

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working
Group call
Wednesday, 12 April 2017 at 16:00 UTC**

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Coordinator: Recording has started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. And welcome to the Review of All Rights Protection Mechanisms, RPMs and all gTLD PDP Working Group call held on the 12th of April 2017.

In the interest of time there will be no roll call and since we have quite a few participants. Attendance will be taken by the Adobe Connect room. If you are only on the audio bridge, could you please let yourselves be known now.

((Crosstalk))

Terri Agnew: I'm so sorry. I missed that. Can you say it one more time?

Marina Lewis: Marina Lewis for the record.

Terri Agnew: Thank you Marina. All right, hearing no further names, I would like to remind all to please state your name before...

J. Scott Evans: This is J. Scott.

Terri Agnew: Thank you J. Scott.

J. Scott Evans: I'm on the line. I'm just on – yes.

Brian Beckham: Hi this is Brian Beckham. I'm on audio only as well. Sorry.

Terri Agnew: Thank you Brian. Hearing no further names, I would like to remind all to please state your name before speaking for transcription purposes. And to please keep your phones on mute when not speaking to avoid any background noise. With this, I'll turn it back over to our Co-Chair, Phil Corwin. Please begin.

Phil Corwin: Well thank you Terri and good morning, afternoon or evening to everyone on the call. Once again, encouraged by the significant level of in-person participation on these calls.

We're going to start in just a few minutes to the most productive part of this exercise, which is the initiation/consideration of concrete proposals to modify the RPMs. So our real work is just beginning.

Before we begin, as Co-Chair – and these are strictly personal comments. I want to just say a few words about the very lively discussion we've had on the list this weekend. And these are my own views. There's been some interchange of thoughts between the co-chairs and with support staff. But what I'm saying now is strictly on my own.

In some ways that discussion's been very good. We've seen people involved in – actively involved in the issues on the working list who haven't spoken up before. On the other hand, several members of the working group have dropped off this week. And to the extent we've been able to find out why, it's

because they're put off by the volume of emails, particularly repetitive emails repeating things that have been said before and also the tone of the emails.

And we've also gotten some feedback that some members who would like to speak are reluctant to do so for concern about being piled on by people who have a different point of view.

So without singling out anybody who's engaged in anything on the list this week, I would just say – and this is based on my own experience in the policy field over several decades that if you're making statements to prove that you're right and the other side is wrong rather than to persuade the other side of the merits of your viewpoint and why they should reconsider their own and why there might be some common ground – you're winning the argument but you may not be winning the war.

I think we all need to remember that only proposals that we adopt by a significant super majority with strong consensus support and without broad opposition are likely to make it all the way through this process. And by all the way through I mean to Board approval and to becoming an actual change.

Our initial consideration is just the first step. At the end of this process all the RPMs are going to put out an interim report, which is going to be subject to public comment. And we're going to be required to review all those comments in a comprehensive and serious manner.

Once we submit a final report, it goes to GNSO Council, which has a much broader representation of interest than within this working group in some ways. And which is not obligated to take all of our recommendations, particularly the ones with less support than more opposition.

And then finally it's going to go to the Board. And there, while the Board has a fairly high standard for rejecting things, it is subject to GAC advice. And if

there's contrary GAC advice on a Board recommendation that can put them in the suspended animation for years.

So as we proceed I would hope that everyone keeps the need to find – to build consensus in mind. You might even give some consideration to the notion of horse trading where one side accepts some version of something it might rather not have to take in order to get the other side to agree to something that it wants.

And most of all I would ask all the members of this working group to treat one another with respect. And before you end that email consider if you'd say things the same if the person was sitting across the table from you rather than across the Internet.

I think unfortunately on the Internet the impersonal nature sometimes encourages people to take a more strident tone than they would in a face-to-face conversation. So that's all I wanted to say. I hope we have a very good, constructive discussion today as we start to consider concrete proposals for change.

And hopefully that focus on concrete proposals will bring a focus to this discussion in which everyone realizes we have to find some common ground and agreement and strong consensus to get things approved that are going to make it all the way through the process.

So with that unless someone feels a strong need to comment on that I'd think – I would hope we could launch into the actual work before us today, which is to consider some of the final TMCH questions and to start entertaining concrete proposals in regard to them.

And I would note that while staff had put four questions on this list, the fourth question, Number 15 which is about the concerns about the trademark

clearinghouse database being kept confidential and/or whether it should be opened up.

We had previously determined – it was pointed out in an exchange among the co-chairs and staff this morning that we’re going to defer any proposals on this question until after we review the actual operation of the two RPMs. That depend on the trademark clearinghouse that is on the sunrise registrations and the trademark claims notices, in a belief that a greater understanding of the actual experience with those RPMs will bring a more informed focus to any proposals for or regarding confidentiality of the database.

(Once in a while) those who believe that more data on the use of the clearinghouse is required to have time to gather that data. So we’re really discussing three questions today.

Question 7 on design marks and their current handling by the Deloitte and IBM and whether that’s proper. On 8, which is on whether the current handling of geographic indicators, designations of origin and protected appellations of origin are being handled properly.

And finally one that may insight some discussion on whether the matching rules should be retained, modified or expanded in any way. Which would involve the ability to possibly cut back or possibly expand the types of terms that could be placed in the database.

So with that introduction, I’d like to invite any further discussion. And we’ve discussed this a great deal on handing of design marks. And I believe we do have a concrete proposal on that today.

Let me also note that unless there are strong objections from the group, on these three questions the co-chairs have proposed a deadline of one week

from today -- that is April 19 for the submission of any proposals in response to any of these three questions.

It doesn't mean we're going to resolve all those proposals by next Wednesday. But means that if you believe that a change is justified, now is the time to prepare your proposal and submit it before that deadline.

So with that I'm going to stop talking and see if we have any statements on Question 7. And then I believe there's a proposal on Question 7 which we can take a look at after any preliminary discussion. So the floor is open.

Okay well I'm not seeing any hands up or hearing – Kathy. Yes go ahead Kathy.

((Crosstalk))

Phil Corwin: Go ahead Kathy.

Kathy: I'll be presenting the proposal later. But I just wanted to point out in the chat. So (George) is asking about the questions on Question 7 that we posed to Deloitte.

And I thought maybe perhaps we could ask Mary to comment. And it's my understanding Deloitte has not gotten back to us in part because (Vicki Follins) was out of the office. But that we haven't gotten answers back on Appendix A. But I thought I'd point out that that's a pending question in the chat room right now. Thanks.

Phil Corwin: Okay well thanks for pointing that out Kathy. And I would ask staff to get back in touch with Deloitte and please convey the urgency of this request. That we are now entertaining proposals on this question and we really need that data to inform the debate on any proposals relating to it. So I hope staff can take

care of that and put some pressure on Deloitte to forward that information as expeditiously as possible. (Vistisha) please go ahead.

