

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) Sub Team for Data
Friday, 15 June 2018 at 16:00 UTC**

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Coordinator: Recordings have started.

Michelle DeSmyter: Great. Thanks so much, (Hannah). Well welcome, everyone. Good morning, good afternoon and good evening. Welcome to the Review of All Rights Protection Mechanisms Sub Team for Data meeting on the 15th of June, 2018. On the call today we do have Kristine Dorrain, Susan Payne, and Rebecca Tushnet. We do have guest speakers, Greg Rafert and Stacey Chan, both from the Analysis Group. We have apologies from Michael Graham. From ICANN staff we have Julie Hedlund, Berry Cobb, Ariel Liang, Antoinetta Mangiacotti and myself, Michelle DeSmyter.

As a reminder, if you would please state your name before speaking for recording purposes? And I'll turn the meeting back over to Julie Hedlund. Please begin.

Julie Hedlund: Oh thank you very much, Michelle. Appreciate it. And thank you all for joining for another one of these calls. We do really very much appreciate it. And as we've been doing previously, we'll go ahead and use the link to the Google Doc as the way to walk through the document. The link is actually up in the

agenda meeting in details but here let's go – and Ariel is faster than I am, and thank you, Ariel for putting it into the chat.

So our call today we're probably not going to make it past the Registrant survey but we've got the link to the Potential Registrant survey there just in case we do. And thanks, Stacey, I do note the apologies from Greg that he can't join but thank you so much for joining us.

So I'm going to move to the Google Doc and I'm going to suggest that we could go ahead and – excuse me – go ahead and walk through the questions and calling out where we have comments. And I see that there are comments from Rebecca so I think probably go to those and read those out and see if Rebecca has anything she'd like to add and we can just go into a discussion that way. So unless I see any objections from anybody then why don't we go ahead and dive right in?

So I'm not seeing any comments on Question 1. Question 2, however, we've got some comments, if we go ahead and look at a couple of the bullet points here. Under Question 2, the second bullet point the selection is, "No, I registered a domain name in a new gTLD more than three years ago but would consider doing it again in the future." Rebecca's noting, "I don't understand this one. I think the issue may be this, if they register before 2014, someone here must know the exact date but I don't, maybe need to update the date given when the survey is going out, we know that they can't have registered a new gTLD because those weren't available at the time. I would delete this question hoping the reason for the date is now clearer."

And there's then a comment on the next two bullets as well where, "No, I attempted to register a domain name in a new gTLD but did not complete the registration," and, "No, I've never attempted to register a domain name in a new gTLD but would consider doing so in the future." And here Rebecca says, "Important, move these two categories of no's to the potential registrants if they selected 'no, I attempted,' or, 'no, but I would consider

doing so.' These are precisely the people we want for potential registrants and we should be happy to find them in this group. I want to make sure we get cross reference going."

And then there's another comment that says, "Terminate if respondent does not select, 'Yes, I have registered," and noting from Rebecca, "Move to Potential Registrants, terminate if no and not interested or don't know, not sure."

Okay, so with those comments, let me see if anybody has a hand raised and wants to (go through) those suggestions or has any questions? And welcome to Phil and to Lori for joining us. And Kristine, please go ahead.

Kristine Dorrain: Thanks. This is Kristine. I just wanted to give Rebecca a chance to chime in first so I wasn't trying to delay. I agree with everything Rebecca wrote. The one thing I wanted to add, and I know it comes up later when we say the words "three years," actually the very first new gTLD launched in July 2013, it was dot(Shabaka). So we're probably going to want to go back to five years just, you know, because that's the math; this is not really going to go out before July of 2018. So we may want to just change that to five years.

Secondly, I agree that if we've got somebody already on the survey and they say, "No, I've attempted but I didn't complete it," or "I would consider doing so," I think the intent all along was to take those and shove those into the Potential Registrants' camp; I didn't think we were – well thanks for participating and then, you know, find a whole new list of people. So I don't know how that – how it's like planning to work on the backend but that is – was definitely our intention all along as I recall. So I support everything Rebecca said there and wanted to make a comment about the three years. Thanks.

Julie Hedlund: Great. Thanks, Kristine. And I see Susan Payne in the chat says, "Agreed, re potential." Let me just ask Stacey, so how will this work then if we want to

have these folks funneled into the Potential – into the Potential Registrants? Will that – can that work on the backend? I don't mean that you have to get into a lot of technical details but will what they're suggesting here – does that – is that clear and is that something that you'd be able to do?

Stacey Chan: Hi thanks. This is Stacey. Yes, that is something that we were hoping to incorporate just so that we maximize the number of responses that we're getting to each survey so that is something that we can do.

Julie Hedlund: Okay great. Thanks so much. Then moving along, Question 2 does not have any – okay, Question 2 – 2a is really repeat of – and I guess that's – and I guess that's just because if it terminates then you're sort of starting again. And I hear somebody's mic is open, I think I'm hearing some typing. Oh...

Lori Schulman: Oh, my apologies.

Julie Hedlund: That's okay. I didn't mean to suggest that it was you, Lori, just heard some typing – very fast typing. Thanks. Question 2b, there is a comment here. It says, "How many domain names have you attempted to register within the past three years?" I think it's – again, the three years selected, I think we've seen and in the chat here and echoing what Kristine has said, that should probably be changed to five years.

And moving down, Question 2c has no comments associated with it, that's, "How many domain names have you registered new gTLDs in the past three years," but then that I imagine also has to change to five years, would that be correct? And question 2d, "If you recall which gTLD or," I think, "which gTLD or gTLDs did you register your domain name in?" open field.

Two E, "When you attempted to register your domain names, did you ever receive a Claims Notice of possible trademark conflict?" And here we have multiple comments. So under the don't know, not sure, Rebecca says, "For this one, if they're not sure, I would ask a follow up: why are you not sure?"

And on the bullet, if yes, “Did you register the domain name for which you received a Claims Notice?” Yes, no, don’t know, not sure. Rebecca says, “Since this is the core question we have for registrants, this one deserves a ‘please explain why you did this’ whether the answer is yes or no.” Thank you.

And then on, if yes, “Have you received such a Claims Notice on more than one occasion?” Rebecca says, “If we’re going to ask this, we should ask what they did for the additional notices they received as well.”

