on 19. So the comment on 19 is, “We suggest dropping to reduce the length of the survey.” What do people think about that suggestion, dropping Question 19?

Kathy Kleiman: This is Kathy. I agree. I think that’s a good suggestion.

Julie Hedlund: Thank you, Kathy. Susan, please.

Susan Payne: And I disagree as does Kristine. This is one of the things that we were, you know, trying to elicit from doing this survey and it was something that we’d all agreed we were going to be asking.

Julie Hedlund: Thank you, Susan. Michael please.

Michael Graham: Yes, and I’ll agree with Susan. This was something that we were specifically going to ask and it goes to a larger question before the RPM PDP so I think this is worth asking and pursuing. Thanks.

Julie Hedlund: Thank you. And I see Kristine’s comment also says, “This question goes to the effectiveness of sunrise.” And I see edits in there from you, Michael. I’m

not seeing any other comments. Do you want – for 19A, Michael, is there anything you feel you need to explain with those edits or otherwise add? And I see, Kathy, you have your hand up.

Kathy Kleiman: Yes, I'm sorry, I thought somebody recommended taking 19 out? I thought that was Michael recommending taking it out, but I could be missing that. And then I have another comment.

Julie Hedlund: Actually, it was Greg from Analysis Group suggesting it.

Kathy Kleiman: Oh.

Julie Hedlund: It wasn't a suggestion from the sub team.

Kathy Kleiman: I'm looking for – and maybe Michael can help me – I'm looking for this question in the original questions. Could you help me see that because this seems massively leading to me, the way it is. I don't recall this in its kind of current sense – current form.

Julie Hedlund: And I see, Michael, you have your hand up. Please go ahead.

Michael Graham: Yes, I'll have to go back and look at that. The only reason why Greg was suggesting this was not subject matter but was length of survey and I don't – did not see anyone questioning whether or not we should be asking this and again, this was something we were going after. I'll have to look at the original questions to see what this correlates to but this is something that apparently has been in there a while. I'll take a look.

Kathy Kleiman: It's been in our questions for a while, our original questions?

Julie Hedlund: Kathy, this is Julie. I do believe it is in the original questions and I'm just looking for it now. Yes, "Are you aware of any domains that contain strings that are identical or confusingly similar to any of your TMCH registered

trademarks that were applied for after the sunrise period?” and I’m just looking at that. That is exactly the question that was in our original questions. If you look at Page 16, the Question 5 it is 5 bullet...

((Crosstalk))

Michael Graham: ...section, correct?

Julie Hedlund: Yes.

Michael Graham: Yes.

Julie Hedlund: And actually I’ve synced the document so you can look at that page.

Kathy Kleiman: I’m there. I’m there.

Julie Hedlund: Okay.

Kathy Kleiman: But this idea of specific actions, legal actions, that were taken, it’s completely possible that something was identical – confusingly similar is actually a legal term and we don’t have that legal issue. But because it was a different TLD, so – and – but the implication here is that everything is a legal matter and maybe Greg or Stacey can comment on this, but once we get down the Q19A(i), because of the wide range of gTLDs, I’m not sure any of these actions are appropriate and we didn’t suggest any of them.

Can we leave this as more open ended question because the answer might be that the word “Michele” just to invoke Michele Neylon, you know, Michele may be appropriate you know, may be trademarked 10 times for 10 different types of things including domain name registration services but also for bicycles and other things. So I think we’re leading here that whenever something looks like a trademark, that it’s a legal issue and I don’t think we’ve made that conclusion as a sub team. Thanks.

Julie Hedlund: Thank you, Kathy. I have Michael and then Susan. And I think I'll note that the additional text there on – that's been added – added by Michael, actually I see Michael's lowered his hand but I see Susan, please.

Michael Graham: Yes, this is Michael. Let me – since I had my hand up and I did add these because I would not be adverse to just having an open ended but the way it was, was yes, no, don't know, and I thought that really if we're going to ask that question we wanted some more information then it's something we ought to pursue.

If we wanted to change the possible actions under 19A(i) or B, that's fine with me but I think it was something that we might want to pursue if we think that having an open field there would get the sort of information that would be useful that's fine, but I think this is like many of the others, that at least we need to give some different possibilities that can be answered and if none of them apply then they can go to the other and supply that open ended answer. Thanks.

Julie Hedlund: Thank you very much, Michael. And I think having sort of more specific options to choose rather than open ended could be quite helpful. Susan and then Kathy.

Susan Payne: Yes, yes Michael sort of said it. Kathy, Greg had proposed taking out Question 19, the overarching question about, you know, were you aware of domains that were registered, so he was – Greg was (unintelligible).

Kathy Kleiman: Did Susan just go quiet?

Julie Hedlund: I believe so.

Lori Schulman: Yes, I thought I lost sound or did we lose Susan?

((Crosstalk))

Michael Graham: We lost Susan.

Julie Hedlund: Can someone type in the chat that we lost her? Yes...