Rebecca Tushnet: Thanks this is Rebecca Tushnet. I think Kathy's proposal is a great starting place. I would just note there's been a post on the list suggesting that we just say something about disclaimers. I think that is a less helpful alternative, even in the (US PTL) a disclaimer is actually optional and don't affect the scope of the rights if you use a descriptive term, but don't disclaim it, you still don't have rights in that term.

And (PTL) practice is very inconsistent. So I think we would be much better served by a policy that didn't run the risk of expanding trademark rights beyond the...

Phil Corwin: Professor, could I ask you – I appreciate your comments. But Kathy's proposal hasn't been formally presented yet. Could we wait until in a few minutes? She actually gets a chance to present it and make her case for it. And then open discussion on all the issues involved with it.

Rebecca Tushnet: Yes sure.

Phil Corwin: Okay thank you. Greg go ahead please.

Greg Shatan: Thanks. This is Greg Shatan for the record. I guess a question in terms of process. Considering there may be multiple proposals on the same potential topic or potentially multiple proposals on the same topic, how do we want to deal with that?

Do we want to hear one proposal and then a different proposal another time? Or do we want to batch these up so that the competing proposals are dealt with at the same time? Is it whoever gets their proposal in first then becomes the Christmas tree and everyone else has to hang their lights or remove their lights from that Christmas tree?

You know, it seems to me we put out this call and almost immediately a proposal – not, you know, fairly immediately one proposal comes back on one item and we're already launching into it. So it seems to me that we have to make a process decision about how we're going to deal with that.

And also I note that Brian Beckham I think it was asked the question on the list how this proposal relates to answering the (TMCH) charter Question 7, which asks how are design marks currently handled by the (TMCH) provider. And I think, you know, he noted and I noted as well, you know, a disconnect.

So maybe we need to explain what our proc – how our process gets us from answering your question about how things currently are to something that is not an answer to that question, and instead a proposal.

But, you know, the main point is if we're going to have the possibility of multiple proposals rather than kind of a first to the gate sort of approach on proposals, we need to consider how to deal with that. Thank you.

Phil Corwin: Yes thanks Greg. And you raised a good process point, one that hasn't been fully discussed by the co-chairs. So maybe it's good to have – start this discussion before we get to an actual proposal.

And I'm just thinking about this off the top of my head. I would hope we'd be able to discuss any proposals that are ready to go today just to make constructive use of our time.

I believe that in the course of discussing any specific proposal, I'm assuming it's kind of like presentation of a Bill or an amendment in a legislative process where it's subject to amendment – to proposed amendments itself as people point out shortcomings or propose improvements. And that the original proposal can be amended before any final consideration.

You know, if we say there's a deadline and we're going to wait for all proposals on any question to – before we see if they're duplicative and consider any of them. And see if any of them should be combined. I don't know what we'll be doing today.

We may have a fairly short call. But I think this is a question for the group to resolve. I do think that the question, you know, how are design marks currently handled by the (PMCH) provider is a sufficient basis for proposals.

It asks whether – I think it's asking whether it's being handled properly and consistently. And if people, based on what we found out, believe that changes are necessary. I think that's sufficient basis for proposals to be made on the question of the handling of design marks.

I don't think we need a specific question. Should we change the treatment of design marks? Or should we, you know, pare back what Deloitte is doing if they're overreaching in their treatment? I think all of those are implicit in this question.

But, you know, on this question or process let me invite any input from my co-chairs before we open it up to the group on how we should handle this. Should we just entertain proposals in the order they're submitted? Or should we wait until the deadline and see what all of the proposals have come in. And decide whether they should be grouped together or how they should be handled collectively? J. Scott I see your hand up. Not hearing you J. Scott. Are you on mute?

J. Scott Evans: Yes. It just takes me a while to get to the button. This is J. Scott Evans for the record. It seems to me that the most orderly process would be to have a deadline. Then we take all the proposals that have been submitted on the certain question by the deadline, and we allow the proponents of those proposals to present them.

And then we discuss them. And then we should probably select out of the multiple proposals which ones we want to take and refine. That can be a call to action which I've done, but we can see if there needs to be any amendment or refinement to that proposal.

And then once the proposal reaches an endpoint that we believe is some sense of consensus we will do a call for consensus on the entire proposal. That's all.

Phil Corwin: Okay. So let me just ask, J. Scott again on what you just said, would that argue for allowing Kathy to at least introduce her proposal today? Or would you prefer that we wait until we see all proposals on Question 7 before we open up discussion on any of them?

J. Scott Evans: You know, I – I'll leave that to the group. I think it would probably be – as long as and if there is another proposal the proposal gets the same opportunity to present itself. And the advocate for or proponent for those proposals to get the same opportunity to present. I see no problem with having her present today.

If there are those that would feel that that somehow gives this proposal some sort of advantage – I don't, but if they do then I would defer to the group to wait. The problem we have is we keep waiting. We keep deferring and we keep talking about process.

And then we get ourselves chewed out by the GNSO Council because we're not moving fast enough. So people are going to have to pick what we want. Are we going to try to move along at a good pace and get things done, or we can continue to be characterized as sort of wasting time.

Phil Corwin: Okay thank you J. Scott. Mary I see your hand up, so let's see what advice staff has for us.

Mary Wong: Thanks Phil. Hi everyone, this is Mary from staff. So I wanted to go back to some of Greg's points and just follow up on what you and J. Scott said.

So from the staff perspective, we would encourage folks to send their proposals to the full list so that everyone can see, you know, what the proposal is. And of course what staff would do is check the full text of the proposal and put that into whatever format would be most helpful.

Usually we use a table form like this. But if we have very many proposals that might overlap, we might need to look at a different format in consultations with co-chairs.

So I think the first point was please send any proposal you might have to the full list. If you do send it to a staff member, what we will do is forward it to the whole list anyway.

The second point is in relation to these questions, and there have been observations that some of these questions are factually based, some are specific, some are more open ended.

I just wanted to remind everybody, especially some of our newer working group members that these questions, even though they are edited and refined, were basically taken from a very long list of questions that were frayed by the community in public comment periods going back several years.

So there is a long list. And the level of detail and the nature of the questions vary considerably from question to question. So even as we're looking at each of these charter questions for each of the RPMs, I think the reminder here should also include a look back to the charter.

And I believe one or two working group members did highlight on the email list, which is that we're here to look at the effectiveness of each RPM, the

RPMs collectively and to decide if any of them or all of them need to be amended in some form. So these questions really are intended toward that broader exercise. Hopefully that helps.

Phil Corwin: Okay. Thank you Mary. All right, let me take this initiative as the person chairing the call today. It's 25 past the hour. We have another hour and five minutes on this call. If we don't have much further general discussion on any of these three questions, we can test that in a minute.

I would favor just to make efficient use of our time to let Kathy present her proposal and start discussion of it with the understanding that we're going to end that discussion at the top of the hour. And then in the final 30 minutes go to Agenda Items 3 and 4.