Okay, anyone disagree with those suggestions? Susan Payne is saying, “Yep.” Susan, please go ahead.

Susan Payne: Hi. Thanks. It’s Susan. I’m not sure I quite follow what Rebecca is suggesting, so hopefully maybe she can clarify. I’m thinking in particular of the comments that says this is the core question we have for registrants, please explain why you did this. I mean, they haven’t done anything, they’ve only tried to register a domain name and got a Claims Notice. So I’m not sure what we’re asking them. Just I wonder, Rebecca, can you – I think I’m being a bit dim, but can you explain?

Rebecca Tushnet: Rebecca Tushnet. Yes. So the question is, you know, when you attempted to register did you receive a Claims Notice? If the answer is, yes, we ask, “Did you register? Did you complete it?” Right? Well we want to know why, right, so why did you – we want to hear them talk about why they went ahead despite receiving a Claims Notice, that’s actually really important to see, you know, what are the set of people who received these and still go forward? We have reason to think it’s small but we don’t know what – what’s going on with them. So, you know, qualitatively what are they like?

So maybe the answer is, you know, I consulted with counsel and they said, you have every right to do this and they did it. If they – if the answer is they

didn't register the domain name for which they received a Claims Notice, then that's something we want to know, you know, why not? You know, and this goes into the same set of questions that we deal with below, right? Too much trouble, whatever, we don't know. And then just I assume that the same rationale applies the second time they received it or third, you know, if there are more. I hope that helps. Thank you.

Julie Hedlund: Thank you, Rebecca. Susan please and then Kristine.

Susan Payne: Yes, thank you. Yes, thank you, that helps a lot, sorry, I knew I was being dim. Thanks.

Julie Hedlund: Thanks, Susan. Kristine please.

Kristine Dorrain: Yes, this is Kristine. Thanks. I just want to tag onto that because you know, to Rebecca's point, and I agree with what she said, you know, we spend a whole lot of time asking why people did not proceed, which is good because we wanted to do that and I think that Analysis Group did a really good job here and maybe this is all kudos to Rebecca for her detail in actually putting the survey draft together here.

But I mean, we have a lot of reasons, you know, why didn't you proceed? It was too expensive, you know, it was too much time, you know, lots of reasons how do you understand the Claims Notice, that sort of thing. But they all go to attempted but not completed. We do actually have some of those same questions for those who received the notice and clicked, yes, I'm going to keep going anyway such as, excuse me, skipping down ahead like I felt I had a superior legal claim or I didn't think that the person who was claiming it, you know, I thought it was illegitimate, I didn't understand it, I just clicked through.

You know, and then of course leaving that open ended option but I feel like we're giving the people that proceeded through the actual registration short

shrift here because they made some very serious decisions at that point that we need to know more about. So I like the way we dove in to why they didn't proceed, but I think we also need to dive in a little bit more into why they did proceed. And I actually think that a please explain why – while I think that's one of the questions, I like the idea of providing some more multiple choice options again for people because I think we do want to dig into, you know, why they proceeded and dig into a little bit more understanding.

I mean, we're going to get into later is the wording right or wrong? And you might have someone who proceeded anyway but we have no concept at this point of whether they should have proceeded or not if they just said, eh, because I click everything, well, that doesn't help us, right? So I think we need to dive deeper.

Julie Hedlund: Thank you, Kristine. Then may I ask Stacey, is it clear then what we're asking as far as some changes here?

Stacey Chan: Yes, I think so. We can certainly dig deeper on this question. If the team would like to have that follow up question as a multiple choice it would be helpful to – if you could share those multiple choice options with us, otherwise we could also do this as an open text field but multiple choice is easier for respondents.

Julie Hedlund: Right. Thank you. So I'm wondering if we could just think a little bit about what the multiple choice options might be here while we have everybody here. Rebecca, Kristine, Susan, do you have any thoughts on what might work for the multiple choice options? And just – yes, Kristine, please go ahead.

Kristine Dorrain: Thanks. This is Kristine. I'm just going to launch this out because we have to have a piñata that we can all hit. I'm not necessarily committed to this idea, full disclosure. But I'm looking at the doc where on Page 23, not the Google Doc but the one in the Adobe where Rebecca had her comments, and it says,

“If when registering you decided to abandon the registration, why? You thought you'd be sued, you'd be subject to an action to take, someone else had a legal right,” what if we start with the idea – and the wording is not going to be right – but what if we start with the idea if we flip it?

So, “I wasn't worried about being sued because I have a superior right, I'm not subject to – I didn't believe I was subject to any actions, I wasn't worried about losing the domain, I didn't believe that the right was legitimate, I believed that, you know, it was no trouble, cost benefit,” I mean, I wonder if we want to start there and revise just to throw it out as an option. Rebecca, go ahead.

Rebecca Tushnet: Yes, so Rebecca Tushnet. Thank you. So those all sound good. The only thing I would say subject to, you know, our survey experts, is I just wouldn't put a reason, you know, like I think the first one you gave did suggest a reason and – I'm sorry, I've lost the words already, but, you know, it's always risky to give somebody you know, one answer that has a reason because they may glom onto it. Or the other thing, which I'm not sure you listed is, you know, I consulted an attorney who said it was fine or, you know, other possibilities are I'm, you know, I had – I was committed to the domain name, you know, for personal reasons, I was committed to the domain name for business reasons, something like that.

Julie Hedlund: Thank you, Rebecca. And, yes, and I'll note then as you're pointing to – as Kristine pointed to Page 23 in the RFP appendix table, you know, kind of going – sort of taking the opposite of those options is helpful as well. And Susan is noting in the chat also, “I didn't understand the notice,” and Kristine saying, “It matched investments named I already own in a portfolio,” going with theme registrants. Kristine, please go ahead.

Kristine Dorrain: Thanks. This is Kristine. Yes, I mean, what I'm trying to go there, maybe Rebecca mentioned it, but part of a bigger business strategy I guess. I don't want to – I'm really hesitant and I'm saying this mostly for Stacey's benefit, is

we have to be careful that we don't – we don't inadvertently ascribe bad intentions to people.