Lori Schulman: I'm not in the chat because Adobe froze me out. This – just so you know, Julie, like Adobe the last two days that we started using it it's constantly freezing. I rebooted it on my machine, I did the Flash test, I went back to the old days of getting ready to use it, didn't seem to matter. It's constantly freezing out my system.

Julie Hedlund: Oh thanks. We'll note that. We can alert our tech folks. I suspect if it's happening across the spectrum they're probably hearing about it as well. But Susan says her phone has hung up, she needs to dial back. In the meantime – in the meantime, Kathy.

Kathy Kleiman: Okay. The question for Michael as well as everyone else, I'm going to type something into the side as an alternate to Q19A, where we replace kind of free selected things and maybe leave it more open ended. So I'll work out the wording but basically, you know, are you, you know, the choices yes, no, don't know, you know, maybe, you know, please explain or what you did or what you didn't do and why.

Julie Hedlund: Yes, and thank you, Kathy. And I'll just note that Stacey adds in the chat, and I think what Michael – not to put words in your mouth, Michael, but, you know, to have options rather than an open text field is going to probably yield data that – information that might be easier to parse. But I have Michael, please.

Michael Graham: I guess Susan dropped out, although I'd love to hear her comments completed. But yes, I was just going to say I would leave, you know, some of these thoughts to Stacey and Greg because we do want to elicit the information but we also want to make sure, addressing your concern, Kathy,

that, you know, we're not pushing this in any particular direction. So if there's a way to do that, you know, and perhaps it's opening with a certain type of activity and ending with others or, you know, or as you were phrasing it, you know, did you take any action? If so, what was it? So you're pointing but you're not providing suggested answers. But I think that's why we have Stacey and yesterday had Greg on the line, to provide their expertise. Thanks.

Julie Hedlund: Thank you. And I know Stacey says, having options rather than open text fields where possible can make the survey much easier for respondents and offer options because give them an idea, but we take the point of trying not to lead people too. So, Stacey, maybe we can take another look there, and it looks like, Kathy, you were going to give some samples and thank you for that. And Lori agrees about options, they're quick and efficient.

So just moving along, I'm looking at Questions 20, 21, 22, 23, 24, I'm not seeing any comments on any of those questions. Does anybody have any comments people want to raise? There are edits but I'm not seeing any questions or comments.

Michael Graham: Yes, Julie, real quick, it's Michael for the record. I did have a question and maybe we can just spell this out, I know we all love being able to turn long phrases into short acronyms that nobody else understands, but even I – when I hit “NORN” I sort of hit a wall so I wonder if we just might spell that out again. Thanks.

Julie Hedlund: Thank you, Michael. I actually really think that we should spell out everything and avoid acronyms and especially even you know, if people choose to skip questions, it should be spelled out every time because that way you can ensure that there's no confusion. That's really good. Sorry, Question 25, I was on mute, has a comment, this seems like more of an exclusion to this section, as the subsequent questions dig into various aspects. Maybe move to the end of the section. Any objections to Kristine's suggestion?

And I'm looking for hands. I'm not seeing any.

Michael Graham: This is Michael real quick.

Julie Hedlund: Yes, please.

Michael Graham: And I just want to say I agree with that suggestion, that it is conclusory, let's put it at the end if we keep it.

Julie Hedlund: Thank you very much, Michael, that's quite helpful. I'm looking at Questions 26-29, I'm not seeing any comments. Does anybody have any comments on those questions? That's not counting Question 29A, which does have comments. Moving them to the comments on 29A and B, 29A, wording is unclear, how many of those actions in Q29 were against new gTLDs, domains for which you received the NORN? And on 29B, in new gTLDs, right. We don't have Kristine here but do people generally agree that we need to tighten up the wording there? And the second suggestion is in new gTLDs. Kathy, please go ahead.

Kathy Kleiman: Yes, just wondering how the aggregate helps us, UDRP, URS and/or litigation proceedings? Maybe I've just been in the weeds for too many years, but those all seem like very different types of proceedings to me, brought for different types of reasons based on different types of case by case evaluations. So what will these numbers tell us in the end? Thanks.

Julie Hedlund: Thanks, Kathy. Does anybody have any comments with respect to – or answers with respect to Kathy's question?

Lori Schulman: Yes, this is Lori.

Julie Hedlund: Please go ahead.

Lori Schulman: Yes, I have a couple of thoughts about this, probably arguing one way or the other, I'll tell you where I personally fall. So basically I think what the question is getting at you know, have you – I don't even remember what NORN means, but basically have you brought any proceedings – what is a NORN? Can somebody remind me?

Michael Graham: Notice of recorded name, I believe.

Lori Schulman: Okay, yes, but the bottom line is basically I think what we want to know is as you the trademark felt you had to act in a enforcement type manner because UDRP is enforcement, URS is enforcement, litigation is enforcement; you have three ways you can force even if you received a NORN or when you received a NORN. I don't remember all the procedures around the NORN so that's my – I just don't remember.