I think that might be a useful expenditure of time just because the issues that we focus on in discussing her proposal and what does this mean and, you know, broadening our understanding of all the intricacies of design marks would be a useful jumping off point for discussing this.

Final discussion of that proposal and any others next week. But I'm not going to impose that on the group. I'd like to take a straw poll. And the question is first if you believe we should allow – after seeing if there's any further general discussion on these three questions – and there wasn't a minute ago – if we would permit Kathy to submit to present her proposal, state her case for it and allow questions and clarifications to be asked about it.

With the understanding that we're not even going to attempt to make a decision on it today. That it's strictly for exploring the intricacies of the issues involving design marks.

So if you favor going ahead with that presentation, raise your hand. And then right after that we're going to ask people who believe that we should defer

any discussion of questions – proposals on any of these questions until we see all of them. So all right...

((Crosstalk))

Brian Beckham: This is Brian Beckham. Can I get in the queue?

Phil Corwin: Yes you can Brian. Are people raising their hands in agreement or wishing to speak to this? Usually if we're – I'm going to let Brian go first because he has a comment to make. Go ahead Brian.

Brian Beckham: Yes thanks. So Brian Beckham for the record. And I certainly don't want to take a step backwards. But maybe in answering your question to Kathy, putting her proposal forward to the group, she could attempt to answer the question that I have on the list.

Which is the Question 7 as it's currently framed basically asks a question, which I understood would be somehow captured in the initial report from this working group. And that would be put out for public comment, which would further inform our final recommendations.

But the proposal that Kathy sent to the list struck me as having some normative implications. And so I'm just curious what's the interplay between the questions that are in front of us, in particular Question 7 here and Kathy's proposal and the kind of ultimate work stream and output of this working group?

Phil Corwin: Okay, Brian could you repeat that question once more. I just want to make sure I'm asking – answering the correct question.

Brian Beckham: Yes. It's basically the question is simply what's the relationship between the Question 7 that we have in front of us – the proposal that Kathy has put forward, and the working that we are meant to do going forward? And also

how either or both of these are meant to feed into our ultimate recommendations?

In other words, it strikes me that what Kathy has put forward on the list is more in the nature of what would be kind of a final recommendation from this working group. So I'm just curious if this is a little bit of a chicken and egg scenario? Or maybe I'm just looking at it wrong. So I'm just hoping for a little bit of clarification going forward.

Phil Corwin: Yes let me give a brief answer and then I think staff has some input they want to provide on this as well. I'm going to disagree. I think that questions – we've had a great deal of information about how the clearinghouse is handling so-called design marks.

And people have different interpretations of what that means. So I think a proposal to change that in some way is in order. I think if we're going to make any recommendations on altering the clearinghouse's treatment of design marks, my view is that it needs to be in the initial report and allow people to comment on the proposed change.

That way we need to more than simply report on how they're handling it now. And ask if commenters think it should be done differently. I think we need – my preference would be something concrete. But that's all I have to say on that. I think Mary had something she wanted to interject for our education on this. Go ahead Mary.

Mary Wong: I did Phil, although I don't know this is for education. It's more for working group consideration. And the reminder here again is that the questions that we're facing in this review came about very differently. And so in some ways the type of questions we're looking at for this policy and process is not necessarily the same as those that we deal with in other PDPs that some members may be familiar with.

That said, you know, the general rules still apply. But if in the course of a review we have a proposal that seems to gain some traction or seems to make sense, that's not the be all and end all of it for various reasons.

One is that by process rules, a formal consensus call doesn't take place until we've actually come to the end of the cycle. Which in the case of this – Phase 1 of this PDP, given all the different moving parts, in the staff view means that when we're done with, you know, sunrise and claims we're probably going to do some kind of holistic look at the (TMCH) as operated by these two RPMs.

And then at the end of looking at the URS we're going to look at all the 2012 RPMs, including the PDDRP that we dealt with to look at them holistically. So it's kind of what I suppose you could call an iterative process.

So any kind of support or tentative proposal or decision that we might take at this point would not be binding. We would come back to it. On this specific Question 7 and possibly on 8 as well, what the staff notes then in I think an earlier table was it does seem like a very specific policy question has arisen.

And that really is what is the scope of the marks that are going – or that are supposed to be going into the clearinghouse. The design and image marks that Deloitte have told us they handle a certain way, we must protect it by statute or treaty that they handle it a certain way. What was the intended scope?

So we do feel from the staff perspective, subject to the working group's agreement of course that because that specific policy related question has been identified at this point for these issues that it might be appropriate to speak about them with the caveat that I mentioned before. Thanks Phil.

Phil Corwin: Okay. Thank you Mary. And just speaking for myself, this co-chair is not inclined to tell any member of this working group that a proposal is out of order or for some narrow technical reason.

I think if there's a reasonable relationship to a charter question a proposal should be entertained the group is free to reject it if they think it goes beyond the bounds. But I don't want to be using procedural measures to restrict the scope of the proposals. That can be presented by working group members.

So with that I'm going to ask now let's just do it in one straw poll. And the question is – please listen to the entire question before you put a mark. If you are in favor of using the next 30 minutes to allow Kathy, who is the only proposal we know of, to present that. To begin a preliminary discussion of the issues surrounding design marks with the understanding we're not going to attempt to make any decision on the proposal today.

And that we'll be looking probably at other proposals on this subject by the deadline of next Wednesday, put a green marks if you believe we should defer even that initial introduction to the proposal until next week when we've received all proposals on these questions, put a red X next to your name.

So Professor Tushnet, okay – so that's not a hand up. All right, so now please put a green mark if you want to start discussion of Kathy's proposal to get into some of the design mark issues. And an X disagree if you believe we should wait until next week.

Is there anybody with a hand up who wanted to speak?

Greg Shatan: Phil this is Greg Shatan. I have a brief suggestion if it's not out of order.

Phil Corwin: No go ahead Greg.

Greg Shatan: Maybe a third way.

Phil Corwin: No go ahead Greg.

Greg Shatan: Perhaps a third way is without discussing a specific proposal, to use the time to discuss the underlying concepts that we would need the tee up to look at any of these proposals about design marks such as, you know, what are the different categories and classes or types of marks. And how we're looking at them and what kind of nomenclature we'd use to refer to them.

You know, with reference to Kathy's, she uses tools like transformative mark, which I'm not familiar with. Figurative mark, which is an EU term. Design mark which is, at least in USPTO, news has a specific meaning. Does not use the term stylized mark which has a different specific meaning.

But whether or not – not so much to learn about nomenclature first, but we're able to be identifying types. And then, you know, Rebecca was launching into a discussion of her views on disclaimers.

It seems we couldn't discuss those, but without it being a question of defending or not defending a particular proposal or looking at – because I do agree with Georges Nahitchevansky that looking at one proposal first kind of sets the tone for the treatment of...