So we don't want to make it seem like having an investment portfolio of names is somehow a bad thing or so to – to Stacey's, you know, for Stacey, we just want to make sure that when we word this question it, you know, it provides these as legitimate reasonable options of, yes, right, I collect domain names that are of such and such type and that's – it matched my type or my business strategy. So that's what I'm getting at when I say it matched investment names I already own. My wording was bad, but I'm hoping you get the drift there. Thanks.

Julie Hedlund: Thanks, Kristine. And I see in the chat Rebecca says, "Plus one for I didn't understand the notice." So, Stacey, does that give you enough to work with to come up with some multiple choice questions?

Stacey Chan: Yes, thank you. This is very helpful.

Julie Hedlund: Great. Thanks so much. Okay, then moving along, and actually let me see – okay. So moving on to Question 2f, I'm not seeing any comments on that one. And actually I'm trying to – I'm missing a comment here and I can't tell what it's attributed to. Okay and I think Rebecca already mentioned this, but again with 2e, and receiving Claims Notices, Rebecca noted if we're going to ask this we should ask what they did for the additional notices they received as well.

And then – and then there's other comments. I see your hand, Kristine, I just want to make sure we cover these other comments because I think the all relate. So possible rephrase, "Have you received such a Claims Notice when attempting to register any other domain names? Could also do yes, more than once, yes, once; no; and "don't know/not sure" in the initial funnel and use that to ask the more than once folks to answer until they're done."

And then Rebecca says, “Stacey Chan notes below that recall may be difficult, which is true, but we have to give them the opportunity to explain-- this is the thing we most need to know: how does the Notice affect the thinking of would-be registrants.” So I think I've covered all of the comments relating to Question 2e. And please go ahead, Kristine.

Kristine Dorrain: Thank you. My comment further relates to Question 2e so this is fine. So Question 2e, I'm looking at Rebecca's comment about asking it again for multiple notices, I'm thinking about a way that might streamline it and be interested in some feedback. So obviously we're not going to be able to get this for every domain name especially if someone entered more than one, I mean, there's going to be portfolio registrants, you know, partially are some of the people we want to hit. And they might have registered thousands, right? So they might have received hundreds of Claims Notices, I don't know.

So I think what you might want to ask is, did you – if you attempted to register domain names, did you ever receive a Claims Notice of possible trademark conflict? We might ask sort of more of a quantitative question, you know, “How many times did this happen for you?” One, 10, 15, 100, you know, whatever we decide the spacing to be. And then, “If you proceeded to register the domain name for any of those for which you received a Claims Notice,” you know, then, you know, what – “pick all that apply.” And that goes to Rebecca's point of we hate to give them a reason, right? So give them a smorgasbord of reasons and then tick all that apply. You know, were there five different reasons for this, you know, 20 domain names that you received Claims Notices for?

Or if you only had one, what was, you know, did you have two reasons? So it kind of allows you to – allows to gather more information about the things that people considered. Just a possible way to reorganize it. I'd be really interested to hear what other people thought of that. But I think that might get to the sort one Claims Notice versus multiple versus one reasons versus multiple reasons. And it would be a little bit more streamlined.

Julie Hedlund: Thank you so much, Kristine. Any comments to Kristine's suggestion? In particular I guess I'm wondering, Rebecca, if you think that might be a helpful approach?

Rebecca Tushnet: So I'm basically okay with that – sorry, Rebecca Tushnet for the record. What I'm a little concerned about is, you know, if God is kind, we might actually get someone who'd gotten a bunch of these and, you know, maybe ticks five boxes. It would be really, really helpful to know though if those were, you know, the reasons that they always continued or say, you know, for some set they had Reason 1; for some set they had Reason 2 and 3, right, so if there's any way to especially if they answer in the larger numbers encourage them to write a narrative sort of explaining themselves, I think that would be really important. Now, you know, we may not get any of those people but if we did, we should squeeze them for all they're worth. Thank you.

Julie Hedlund: Thank you, Rebecca. And I see that Susan has a note in the chat. "I think that would work bearing in mind that some people could have big portfolios," and I see others are typing. And by the way, welcome to Michael and, Michael, I think we have you in the room twice so that is good as well. And Michael, we're just on Question 2e so far.

So let me ask while I see others are typing, Stacey, if what is being suggested here makes sense to you if you need more explanation? And Susan says, "My comment was relating to Kristine's suggestion." Right.

Stacey Chan: Thanks. This is Stacey. Yes, I think this conversation is clear so we can take the comments into consideration. Thanks.

Julie Hedlund: Great. Thanks so much. And I see Kristine is typing but let me ask, are there any other comments on 2e? Otherwise I'm seeing that there are no comments in the Google Doc on 2f. The next comment is on Question 2g. And here we have a comment from Stacey and then from Rebecca.

“Registrants may also have abandoned registrations in the past. This could represent an opportunity to ask questions regarding abandonment, i.e., follow the Potential Registrant survey.” Excuse me. “Questions from the Potential Registrant survey are included here.”

And Rebecca says, “Great idea. I just want to make sure we also funnel in the,” and here I’m just – Kathy’s entering the room. “I just want to – that we funnel in the no/would consider types into the potential registrant survey as well.” And looking at Kristine’s comment, “And to be clear, I was not advocating for completely removing the narrative option either.”

And, Lori, please go ahead.

Lori Schulman: Yes, I have a question about narrative options generally because it seems to me every time we go through a different version of the survey for different recipients, we seem to always want to have that next so to speak, to catch comments here and there. So just from a usability perspective, is it wise to – and I’m asking Stacey and I think is Greg on the call or Stacey – is it wise to do that, to leave as much narrative open as possible in terms of feedback we may be getting? I mean, intuitively I would say because this gives people the opportunity to get whatever is on their mind onto the paper so we could evaluate whatever comments come in.

On the other hand I’m wondering if it makes the survey look too cumbersome. And I just want to understand if, you know, continually having open ended narrative boxes could be helpful or hurtful to the overall result and completion rate?

Julie Hedlund: Thanks, Lori. And I guess that’s a question for Stacey. Do you have some thoughts there that you’d like to provide?

Stacey Chan: Sure, thanks. This is Stacey. That is a great question. So narrative responses can cut both ways so I do understand the team’s interest in receiving as

much information as possible regarding the questions that you have for respondents. They can become cumbersome; it's fine to have a few in a survey but the more complicated the question is or the more loaded the answer would be, then the more time and the more thought needs to go into the response on the respondent's side and so having numerous of those can cause the amount of time that the survey takes to add up.