But that being said, this gets at have you acted in a, you know, with an enforcement action probably doesn't matter what the action is. But to your point, Kathy, if you had divide these up, UDRP, URS, or litigation, UDRP, URS probably fall in the same bucket as they're both considered lower cost, more efficient means versus litigation which are considered higher cost, higher you know, kind of higher stakes enforcement efforts. So I think the question to the group would be, do we want to just know generally if an enforcement effort has been taken? Or are we interested in splitting it out where have people gone to the extent of a litigation versus not a litigation?

I don't know. I think it probably doesn't matter if it's a litigation or URS or UDRP, if we're trying to get at have you had to act for use of any domain names for which you received a NORN because the action itself may or may not matter. Does that make any sense?

Julie Hedlund: Thank you, Lori. Michael and then Kathy.

Michael Graham: Okay Michael for the record. So just by way of explanation, as I understand this question, is that this series, under 29 and there's another mis-numbered 29C there and D, is getting at actually a different question. One is whether or not you received a NORN and went further into an action generally; then the other questions that follow that are looking at the types of challenges that were made. And this is in response to the discussion of whether or not exact match notices was sufficient. And so this was trying to capture some of that information, that's how I understand this.

So for example, A is looking at receiving a NORN; B is looking at exact matches that led to UDRP URS or litigation, any sort of proceeding; and then C is non-exact matches. And then there were some variants in D again that look at some of the proposals that have been made as possible expansion, if those are desirable. But this is really looking at what actions have actually been taken by trademark owners either exact marks, duplicate someplace in there or some variation in there. That's what my understanding of 29 is.
Thanks.

Lori Schulman: Yes hi. This is Lori. Can I jump in again because I actually have the Trademark Clearinghouse definition up because I just wanted to remind myself. The NORN are notifications sent by the Trademark Clearinghouse to a trademark holder during a sunrise period or trademark claims period that a domain name has been registered that exactly matches a label for one of his trademark records. So I think the question is, are these exact matches exact enough that you brought an action?

So I don't think that knowing whether it's a UDRP, URS or litigation makes a whit of difference, quite frankly from a trademark owner's perspective. I don't know from a registrant's perspective, Kathy, but I don't think it should because I think really what the question is going to, are these exact matches triggering an action by a trademark owner? Doesn't even matter what the action is from my point of view.

Julie Hedlund: Thank you, Lori. And Kathy, I'll give the floor to you but I'll note we are one minute to the top of the hour and we probably need to carry this over to the call on Monday. Go ahead, Kathy.

Kathy Kleiman: Yes, when I look at it broken down, all this way, and I've gone back to the original and seen that a lot of it is there as well, but broken down into kind of 1, 2-5, 6, a clear question comes up which is did you win? Just because the proceedings were brought doesn't mean they were legal or reasonable or upheld, and that's kind of – so these questions may give us answers that don't lead to something useful. Was it overkill in some ways, you know, did you want, you know, did you bring an action against something in dotBike and you're nowhere near, your trademark is not in the categories of goods and services, anywhere near dotBike?

So I'm not sure, I think we're spending a lot of time on something that may not yield the kind of information that's useful or we have to go farther. Maybe it would be better just to ask them, what UDRP, URS and court cases did you get involved in involving new gTLDs and second level domain names? And how, you know, what were the results and how do you feel about it? Maybe it's that easy. Thanks.

Julie Hedlund: Thank you, Kathy. And Michael, I will give you the last word.

Michael Graham: Okay. Thanks. I just wanted to respond to Kathy's point and I think it's a good place to end. And that is that trademark owners are not going to tell you exactly, you know, this is a confidential survey, I'm not going to give you the information if I start identifying trademarks specifically in these actions. However, to your point, I think you're entirely right so I think each of these has to ask how many have you brought? And then how many were you successful in? And I think that addresses your question. But I think this was – I mean, it's been put aside for now but I think this is a vital discussion that's gone on within the PDP and it's one that we're in a position to provide some useful data on so I think inserting that follow up for clarification so that it's not

– how many did you bring alone, but how many did you bring? How many were you successful in? Thanks a lot.

Julie Hedlund: Thank you, Michael, that's quite helpful. And I see Kathy says, "Good. How many brought, how many successful to quote Michael." So thank you all. I have one minute past the hour. Thank you for spending so much of the time on your Friday. I see Kathy you have your hand up. Kathy, very quickly please.

Kathy Kleiman: Yes, what are we working on on Monday so kind of knowing who's on deck for preparations? I think we're still working on these but also registrant and potential registrants and registrars are still...

((Crosstalk))

Julie Hedlund: Okay thank you, yes. Thank you, Kathy. It's Julie. We are nearly finished with this survey so we'll finish this survey out and then I think we are going to go registrars. I know that – I think actually that was what we had planned to do and Susan was going to cover – was going to be preparing for that. Not to put – point a finger at you, Susan. And she says, "I need to edit the Google Doc this weekend." That doesn't sound very fun, Susan, but that's what I think we're planning to do on Monday. Thank you. And thank you, everyone, for joining. And yes, "Living the dream," says Susan, yes indeed.

Thank you all so much for joining. Go ahead.

Michael Graham: Thanks a lot.

Julie Hedlund: Thank you, everyone. And thanks for your all your hard work. Have a great weekend if you can. And we'll talk to you Monday. And...

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