Phil Corwin: Greg let me just interject. Someone has their speakers on. Could you mute your phone to reduce the echo? Thank you. Mary's observed and I'm observing the same. This group's pretty much with those who have indicated a preference, it's pretty much split that the chair doesn't want to pick one side or the other.

So I think in that context where there's clearly a pretty much a 50/50 split on whether we should proceed to entertain a specific proposal today. I think your suggestion of discussing some of the more esoteric trademark law issues involved with design marks to better inform the discussion we're going to have next week on Kathy's proposal and other related proposals is a constructive one.

So I would go with that. If you want to be the first speaker on that I'm glad to have that. But I would ask you to confine yourself. Not to – you listed about six different subjects. I think to keep the discussion focused we're going to have to just raise one at a time.

And have people explain how this specific legal nuance they're focused on relates to the question of whether the TMHC provider is properly handling design marks at present. And if not how that should be changed.

So I'll ask everyone to remove their checks and Xs now. And we're going to launch into a 30-minute discussion of basic trademark concepts relating to design marks for the next 30 minutes, until 10 after the hour. And then we're going to go on to discuss the CCTRT recommendations. Who is speaking?

Kathy: It's Kathy.

Phil Corwin: Yes Kathy.

Kathy: I put a hand – it's hard to see hands up versus straw polls.

Phil Corwin: I'm not seeing your hand up. Yes it's down below. Okay.

((Crosstalk))

Phil Corwin: There's a hand ahead of you Kathy.

Kathy: Okay.

Phil Corwin: But since you're co-chair and we're talking about procedure, I'll give you the floor right now.

Kathy: Okay great. I was wondering if we could use half of the half hour for talking about Number 8 as well, geographic indications and some of the issues that

we're finding that question led to issues and concerns about the meaning of marks and statutes or treaties.

And as long as we're resolving things that we need to talk about for upcoming proposals, some of the real hard core, deep seeded questions – legal questions and policy questions and legislative questions of Number 8, it might be productive for us maybe to split the time between Number 7.

Phil Corwin: Yes I have no objection to that if that seems reasonable. I mean Mr. McGrady.

Paul McGrady: Yes so this is Paul McGrady for the record. Kathy I appreciate the desire to use the time wisely, but I'm also concerned that these are two very, very different topics.

And I don't know, maybe everybody else is prepared to weight into the murky waters of these sort of terms, but I do think that there is a substantial substantive different call than what I was expecting. And I don't know if other of you feel the same way.

I, you know, it would take me quite a bit of time to be prepared to participate on such a call. So I feel a little bit like it's being sprung on the = being sprung on us. Is there something else that we could do with the remaining time assuming that we quickly dispatch the issue of design marks?

Phil Corwin: Paul let me suggest this as chair, rather than continue to talk about procedure, I would say that there was notice that these questions would be up today. So there was opportunity to prepare. But having said that, why don't we just start a substantive discussion of the legal issues surrounding consideration of design marks and see where we are in 15, 20 minutes.

If there's a good substantive discussion and there's still people wanting to talk, I'm inclined to let that go the full 30 minutes and get back to geo marks

next week. But let's just see how the dis – let's actually start discussing things rather – other than the procedure of how we're going to discuss things is what I'm saying. Is that acceptable?

Paul McGrady: I think so. Yes.

Phil Corwin: Okay so the floor is open to anyone who wants to talk about the legal issues surrounding design marks. And I'd ask speakers to – since this is a complex area to focus on one piece of the puzzle at a time to the extent that you can. Thank you and Mr. Shatan is recognized. Go ahead please.

Greg Shatan: Thank you. Greg Shatan for the record. That does not rhyme with Satan, though some might go that way.

Phil Corwin: Let me say, apologize to all members...

((Crosstalk))

Phil Corwin: Last names I've mispronounced.

Greg Shatan: Yes well it's only been mispronounced my entire life or misspelled so no problem whatsoever. In any case, I'll just focus as you asked on one which is the types of marks.

And I think we need to carefully focus on what our in fact design marks. And what are other types of marks that may not be in what I'll call standard form, which is the USPTO term for a mark where there's no claim made to an appearance of a mark in any way, shape or form.

There are many other kinds of text marks that are either text only marks where the claim is made to a particular font, whether it gets displayed with a font. And in the USPTO calls that a stylized mark and distinguishes it from a design mark.

And there (are marks) where a claim may be made only as to color or to color and to forms. So for instance the IBM logo with the distinctive blocky font and the stripes, negative spaces between pieces of the letter is an example.

The Adidas lower case font with or without the little trefoil above the I, which goes to the kind of third context which is that there are marks that consist both of text and some level of design that is beyond a font or stylization of the word itself. And that is considered under US law a design mark, but it's not a design only mark.

And then under the EU that same thing is called a figurative mark with text, which is a different type than a figurative mark without text, which is merely a picture of some sort. And it has no real distinguishable text.

So I think we need to have kind of a spectrum set up. And we need to consider how we deal with each. I'm not sure that it's entirely effective to talk in a binary fashion about text marks and design marks. But if we're looking for a dividing line, I disagree that the dividing line is between standard floor marks and all other marks, even if there's the slightest hint of a particular font or color.

Finally I would say that we need to relate this back to what seems to be the test of the STI which is whether the text is protected solely within the context of its design.

And as a matter of law my understanding, and not having prepared for this call (in excess action) is that stylized marks and, at least, you know, and I won't go further because I don't know off the top of my head. Stylized marks at least, you know, protect the words beyond merely the context of the design.

In other words that mark could be used as a plaintiff's mark in a case against a use of the same text, even without the design or a different design being used in the defendant's mark. So that kind of two points there, I'm sorry. I rolled them in.

But the first point really is that we need to develop a spectrum or understanding of the different types of marks we're taking about beyond just quote on quote, "text" and quote on quote, "design" to see where – whether any of those should be kept out, left in before we even get to the issue of disclaimers, which I definitely will not touch on.

Phil Corwin: Greg let me ask a question. We're still getting an echo there. Okay. Let's say there's a framework order like a Adidas and they've got a trademark in Adidas obviously. And then they have a trademark also in a stylized version of Adidas with the stylistic elements.

So it's kind of a two-part question. One, why would they register the stylized one in the trademark clearinghouse since all that's going to be in the record are the – is the actual word not the stylistic elements? The registration is going to be the word, not the stylized word if there's a sunrise registration.

And the notice to the perspective registrant trying to register an exact duplicate at a new TLD will be the word Adidas, not the stylized version of Adidas. But kind of why would they do that? And does it really matter since in the end the RPMs that the clearinghouse is the foundation of has no stylistic elements. It's simply a word in the end, both for registration and claims notice purposes. So I don't know if you have an answer to that question, but I'd invite any...

Greg Shatan: Let me try to answer it. I'll also point out that Michael Graham in the chat actually provides a good answer to that. Adidas is probably a bad example because I'm assuming they have the money to register both in standard form and in special form and in multiple different design forms.