And it can also feel to the respondent that they're putting a lot of energy into the survey when – or more energy than they initially thought they would need to. So too many of those questions can cause problems for response rates and also for dropout rates.

Another thing about open text responses is the question needs to be worded very clearly because depending how the question is worded you could get a very wide variety of responses that may or may not be on track with the response that you were going for. Sometimes open text questions are better in say an interview setting where you can kind of respond to the survey respondent as they're giving an answer so you can redirect them but when it's a form survey like these surveys will be, you don't have an opportunity to redirect the answer, you just kind of get whatever the survey respondent thought you were asking about or whatever they felt like talking about which can or cannot be helpful.

And then another thing to consider with open text fields is with the responses again, this kind of ties back to the wide ranges types of responses or topics that may be covered by the responses. It can make analysis of the responses a bit difficult to summarize in a simple way. For example, with this kind of subject material where we've been trying to figure out ways to convert a lot of the open text responses to multiple choice, because multiple choice answers are very easy to quantify and represent in a summarization of results, whereas with open text fields if you want to have a nice summary one way to approach it is to try and categorize the responses at the backend and so kind of shifting work from the front to the back and that can be time consuming.

Julie Hedlund: Thank you so much, Stacey. And Lori, I see your hand is still up and then I see Kristine.

Lori Schulman: Sorry, I put myself back on mute. So I see where Stacey is coming from and I just wanted to make sure – I guess when we look at this overall finally that we have the right balance. That's just my concern in a nutshell that we don't go overboard by having too many of these narrative questions.

Julie Hedlund: Thanks, Lori. And Kristine.

Kristine Dorrain: Yes, this is Kristine. I support that what Lori said. I also want us to think a little bit as when we look to the final version I'm wondering if we need to also differentiate between where we say "other" you know, "fill in the blank" you know, like you know, we give five choices and somebody wants to click "other" does that like count that as a narrative? That's just like, you know, filing in a different answer.

And then if you say yes or no and then why, you know, and then you sort of give like, you know, a 10-word or 20-word answer, I approach that in my mind differently like an explanation as a different type of narrative then just sort of tell me what you thought about or did you tell me about all your war stories about this or that or the other thing because I know we were definitely trying to limit the war story blocks.

So maybe we can just keep that in mind and maybe – I feel like that's where we're headed and I hope that we all have that in mind but maybe Analysis Group can tell us – maybe I'm misunderstanding, maybe a box is a box is a box. But in my mind, you know, there's sort of the focus, you know, fill in some different answer or tell us why versus just open ended tell us everything you want to tell us. Is there a difference?

Julie Hedlund: Stacey, do you have some comments with respect to Kristine's question?

Stacey Chan: Sure, this is Stacey. Yes I would say there is a difference between fill in and other option and a multiple choice where other is an option versus a large open text field where you're asking a very open ended question.

Julie Hedlund: Thank you so much, Stacey. And we did – we had just read out the comment on Question 2g talking about that this is an opportunity to ask questions regarding abandonment from Stacey and Rebecca's comment, "Great idea," and funneling into the Potential Registrant survey, so I think we're in – I think there's agreement that that – that we should take that opportunity as Stacey has suggested unless anybody has any objections to that on 2g. Not seeing any hands up.

Moving onto 2h, I'm not seeing any comments on 2h, unless anybody has any now? There is a comment on – I think should be – okay I have it – it's down as 2g(i), and this one is, if respondent had zero domain names attempted but not completed, and the question is, "Do you recall receiving a Claims Notice during any of your registration attempts?"

And Rebecca said, "I may misunderstand how this is structured in relation to the questions above. Suppose someone has registered some domain names and also not registered one due to a claims notice—which of these questions will they see? Suppose they have answered that they received a claims notice above and that they proceeded to register the domain name? Shouldn't in that case they see something like 'we'd like to direct your attention to the situation or situations in which you received a Claims Notice' and then go on?"

And that I think pertains to the bullets below as well. Any comments on this? Does anybody have any thoughts on what Rebecca has suggested? And I guess in particular I would ask Stacey if what Rebecca is pointing out makes sense as far as how the questions are structured? But first let me go to Kristine.

Kristine Dorrain: Thanks. This is Kristine. Okay, so clearly I had not jumped ahead to Question 2g(1) before, I'm – I may be as confused as Rebecca here. So at the very top – I was going to say, so this is registrations that you did not complete. I'm going back to this idea of why attempted but not completed? Any time you receive a Claims Notice we want to know how much time you spent reading it, what you thought about it, how you understood it and then I think at that point is when you want to ask why you proceeded and the new questions that we're coming up with there, and then we can get into the sort of the why you didn't proceed and all the questions we just reviewed.

And then I guess the following questions, 2g and below, go into that as well. But maybe I have that same question as Rebecca. I'm a little bit confused about the order and maybe it's just because it's linear and if you see a yes or a no we have to go back. But I think we do need to make it really clear that this section Q2g(1) should apply to anyone who's presented with a Claims Notice regardless of whether they completed that registration or not. And then we will use that information – we can then ask them about completions and non-completions. Thank you.

Julie Hedlund: Thank you very much, Kristine. So Stacey, does – does the comments here make sense to you, sort of the progression of the asking of the questions or structuring the questions?

Stacey Chan: Yes, this is Stacey. Yes, that's helpful and that does make sense.

Julie Hedlund: Okay so you have enough direction to know how to reorganize. But I see Kristine, please.

Kristine Dorrain: Thanks. This is Kristine. I just want to add to the list, when it says – same question, "Which of the following best describes your understanding of the purpose?" I just want to make it really sure where it says, don't know, not sure, I feel like we should probably be even more clear. Like I didn't know

what it – I didn't understand the purpose, I didn't know what it was trying to tell me. I mean, I think don't know, not sure is kind of a vague answer but I think you might want like I tried to read it and I just was confused as hell. And that's – we need a – what the heck option there I think.

Julie Hedlund: Thanks, Kristine. And Stacey, does that make sense to you?

Stacey Chan: Yes that does. Thank you.

Julie Hedlund: Great. Thanks. Then moving along to Question 2h, not seeing any comments on that. We do have a comment in another 2 – wait a minute, I'm sorry, I'm in the wrong place. Please ignore me. Okay, going onto the next page, I have question, "Assume you were attempting to register the domain name virtue.food and received the following Claims Notice," etcetera. And Rebecca says, "We should specify that it's for a new business selling for, just for clarity?" And Kristine, please.

Kristine Dorrain: Thanks. This is Kristine. I'm kind of historically opposed to specifying because I'd hate for people to be given a false hypothetical. But what if we said, "Assume you were attempting to register the domain name, virtue.food and you received a Notice," Question 2g(ii), would you consult an attorney about this Claims Notice before deciding to proceed?" Yes, no, I don't know. And then at the end, "Would your decision change if you were using this domain name – registering this domain name because you liked it? Yes or no? Because it was for a business plan you had? Yes or no?" you know, we could provide a couple of different options that would allow to dive a little bit deeper about how people think about these things.

Because if the answer is yes, I'd proceed, I would not consult an attorney and I think I have a right to register whatever the heck I want, for any reason I want, well that's one viewpoint. But you might get a whole bunch of people that assume that they have to register you know, they can only be a legitimate business. I mean, I just think there's some – or an existing

business, I don't want to say legitimate, an existing business or something an existing business plan.

I would hate to pigeon hole sort of like earlier, I think we want to give people the biggest benefit of the doubt and allow them to think of any potential use case for which they might be in this scenario. Thanks.

Julie Hedlund: Thanks, Kristine. Rebecca, please.

Rebecca Tushnet: Rebecca Tushnet. So that's fine with me. I would like to, you know, get it out there but certainly as multiple choice a bit later works for me as well. Right, so might want to specify like something like, you know, well only if I plan to start a business under that name or already had a business under that name or something like that but doing it later is perfectly fine with me. Thank you.

Julie Hedlund: Thank you, Rebecca. And, Susan please. And Susan, if you're speaking...

Susan Payne: Hi, yes sorry.

Julie Hedlund: Thank you.

Susan Payne: Yes, that took a while to get off mute. Again, I think I'm obviously not also in this today because I'm just a bit confused about this one as well. Not so much the question, which makes sense obviously but I'm not sure I understand why we – if we specify something like it's for a new business selling food, and I think that that has – Kristine was suggesting that we don't, but I mean, if we were to do that how does that help us any more than just having the name?

I mean, I don't know. I'm sorry, I'm not – I'm finding this one quite difficult to follow. I mean, what does it – either way when someone gets that Claims Notice, we don't know the background that they have in their head as to why think they would proceed or not proceed. You know, we don't know if they think they've got their own trademark for the name or whether they're aware

of another you know, a brand that's called that that's in the food industry. So I'm just not sure what we're going to get out of this.

Julie Hedlund: Thank you, Susan. Rebecca please, and then I have Kathy after Rebecca.

Rebecca Tushnet: Rebecca Tushnet. Thank you. So I think it's true that we don't know what they're thinking, which is why we've got to ask them, right? And so if we – if it turns out that the story they have in their head is, you know, I would continue if I had a business that I thought was legitimate or I would continue if I thought I had something to say about virtue and, you know, virtuous eating, so then we'll at least have insight into the kinds of ways people think about domain names of this type.

And that's – it is I think much more likely to get useful answers if we give them an example to think with and then they can tell us what it made them think about. If we just give them the notice I think the reaction is going to be well, how the hell should I know? Like at least you know, tell me what it's for because frankly, you know, my answer would be completely different if it was virtue.food versus if it was xerox.food.

So I need to know something and I also expect that there's probably consensus in the working group that we don't really think that it's a problem if someone's deterred from registering xerox.food in most circumstances, so it's the virtue people or really the hotel people, right, the cloud people that we really want to know about given what we know about Claims Notices. So I think an example is going to help us do that even though of course it will not answer all our questions. Thank you.

Julie Hedlund: Thank you, so much. And Kathy, please.

Kathy Kleiman: Yes, I was going to say something similar to Rebecca. And I also just want to note that we did give examples to I think registries but it could have been registrars or both when it came to things like window.construction and

police.nyc, we did give some concrete examples, I think on alternate or limited registration periods and things like that. So that example just helps especially when we're dealing with non-experts, I think the example will help. And then to have a range of answers I think the way Kristine pointed out makes sense to me as well. Thanks.

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

Susan Payne: Yes, sorry, I'm still a bit confused. I mean, so how do we know that there isn't a brand virtue for food? Or are you all aware of a brand virtue for food and it's me who doesn't know anything about it? I just – how do we, you know, no matter what we – no matter what we show the registrant or whatever they are, potential registrant whatever they are, how do we know what their level of knowledge is about whether that's an issue or not?

Julie Hedlund: Thank you, Susan. Kristine and then Rebecca please.

Kristine Dorrain: Thanks. This is Kristine. Yes, and I'm – that's sort of what I was getting at, and I know Rebecca thought we could ask sort of the clarifying questions at the end, but I almost feel like they have to be asked first to cite context. To be clear, I am not arguing against virtue.food, I think if we want to have some sort of example, that's fine. We could even put in parentheses hypothetical, you know, no resemblance to anything else, I don't care.

But assume you were attempting to register the domain name virtue.food and you received the following Claims Notice, take as much time as you want to read it, you're going to be asked a couple questions when you're ready. Then I think you almost need those demographic questions first like, you know, what is this, you know, would you be nervous registering this domain name if, A, so yes or no? If A, you were, you know, thought this was a really cool domain name and you wanted to own it for, you know, personal use; if you wanted to buy this domain name as part of a portfolio for domain sales; if you were buying this on behalf of someone else; if you, you know, were thinking

of starting a business; if you already had a business, okay some other you know, other, our ubiquitous other, fill in the blank.

You know, okay given his, you know, information, you know, would you – for any case you answered yes, you would be nervous. What would be – what action would you take? You know, would you look at the price and keep going anyway because it's only \$10, it doesn't matter? Would you consult with an attorney? Would you consider changing your use case? Would you abandon?

If you – you know, if you said no, I wouldn't be nervous, you know, is it because, you know, I'm not worried about trademark law? Do I know about trademark law? So then you can get into some of these other questions but I almost think you have to start with the demographic background questions to get into the mindset of our survey takers. And yes, we're not going to have – it's not going to be super consistent but I think we're going to get some trends, like either people generally get nervous, people are generally not nervous; people generally think it's okay for this, people generally think it's not okay for that.