So it would be surprising to me if Adidas were to choose among their many registrations and put in a design or rather a stylized form. I don't think that would create any enormity from the point of view of the TMCH. You know, clearly the design would not have any influence in the TMCH process or on a claims notice or the like.

What Michael Graham says in the chat is that and, you know, more important for small business and let's remember there a lot more small trademark owners than big ones, most of all businesses that develop a logo with words in the US are counselled that registration of a design mark/logo or stylized mark containing – or a stylized mark containing words will protect both the design mark and the words.

So, you know, for many small clients they can only afford one trademark registration. They will go for the stylized form with the understanding that it protects the words as well as the words with the design on that. And that's consistent with my understanding of the law. So that's why a smaller brand owner would register that perhaps because in the interest of their own economy, they have chosen to register in a stylized form with the understanding that it protects, you know, the words as well. Thank you.

Phil Corwin: Okay yes. Thank you very much. I'm going to move on to J. Scott. Please go ahead.

J. Scott Evans: Hey there Phil. I just want to bring us all back to the reason this originally rose its head. When sunrise theories and sunrise registrations were first designed, because I was actually on this call.

And it was actually a European member of the discussion group, (Jamie Neumara) from the Firm of (Byrd and Byrd) that fought very hard to limit the inclusion in a sunrise period to only text/word marks. And that was because under practice at the European trademark, at the time and I think this is

consistent to today's practice, a company or person can register perhaps the world travel and put in it let's say a feather that crosses the main T in travel.

So it's the word travel in cursive font with a feather through the T. For travel services and passenger carriage services in Class 39. In the United States that would be routinely rejected as descriptive. So you either wouldn't get a registration all together or you could get a registration for the stylized mark claiming the term travel (unintelligible).

Meaning that you could not assert that registration to someone using travel. You can only assert that registration under US practice against someone who was using a stylized version of the word travel that was similar to your stylized version.

And the concern was that people would use systems that had similar to the European Trademark Office that foreseen python flaw gaining the system. So the thought was well then we should only keep it to word marks and whether word marks consist of marks and stylized scripts as well is something that we can debate.

And that's the problem that the limitation is trying to solve. And so I think we need to focus on what the problem we're trying to solve. And in that regard I'm not saying that I'm in disagreement with the limitation. I was one of the people who agreed to limitation and had to be convinced because I originally fought very hard to get design marks in.

But what I am saying is, and I agree with Paul and others on this call, some of the things I read in Kathy's proposal just are inaccurate as to the law and how the laws is interpreted.

That doesn't mean that her end conclusion is incorrect. But we need to – I think one of the things that happens in most ICANN debates that I've been

involved in is everyone's using terminology. And everyone is coming to the debate with a different lexicon of what that terminology means.

Then that implements the policy and it either falls in the middle of all of those lexicons or off of one hand or the other. And the other (unintelligible) all furious because they're like well you didn't – that's not what we intended.

So I think it's important that we understand what we're talking about, what those terms mean and what evil and/or concern and/or problem (unintelligible) by any limitation.

And we need to get an understanding around that. And then when we have a common understanding of what we're trying to do, what we mean when we use these terms so we can look at the different proposals that use the same terminology and give us different possible solutions or scenario solutions to define the solution that...

((Crosstalk))

Phil Corwin: Well thanks. Yes and we're dealing with a difficult, you know, situation where the same type of mark is referred to different in jurisdictions. Some jurisdictions may allow its registrations, other don't.

And where we're trying to design a system for the whole global Internet with all those complications. Just before hearing Paul, I'd observe again now that it's been pointed out that small and medium business are more liable to register one stylistic mark to protect both the style and the word element and stylized version of the word.

The RPMs, I point out again, only relate to the word. Nobody is trying to register a stylized version of anything in a sunrise period. And nobody is getting a claims notice for attempted registration of a stylized element.

I thought Paul McGrady was next, but I see Monica Mitchell added in on the line. I'm not sure what the order is, but why don't we just – we haven't heard from Ms. Mitchell yet today. Let's hear from here and then Mr. McGrady and then the others online. Okay go ahead please.

Ms. Mitchell, we're not hearing you. Are you on mute? Okay I see here say I'm sorry in the chat. Let's go on to Paul McGrady and then when we get the audio problem fixed we can hear from Monica.

Paul McGrady: Thanks Phil. Paul McGrady here. Just as a preliminary note on definitions and why we need good ones. So I think you are not doing this on purpose, but you keep referencing stylized marks and I think that you're completing them with design marks.

Stylized, as Greg mentioned, are just marks that are written fancy. Sort of like, you know, the beautiful red flowing script of True Value Hardware as an example of a stylized mark as opposed to a textual mark plus some other content which makes it a text plus design mark.

And so I think it's real important that we be as careful as we can. I do think that if even the confusion on this call amongst all of us underlies sort of our desperate need for a definition section as we approach this. I'm glad we didn't try to tackle Kathy's proposal when we're not even quite yet in alignment on what various definitions are. I think we've done the right thing here by stepping back, as Greg suggested.

With regard to design marks – not text marks, not stylized marks, but design marks – design plus text marks, which I think is really where the controversy here is. I think that there is a regrettable condition within ICANN that in spite of everybody's best efforts, the small to medium business community is excluded.

They are not represented here very well. And they – and that is by all of us, not just one side or the other. I mean they just don't have a loud enough voice. I mean of course we know that collectively small and medium size business employ more people I think than the big businesses do.

And the small and medium size businesses do not have endless budgets to apply for and register all over the world, all iterations of their marks, text plus design and text alone and everything else. There's a significant financial burden in doing that.

And then when you add on the costs of lodging marks in the trademark clearinghouse, you know, there's some addition cost. And so what we may see is the need of small to medium size businesses who only have a text plus design mark because if they want to protect both the textual aspects and the design aspects of the trademark that they use. That is the most cost efficient way, at least in the United States, to get as much protection as you can at the lowest price.

And again these are not big companies with budgets for this kind of thing. Frankly even the big company's budgets are being squeezed. So I don't want to imply that anybody's flush with cash right now, but the small and medium size businesses are probably even in trouble when it comes to paying governments to issue trademark registrations.

And so that is a very important class of end user that doesn't get a lot of attention here. And that is the concern on the costs. And so that's sort of Issue 1.

And then the other issue that I wanted to address before we get too far down the road is that I think sometimes there is a presumption on the part of some that in the event that a – there is a text plus design mark that is registered, it must have been inevitably and, you know, and always that the text was somehow not protectable on its own.

And so therefore the trademark owner has very cleverly added a design mark to squeak it through. Now that's not to say that that never happens, but that is to say that that doesn't always happen.

And in fact, in the case of the small and medium size trademark owner, you know, it very much is the paradigm that you would combine your mark, which is hopefully distinctive, your textual elements of your mark which are hopefully distinctive with your design, not because the textual aspects are not inherently distinctive, but because you simply don't have all kinds of money to apply for every iteration.