I think we could drill down a little bit better if we get them thinking about some sort of use cases for this hypothetical name and then ask them questions on – if for the ones you answered yes, where you would go from there for the ones you answered no, and then you go onto how confident are you and do you, you know, do you think trademarks matter? And again we've got our four scenarios – at least four off the top of my head, you know, does trademark law matter when I'm just registering a domain name for myself? Does trademark law matter when I'm registering a domain name for an existing business?

So I think that that's why I was suggesting collecting that at the front end not waiting until the backend because I think we can hone in a little bit better on our answer.

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

Rebecca Tushnet: Rebecca Tushnet. So I'll defer to Stacey on this but I'd be pretty worried about biasing responses if you start asking them about trademark law first like how confident are you about how much you know about trademark law, I would worry that that would have a pretty bad effect on the answers and probably – and not necessarily one that any member of this working group would really want to see. So I don't know how feasible it is given the size of the group to, you know, divide this up.

I also don't think – I think it's going to get super hard super-fast if you ask each person to consider, you know, 10 different scenarios. So, you know, if we were going to have 500 respondents then I'd be super happy to, you know, test out five different scenarios. And maybe that's feasible, maybe Stacey could talk a little bit about that. But I don't think it's likely to get – I think you're likely to get people, yes, just checking the box, I'm uncertain, away, you know, now that you've raised this whereas there might be underlying differences in you know, I wanted to write a food blog versus starting a business.

Also I wanted to get back to the earlier concern, I don't know if there – so actually that's not true, I am morally certain that there is some food company out there that has virtue in its name and is willing to claim trademark rights. I'm also morally certain that it is not Xerox. And that it – for that very reason there are a range of potential legitimate uses of virtue with respect to food.

So no one should think that there's an absolute bar. But if you're really worried about some virtue business that respondents will know about and we don't, that's what the box is for, right? Like I wouldn't want to compete with that other virtue or, you know, maybe they'll just answer like I think somebody else has trademark rights, that would be useful information. Thank you.

Julie Hedlund: Thank you very much, Rebecca. So where do we stand on rewording this? You know, back to Rebecca's initial comment, "Specify that it's a new business selling food just for clarity." And if we look back at the – if we look back at the questions, say on Page 21, you know, do we – let me just say – I have to say I'm confused as to what the wording is that we want here and the order. And Rebecca says, "I will withdraw that in favor of the alternative of giving it as an option later." Thank you, Rebecca.

So giving it as an option later, do we know where this will appear then in the series of questions? Again I noted that there was concern about not leading off with a question about trademark law. And if we look at this question then we look at Question 2g(ii) we've got you know, zero domains attempted but not completed would you decide, you know, consult with an attorney, yes, no don't know; we've got 2g(iii) which talks about knowledge of trademark law; we've got g(iiii) that talks about levels of confidence. And then H that talks about reasons for deciding to abandon. And thank you, Kristine, please go ahead.

Kristine Dorrain: Hi, this is Kristine. I actually – I agree, I think you're doing an admirable job, Julie, of trying to figure out what goes where. I'm really sitting with Rebecca's point, and I agree with it. Like I don't – something about me doesn't say it with asking the Q2g(iii) which is, you know, describe your trademark law knowledge. And then I think – well for sure that one. And then actually g(iiii), you know, how's your confidence in your ability to determine legal liability for trademark infringement? I think we're making an assumption here that the user is going to assume that the Claims Notice has something to do with trademarks.

And I feel like we asked another question, so if you go up to the previous question, which is g(i), one of our options is, "To inform me of ICANN's general policy on domain names, or to inform me that someone else previously registered my domain name," so if you're – if – assuming that we believe that those are possible legitimate answers here, and you dive right

into three questions about attorneys and trademarks, I feel like it's a non sequitur.

. I mean, I'm really – this whole section, I mean, I know what we're getting at, I think we're starting to hone it a little bit more on it, but I guess that's why I was going with the hypos like if you were using it for this, what would you think? If you were using it for that, what do you think? Because I know we do at the end of the day want to know like what do you know about trademark law? Is it scary? But really at the end of the day you know, we just want to know what people are thinking. And if they've – if we only ask trademark law related questions and we lead with those, I mean, almost to Rebecca's point, we're planning it in their head. Oh shit, I hadn't even thought about trademarks. You know, I thought that Claims Notice meant you know, something else.

So I'm a little bit worried about leading with trademarks and I'm a little bit worried we're assuming most people don't even know the difference between a trademark and a copyright. So they might just think well, no, I'm not selling anything, of course I'm not using a trademark. I just am a little bit worried that we're not getting at what we're trying to get at here. And I see a queue forming so I'll shut up and hopefully I've sparked some discussion.

Julie Hedlund: Thank you so much, Kristine. And please, can I go to Susan.

Susan Payne: Yes, thanks. I think the only thing I'd say in response to that is that we are at this point we've shown them an actual Claims Notice so we're not expecting them to remember what happened in the past and what they think they remember from when they saw one previously. You know, we've just shown them one and said, take as long to look at this and all over it talks about trademarks and I think it's called a trademark claim. I mean, really like at that point don't we need to get into the detail on the trademark part? I mean, that's surely why we're showing them the notice.

Julie Hedlund: Thank you, Susan. Kathy please.

Rebecca Tushnet: This is Rebecca. When...

Julie Hedlund: Sorry, go ahead, Rebecca, yes and I see you've gotten off your computer so just do chime in.

Rebecca Tushnet: So I think it's fair we've shown them something called a Trademark Claims Notice but we don't know what that means to them. And the problem is not just that we are using the word "trademark" a bunch in these questions, it's that they have a very specific idea like frankly they're pretty suggestive, trademark law is scary. And I think it's worse asking but only after we've gotten some specifics out of them about a hypothetical and what they thought the notice was because otherwise you really are going to trigger a very different set of reactions than if you ask those later. Thank you.

Julie Hedlund: Thank you very much. And Kathy please.

Kathy Kleiman: Thanks. I was just wondering how much we're redoing all this again. First I had the same comment that Susan had, that it is the Trademark Claims Notice so it is in front of them, but also are we – it seems like we've done a lot of this before. Are we redoing this again? Is this new or old? I thought that the Analysis Group stayed fairly close to the original materials that they were given so I just wonder can we kind of go back to the original documents and just see – and follow what Rebecca originally sent to them or is this very different? Thanks.

Julie Hedlund: Thanks, Kathy. And I was attempting to do that as well to look at – because I do think – I do think Analysis Group did try to follow what the original questions were but I think maybe it's – I have to say the order is unclear to me as well. And I think I'm perhaps hearing conflicting suggestions for how to order things. Perhaps hearing that we should go for the hypothetical first and then go into which is the order we have here, I think, the hypothetical and

then into the trademark law and attorney questions and so on. But again, I'm happy to be corrected. Kristine, please.

Kristine Dorrain: Thanks. This is Kristine. So first of all I'm going to take a step back and say here we have Q2g(ii) says, "If the respondent had more than zero domain names attempted but not completed," so I don't know that we need to limit this question to only people who have not completed. I think anyone who's attempted and registered or not could talk about what they think about the Claims Notice. But that's for one discussion point.

Secondly, I'm going to attempt ordering here. So we show – okay, I'm taking Susan's point and I withdraw my objection to the trademark characterizations. So we've shown them something called Trademark Claims Notice, the next question possibly then for purposes of discussion, should be Question 2g(iiii), so, "How confident are you given," after they've seen sort of – we've talked about sort of like what their use cases might be, "how confident are you in your ability to determine if this Claims Notice affects your legal liability for trademark infringement?" Yes or no, how confident are you? What do you get?

From there, what would you do? Would you consult with an attorney if you're not confident? Or if you are, whatever, would you consult with an attorney? Why or why not? And then from there you could maybe ask like a demographic question about the trademark law. But I guess I don't – I don't know the value of answering – asking that question. And I don't think that we asked that anywhere in our – I'm looking through – I don't think we asked about people's trademark law background. So I think if we reorder it to the how confident are you, then go to – and based on that, would you consult with an attorney? Then go to if you abandoned a registration after noticing the Claims Notice, you know, why did you do that?

But I think we've already sort of asked that question up above, so in this case maybe it's – if you would abandon because here I don't know we're

hypothetical again. So how – what do we think about that reordering? Starting with how confident are you in your ability to even make a legal determination for yourself? Then based on that, would you talk to an attorney? Get rid of the I know something about trademark law or I don't. And then from there we've got to reword Q2h(i) to be more in line with sort of after looking at the Claims Notice if you were going to abandon your registration of virtue.food, what – for what reasons, select any, all, whatever, would you abandon that registration?

Any thoughts there? I'm literally just throwing this out.

Julie Hedlund: Thank you, Kristine. That's really helpful. And I see Susan is saying in the chat, "I like the reordering." And Michael is saying, "If we ask, 'Would you consult with an attorney?' should we not also ask if they would talk with domain name registrar, etc?" And I have Kathy and then Susan please.

Kathy Kleiman: This is Kathy. I'm fine with the reordering except that – the deletion. I would keep that even if we put it down at the end where it's unlikely to be answered because they'll have gotten lost in some of the other details perhaps, but that level of knowledge, that self-reporting level of knowledge, no way to verify but I think will be very interesting in the end. And I think it's similar to some of the gateway threshold background type questions that the Analysis Group has added in other areas. I think we'll find that interesting in the end. Thanks.

Julie Hedlund: Thank you, Kathy. And just to clarify you mean Question 2g(iii) the one about knowledge of trademark law?

Kathy Kleiman: If that's the one Kristine was proposing to delete then yes.

Julie Hedlund: Okay. Thank you. And Susan please.

Susan Payne: Yes thanks. Sorry, I'm trying to find the right – on 2h(i), again, it might be because I've lost track of how this orders itself, but I don't – we've had this

question about showing them the Claims Notice, would you consult, you know, the bit about how confident are you on trademark law and then the – would you consult with an attorney? And then we don't have anything that says, did you proceed or not? But we're suddenly asking people about why are they not proceeding with – and it doesn't seem to be with respect to virtue.food, it seems to be with respect to some other names that they actually haven't applied for.

So maybe I'm just again, maybe it's just that I'm not understanding the order in this document because it's being displayed linearly but where are we asking them what are they going to do about virtue.food? Because it doesn't seem like they've – we've asked them that, or do we not care? We just want to know if they'd go and speak to an attorney or not?

Julie Hedlund: Thank you, Susan. And I have to say I'm now really confused too. Kristine.

Kristine Dorrain: Yes, thanks. This is Kristine. So assuming we ask some sort of use case type questions earlier on and say, you know, for this use or that use, I agree completely and I was trying to get to this at the end of my last sort of soliloquy, which is I think Q2h(i) has to be (unintelligible) call of the question. If we're going the hypothetical route, if we're asking people, I'm going to use this for personal use/blog, I'm going to use this for a business, you know, if we're asking people to think about the Claims Notice in the context of virtue.food and in the context of the reasons they might register virtue.food, then we have to go on and say, you know, what would you – I mean, I shouldn't say we have to – the only way Q2h(i) makes sense if we then say what would you do in your scenario?

I agree though that I don't even know why we're asking it here because we ask it above. When we say, did you actually get a Claims Notice? Did you actually abandon your registration then? Why did you abandon it? And we ask them at that time. So I'm not entirely sure that Q2h(i) is adding anything

either but if anybody thinks it does, then we need to tie it back to virtue.food I think. Thanks.

Rebecca Tushnet: So Rebecca asking to get in the queue.

Julie Hedlund: Go ahead Rebecca, please.

Rebecca Tushnet: Thank you. So I agree that – I can't quite tell because it's linear in a way it won't be ultimately how this works. But my understanding was that the hypothetical is for everyone. So I agree that some of the respondents, ideally, will also have abandoned real registrations and we'll ask them about that. But this is the question where we show people who haven't abandoned and who have a Claims Notice to refresh their recollection if necessary, and to inform them if not, and then we ask them what it means to them.

And so I absolutely agree, we should be asking them, you know, what would you do and, you know, and if we can it'd be nice to give them scenarios or we could ask them, you know, to choose scenarios like you know, I assume that I'd just be using it for a blog and so it wouldn't be worth it or, you know, I want to write a food blog so it would be worth it and so on.