So I think that when we go into this we need to go into it in a very nuanced way. And to understand that just because a – there's a text plus design mark that it doesn't necessarily follow the textual aspects of the mark where inherently in distinct and therefore unregistrable.

I just don't think that's always the case. I would even – if I had the data for it I would strongly say that I don't even think that that is even most often the case. But in any event, keeping in mind who is hurt if we overdo it and come to the conclusion that the textual aspects must always be inherently in distinct because they're combined with a design mark. The folks who will be hurt the most will be the small and medium size business owner. Thank you.

Phil Corwin: Yes thank you Paul. And I'm seeing some very good discussion on this in the chat room pointing out the wide variances in practice between jurisdictions. I also want to read something Mary Wong posted which to guide this discussion.

She points out that the trademark clearinghouse guidelines specifically address the topic of a mark that is not entirely text. Deloitte's current rule is that it's considered identical to the trademark record if the words, numerals,

letters, signs are predominant in the mark and are clearly separable and distinguishable from the design element.

So Deloitte's practice is where there's a mark and a design in the same submission, if the mark itself rather than the design is predominant and is clearly separate and distinguishable from the design element, they accept it.

As I pointed out, once it gets into the clearinghouse, at the next stage, the actual RPMs all that's in issue is the term itself, the design aspect really doesn't relate to the protection for sunrise registrations or for generation of trademark claims. Notice that is all geared just to registration of a term without any design element.

And I just want to put in a plug for my constituency – the business constituency and while we still know we have a long way to go, we have been quite successful at recruiting BC members from the Global South. And some of them are most active members.

So we are doing what we can to bring small and medium businesses into ICANN. But we recognize the cost and time burdens on all participants in the lengthy and difficult ICANN process. John McElwaine, please go ahead.

John McElwaine: Thanks. John McElwaine for the record. I think well you just covered what I was going to talk about and that was going to be to reference people to Mary's comment about Deloitte's standard for determining what was a word mark.

As I mentioned I think two calls ago and volunteered to look into it, my suspicion was that Deloitte realized there's no such thing as a text mark or a word mark with any definition. It would all be very simple if the only marks allowed into the clearinghouse were USPTO marks because then we could define the term standard character mark. But that's not the case.

And we're not that US centric in our work here. So I wholly support looking at Deloitte's, the rules – a test that they came up for to determine whether something is a word mark. But I would say let's not reinvent the wheel here.

You know, Question 7 is supposed to be an explanation from Deloitte as to how are they being handled. And I'm hoping that in that discussion and in that questioning we can get to an explanation of why they developed the test that they did. It's my understanding it came out of their experience of dealing with the .EU. But I'd like to hear that from them.

But anyways to focus everybody back, I think the proposal is far too premature because really what we're getting at here is needing to come up with a – or to examine the test for determining whether something is a word mark that meets the goals and the requirements of the trademark clearinghouse. That's it. Thanks.

Phil Corwin: Okay thanks John. I'm just going to point out, we're not discussing any specific proposal today. We're just discussing what we need to understand in the intricacies of design and stylized and related marks to discuss this issue.

And I do believe we're going to have another call with Deloitte and this question can certainly be brought up on that call. Now I'm going to call on my co-chair, Kathy Kleiman. Go ahead Kathy.

Kathy Kleiman: Hi. Thanks Phil. This Kathy Kleiman talking without my co-chair hat on. And not in support or against the proposal, because that's not what's on the floor, but from a different perspective as someone who's represented entrepreneurs and small businesses registering trademark.

And I may be the only one that actually represented an entire new industry that was almost killed because of domain name policy – bad domain name policy pre-ICANN. And that was the Internet service providers, small and medium size Internet service providers. I was the FCC Council to the ISPC

and supported them on trademark issues because they got so many cease and desist letters because they did not have trademarks because the trademark office had a two-year backlog.

So it's not only trademarks. It's about people, you know, entrepreneurs, non-commercial using words that are not trademarks because either they have not been used in commerce yet or they'll never be used in commerce. Some of them are non-commercial.

But when I counsel and what I was taught through the classes I went to in the CLEs, when I counsel a client I counsel them to get a text mark, a word mark if they can. And only a design mark if they can't.

And often they're getting a design mark because what they're doing is highly descriptive. As J. Scott mentioned, it's highly descriptive. It's (alotatory), it's generic for the goods and services like aspirin for medication, which was of course a trademark and then became generic.

It's geographic. They're getting a design because they can't get the underlying word mark. And to deprive those who are in the similar category of goods and services, businesses or other areas from using that word would be depriving them of using something that say under US law they wouldn't be able to register as a text mark alone.

So to then put that into the TMCH was never the intent. It was the intent to put word marks in – not stylized marks, not figurative marks, not text marks plus design. It was, you know, when you had that protection on the word mark.

We pleaded with Deloitte both in person and in writing to explain to us why they can't stick with these basic rules. And they haven't. All they've said is that they're not and they've given examples. But they haven't responded to our examples.

And at some point we do have to move forward. But it's very clear they are accepting. They are extracting, or as Paul McGrady said in the chat, they appear to be reexamining these marks. And we never intended for them to have that kind of discretion to reexamine and decide what they're pulling out of the design and what they're pulling out of style.

You know, if you've registered that mark with a color that wasn't the original intent. But as a group we have to decide if that's what we want. But, you know, let's not go too far down into the weeds.

Every country is referring to this a different way. But what we're talking about is when you go beyond the letters or the characters into some kind of design style pattern. All the wonderful examples that we use in Appendix A of what we tried to get Deloitte to answer. Thanks so much. Bye.

Phil Corwin: Thank you Kathy. Thank you. And I'm next in the call. I believe Professor Rebecca, you have checkmark. Are you trying to speak or?

Rebecca Tushnet: I'm sorry for some reason – this is Rebecca Tushnet. For some reason I – it keeps flipping to the next thing in the line when I try and set it. So sorry about that.

Phil Corwin: So that's an old chat. Did you have something to say or is that an old checkmark?

Rebecca Tushnet: No. I would like to speak on this.

Phil Corwin: All right, go ahead. And then after you we have Susan Payne and Greg again. Go ahead please.

Rebecca Tushnet: So I absolutely agree that stylized marks are different from design marks, but they should be segregated in our work from text or standard character marks.

There's actually a reason. Stylization is separately registerable across different systems from standard character or text marks. They (unintelligible) right.

So let me just address quickly some things that were said about SMEs. First of all, nobody has to register all over the world to enter TMCH. You just need one valid registration. So I'm not seeing the problem here.

Second, registration of a text plus design does not get as much protection as you can. It's actually a right in the text plus the design. It's not a right in the text alone or the design alone. And, you know, strategic choices about that don't change that.

The standard for entry into the TMCH is that you need a registration or a court judgement identifying the mark as protected. So we should look at what the registration or the court judgement says is protected and not make extrapolations about what might also be protected.

And I think Deloitte – I agree, Deloitte is clearly judging validity in a way that it should not be doing. And the reason this is important is that you can't, in the domain name system, register designs just as – I think it was J. Scott said.

So if you have a registration, a trademark registration for parents with a specialized font, you have no trademark rights to control other uses of parents. But if the TMCH accepts stylized marks, the trademark registrant of parents the stylized mark can be treated as if it has a trademark right, which it doesn't.

And then the last thing I would like to say is just relatedly, confusion is different from protect ability. So people are saying that if you have a stylized mark you may be protected against uses that aren't just the stylizing. And this is true, but registration or the court judgement defines the protected matter, be it confusion or dilution standard to find what will infringe it.

If Deloitte is doing that analysis for itself at the point of entry into the TMCH, it's expanding the trademark right beyond what it is supposed to be. Thank you.

Phil Corwin: Can I ask you one question? And I've seen a number of comments in the chat pointing out that in other jurisdictions the mark holder is actually required to register the mark with any stylistic aspects and not just a plain word.

If that's the practice in other jurisdictions and that's the only mark they have, would it be fair to register a trademark holder from those jurisdictions to deny their ability to place that mark in the clearinghouse and get the attended rights protections that flow from that? Professor did you have any response to that?

Rebecca Tushnet: Sorry. Once again, I'm technologically impaired. This is Rebecca Tushnet. I – so I think we should definitely discuss that. I'd love to see some citations about that practice. And work on a definition that does – that accepts marks from every jurisdiction. I think that's – that is an important part of the system.

But on the other hand, especially when systems do make the distinction, we should make sure that Deloitte is making it too.

Phil Corwin: Okay. Thank you. Susan Payne please go ahead. And it's 12 after the hour. We've got Susan and Greg. If you've got something burning you have to say today, please raise your hand now otherwise I'm going to end the queue so we can use the last 15 minutes for other purposes. Go ahead Susan.

Brian Beckham: This is Brian. Can I get in the queue after...

Phil Corwin: Yes okay you're in the queue Brian. And that's it. I don't see any other hands raised. So Susan, Greg and Brian and then we'll discuss some other things before wrapping today's call. Go ahead Susan.

Susan Payne: Hi thanks. Yes, I made a comment in the chat about practices in different jurisdictions. So I don't need to repeat it. I put my hand up to respond to what Kathy was saying and Rebecca sort of intervened in that. And that's absolutely fine. So I don't want to labor that point, but I think it is one that needs to be taken onboard.

But I think there – the scope of the protection and certainly there's a bit of argument in the chat about whether how Rebecca has explained the position under US law is accurate or not. And I don't know the answer to that because I'm no US attorney. I practice in a different country.

But it seems to me that, you know, if the scope of the protection, you know the scope of the registration has a disclaimer which I think are relatively common practices, you know, if the term is disclaimed or the word in question is disclaimed then I think – I don't think any of us would argue that probably that mark then, you don't have a protection for the word. And consequently it shouldn't probably go in the TMCH.

We did ask Deloitte about that when we were in Copenhagen. And the response was that they didn't think they made the distinction whether the mark is subject to the disclaimer. But I have to say my sense of that conversation was that that wasn't a question that Deloitte was expecting to be asked.

And so it seemed to me to be a very off the cuff answer. And I think it would benefit us to clarify that and confirm whether that's actually the case. And if it is the case that marks subject to disclaimers going in then I think perhaps we have a conversation about whether we think there needs to be a recommendation that that doesn't happen in future.

Phil Corwin: Okay thank you. Greg and then after him we got Brian Beckham and then we're going to move on to other matters on the remainder of the call. Go ahead Greg.

Greg Shatan: Thanks. Greg Shatan. First of all just, you know, note the comments that were made in response to Rebecca's view on how marks are protected and the three different types. And I think it goes back to what I said earlier that there's a spectrum of protection.

Woman: Hello? Hello?

((Crosstalk))

Greg Shatan: On the topic of disclaimers, disclaimers are not optional. I've actually never tried to argue with a trademark examiner who said that they will refuse my registration unless I put in the disclaimer by telling him that the registrant – that disclaimers are optional. Maybe I've just been missing out. But clearly while there are times when examiners may not ask for a disclaimer and one may think they should. No process is perfect when it's done by human beings.

I have my favorite example of a mark that clearly should have been disclaimed. And while this – I won't say it online because that would be (unintelligible), but in any case by in large though, the disclaimer practice when it's done appropriately is fairly quite consistent in terms of what the research is and when they will get into it.

So I think that going to a – relying on the fact that there are disclaimers as a gating factor for whether a mark should go into TMCH is an entirely sensible and appropriate approach.

And, you know, clearly, you know, where the word matters have been disclaimed and no claiming made to protect the market steps solely within the context of the registry. And that's consistent with the STI's language.

Where there is text and it goes beyond the context of the design context then we're beyond what the STI was concerned about. And those non-disclaimed marks that may have elements other than just the standard form mark clearly should be going into the TMCH. Thank you.

Phil Corwin: Okay thank you Greg. And Brian Beckham...

((Crosstalk))

Phil Corwin: Going to get the last word on this subject today.

Brian Beckham: Please mute your speakers.

Phil Corwin: Please mute your speakers. Go ahead Brian.

Brian Beckham: Just wanted to say...

((Crosstalk))

Brian Beckham: For next week, I provided several emails on the list regarding the negotiations we had with ICANN on Specification 13. That might be useful context for looking at what we're looking to protect here which is the text elements of trademark.

But I just wanted to move on to something Rebecca said about explaining the scope of trademark rights. And I just want us to bear in mind when we're looking at these discussions, of course we're kind of applying new rules to an old system, which is mainly the DNS which can only capture the text or

elements of any mark regardless of which jurisdiction it's in and which nomenclature we're using -- text stylized design, word plus design, et cetera.

So I don't know if I agree 100% with the customization of expanding beyond rights in so far as what kind of mapping two systems together the best we can. Thanks.

Phil Corwin: Okay thank you Brian. And that's going to close out our discussion of treatment of design marks in the clearinghouse for today. Again, we have a deadline next week for anyone that wants to submit a proposal on this. Submit it to the full list.

Please try to follow the format that the co-chairs have suggested so that you have a fully prepared proposal that people can give good initial evaluation. So I want to say I think we've had an excellent discussion on this subject today that's helped all of us understand the terms more precisely.

And I appreciate the civil tone of everyone who's spoken and sticking to the facts and reasoned arguments. So thank you for that.

And so now we're going to go to a quick look at some of the preliminary recommendations that have come out from the review on competition – consumer protection, consumer trust. That's a holdover from – that was created under the affirmations of commitments between the US and ICANN.

That affirmation that any former relationship – special relationship with the US and ICANN ended last October 1. But the need for this review has been put into the bylaws.

So I'm going to invite staff just to – these are preliminary recommendations. And we are reviewing these solely to consider as we do our work where we can provide useful information or feedback through this review team.

Am I correct on that Mary? And do we have any deadline for when we have to get back to them on any of this?

Mary Wong: Hi Phil and everyone. This is Mary from staff. I don't know that the review team is specifically expecting feedback from our working group. I believe the public comment period is still open. So it's certainly open to any working group member or the working group to submit a comment. But I believe that that's closing fairly soon.

If we look at the recommendations which are just preliminary recommendations, so I think the important note here is that this is not the final report of this review team.

If you look at these preliminary recommendations, especially the ones directed at our working group and getting the number, but I want to say they're, you know, forty something – 41 and 42. They are pretty general.

They are awaiting additional data. So our purposes for highlighting this to the working group were twofold. One is to let the working group know that this report is out. That part of the report does discuss RPMs and has some general recommendations directed at our working group.

And secondly, Kathy and J. Scott, as you've already done, for you to engage in a conversation with the co-chairs of the subsequent procedures working group as to whether there's any potential overlap and how to deal with those between the two working groups. Thanks.

Phil Corwin: Okay thanks Mary. And yes, we did have a call recently with the co-chairs of the subsequent procedure group and we went through all of these. I'm happy to say that they are being hit with a lot more requests from the CCTRT than we are.

We've got nine minutes left here. I'm going to just briefly go through there's only – let's see, four of these for our consideration. And, you know, overall I don't know that this group has the capacity to put together a comment to their initial report in the short time that's – we haven't done any of these even if we were ready, and we're probably not.

The first is the question – and Paul I see your hand up. Let's really quickly go through this and then I'll call on you. Whether the ICANN community should consider whether the cost related to defensive registrations for the small number of brands registering a large number of domains can be reduced.

That's a prerequisite for the next round of new TLDs. That's primarily a pricing question, which is not primarily in the jurisdiction of the other group and not in ours. So it may relate to discussions we'll have down the line on blocking programs both in the private sector. And whether we should revisit the decision not to have an ICANN mandated blocking program.

Then they want a full impact study to ascertain the impact on the new gTLD program on the cost of protecting trademarks in the DNS. I believe (INTA) is doing something on that. This is not a prerequisite for the next round, but is identified as a high priority.

The third one is a full review of the URS should be carried out and consideration given to how it should interrupt the UDRP. Well we'll be getting the URS later this year. We're not prepared to say anything on that. That is a prerequisite for the subsequent round. And it is something we'll definitely be looking at in depth and within a few months.

And a review of the trademark clearinghouse. And the scope should be carried out to provide them with sufficient data to make recommendations. And that's what we're engaged in right now.

So I really don't see anything here where we would be ready, even if we had the bandwidth to file comments on this at this – on these preliminary recommendations at this point and time as a working group.

Individuals and organizations are of course free to file any comments they want. Paul McGrady please go ahead.

Paul McGrady: Thanks Phil. I apologize for raising my hand too soon. I just wanted to get clarity on what to expect for next weeks' call. I know that sometimes these agendas come out the Monday or Tuesday before our call. And by that point my weekend is gone and I know a lot of people like to use the weekends to ponder and get ready for calls.

And so I just want to be ready. Next weeks' call will cover what? It will cover Kathy's proposal and any alternative proposals that will be submitted? And will we also get into the geo names issue? Is that anticipated or do we think that Kathy's proposal...

Phil Corwin: Actually Paul, the co-chairs had decided, given the deadline for proposals being next Wednesday and the fact that we've got two sub-groups going on right now which are going to be holding calls on Friday of this week. We'll get to that in a second.

And anyone who hasn't signed up for those groups yet and wants to, there's still time to join. We're not planning on having a full working group call next week. We're having – we're aiming to have – to turn over the Wednesday timeslot to one of those sub-groups for their full use so they can complete their work within the limited time we've given them.

And with the other workgroup probably having another call a week from this Friday. So we'd be coming together as a full workgroup in two weeks. And at that point we will have passed the deadline for submission of proposals relating to all three of the questions that started our discussion today.

And co-chairs and staff will have had a chance to look at them and see where – kind of decide whether they should be taken in or where they might be combined. And we're going to launch into discussion and decisions on specific proposals on those three questions in the working group – in the full working group meeting two weeks' from today.

There will probably be more detail available before the meeting. But I think that gives, you know, of course we don't have those other proposals yet, but we should see all of them on all those questions by next Wednesday.

And again, if you're making proposal you should post it to the full group – working group list so that everyone can see it. Does that answer your question Paul?

Paul McGrady: It does Phil. Thank you so much for that.

Phil Corwin: Okay. So any – does anyone have any comments – we have four minutes left – on the CCT recommendations relative to our work? If not we'll just go on and talk about those sub-group meetings this Friday.

Okay seeing no hands and hearing nothing, could staff tell us again? We've got two sub-teams meeting this Friday. Could you again just tell us what the times are for those two sub-groups? And again if anyone wants to join them and be part of those calls on Friday, you're welcome to. Go ahead Mary.

Mary Wong: Thanks Phil and everyone. So just on the specific question of the two sub-teams that are meeting this Friday. The sub-team for sunrise will be meeting at 1400 UTC for an hour. And the sub-team for trademark claims will be meeting at 1600 UTC also for an hour. And (Irma) has typed that into the chat.

If I may, I would like to follow up on the planning for the calls for the next two weeks. (Unintelligible) Phil you said that for next week we will not have a full working group call on the 19th. Indeed that will then be the deadline for any proposals relating to the three open questions.

So the next full working group meeting will be the following week. The question that we had that we can take offline with the co-chairs is that the next full working group meeting is scheduled to be the one at 0300 UTC. So normally that would be next week.

And our assumption was that actually just roll that over to the 26th. But because we had a poll to decide the date of the meeting for that 0300 UTC call, if we follow through with the poll results that would mean it would be 0300 UTC on the Thursday for APAC participants and Wednesday night for North America and a horrific time in the middle of Wednesday night for European-based participants.

So I'm just putting that on the record. If anybody has any questions or concerns, please let us know. And Phil that was it from staff.

Phil Corwin: Okay so basically the call in two weeks would be the one to accommodate Asia Pacific members of the working group. And that's also the call we're going to start introducing and debating proposals.

And that would be at 0300, which is at 0300 in Greenwich, it's an 11 pm Eastern Time, 8 pm Pacific Time and so on. And it's a terrible time for European members. It's a much better time for Asia Pacific members than usual.

But if anyone has concerns, just put them on the list. But I think, you know, we're obliged to stick to that schedule. We can't – we have to accommodate the Asia Pacific people at least once a month.

And with that does anyone else have anything to say? Its 30 minutes past the hour. And unless someone has a closing statement, a point that they want to make, we can adjourn the call.

So again, I thought it was a very constructive and useful preliminary discussion today. And I appreciate the very civil and constructive tone of all the participants. Let's try to carry that over to the email list. Thank you very much and enjoy the rest of your day. Thank you.

Man: Thank you.

Terri Agnew: Thank you. Once again, the meeting has been adjourned.

END