But the hypothetical allows us to reach scenarios that they may not have encountered, they may not have thought about but it allows them to process the meaning of the notice. But the real point is, I think everybody gets asked this and that may require some care with the wording leading into it, but that's what it's useful for because frankly I doubt we're going to get a whole lot of respondents who actually have received Claim Notices, I could be wrong. But my intuition is that this is where we're going to get most of our information about how potential and actual registrants understand the Claims Notice. Thank you.

Julie Hedlund: Thank you very much, Rebecca. And just in the chat Kristine says, "Yes, Rebecca, that's a mistake in the premise of each question, that the Analysis

Group needs to resolve.” And also, “Maybe this is the first question and there is a matrix.” And Kathy says, “So different paths of questioning need to be clarified.” And I’ll go to Kristine and then Susan please.

Kristine Dorrain: Thanks. This is Kristine just brainstorming again. So let’s go back up to where we thinking about different use cases. You’re attempting to register virtue.food, you receive this Claims Notice, please review it, we’re going to ask you some questions. Question Number 1, it’s a matrix, you’re presented with different sort of business options. One is I want it for personal use slash (unintelligible). Will it, A, expose me to legal risk? Would the process of completion take too long and I would stop at this point for this use case? And we can come up with any of the other scenarios we already discussed, you know, it seemed confusing, it seemed too legal, it seemed too, whatever it was, right?

I already have a business, I’m thinking of starting a business, I just want to buy the domain name for my portfolio, other, and then you catch that information right up front. I looked at the Claims Notice, this is the decision I’m going to make for this particular path of virtue.food and my use case for virtue.food. Then – now you haven’t suggested anything to anybody yet, you’ve just said give us your gut instinct, what are you going to do? Now you go into how confident are you in these decisions, which is Q2g(iiii), then you go into – and if you’re not super confident, like or even if you are, would you consult with an attorney? Why or why not?

And then if we are going to ask the trademark question, we slap that in at the very, very end just, you know, for the purposes of demographics, how do you feel like you know about trademark law? How good are you at it? Maybe that’s the way to get at it because then you’re not asking any leading questions first. What do you think?

Rebecca Tushnet: This is Rebecca. I’d like to get on the queue?

Julie Hedlund: Thanks, Rebecca. Let me go to you and then to Susan please.

Rebecca Tushnet: So I really like almost all of that including the order in particular. The thing that makes me nervous is that if you, you know, start in with these multiple scenarios, you're immediately multiplying the scenarios in ways like maybe, you know, if it was a food blog they'd go forward and it was a business they wouldn't, right? And so now we have zillions of possible answers and I think that's going to get hard. So, you know, one – and I think it would be useful to hear from the experts on this point.

One possibility would be to allow them to provide, well, you know, what do you imagine your use would be for? And then they could choose and we'd send them down that path and they'd answer based on that path. Or if we think we'll have enough respondents, we could subgroup and then say, okay, you know, it was, you know, you were trying to develop a portfolio of valuable domain names, you're trying to start a business, you're trying to start a blog, right, if we could subgroup then my worry would disappear. Thank you.

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

Susan Payne: Yes, thanks. I've been feeling really uncomfortable about this conversation and I realize it was going on, it's because this is like déjà vu, I mean, we have this – like a sort of endless discussion about hypotheticals when we were in the Data subgroup ages ago. And I was just looking at our document that was provided to Analysis Group again. And if you go Page 28 and 29, we never within the subgroup reached an agreement on whether we used hypotheticals or not. And so there's this whole blurb where there's a rationale for supporting the use of hypotheticals and a rationale for opposing the use.

Now what happened with that? It seems like all of that went to Analysis Group, it doesn't seem like anyone has actually made a decision on whether we do hypotheticals or not. But this is making me really uncomfortable. We're just asking people to guess, you know, we're here with a bunch of people

who've registered names and said they've had a Claims Notice and that they either proceeded or didn't proceed.

Rebecca Tushnet: This is Rebecca...

((Crosstalk))

Rebecca Tushnet: That's not the entire group that we're reaching. We're also reaching a bunch of people who have never seen a Claims Notice.

Susan Payne: Well I thought – but at the moment we're doing the registrant survey. Anyway, let me continue. So we basically have a bunch of people who get a Claims Notice and haven't proceeded or have proceeded or whatever, and we can ask them a whole host of questions about what they did and whether they took advice and what their thinking was. But why are we then also asking them hypothetical questions which as a group we didn't necessarily agree that we thought was the way forward?

So I just – I guess I'd like to understand how we've got back to hypotheticals when I thought we hadn't got agreement within the working group about this. But maybe staff can remind me that that actually we had a working group discussion and the working group made a decision that hypotheticals were in. I think I'd like to know that.

Julie Hedlund: Thank you, Susan. And I've got Kathy and then Ariel please.

Kathy Kleiman: Hi, this is Kathy. I thought we turned it over to the Analysis Group for their input and among other things. And we've got something back that at least as a registrant, I've been a registrant for many, many years now, makes sense to me. And hypotheticals, again, and this is, you know, hypotheticals are a way that people get their head around things. And we did it very, very well for the limited registration periods, all these acronyms I don't remember, for different types of registration periods, again, police.nyc,

windows.construction. So here this is a hypothetical that does – I think will help people who are coming to this anew.

But I thought that what we did was we turned it over to the experts and they came back to us with something so maybe we should be asking Stacey.
Thanks.

Julie Hedlund: Thank you, Kathy. And in the chat I see Michael saying, “We should not ask hypotheticals insofar as this would give us the same sort of opinions that we set out to get on real situations to circumvent.” And there is an exclamation mark there. Lori Schulman says, “Hypotheticals don't garner real world data. And if new survey takers then how helpful is that?” Ariel, please.

Ariel Liang: Just as a staff clarification, so the information about hypotheticals, as Susan pointed out, is on Page 28 and Page 29, the statements supporting and opposing to hypotheticals. So this is not included in this appendix for Analysis Group to consider and staff don't really have any input or suggestions one way or another but we just delivered this information for Analysis Group to decide how they're going to draft their survey questions. So just a clarification here.

Julie Hedlund: Thank you, Ariel. And Michael in the chat is saying, “If we ask hypotheticals of registrants I would like to return to TM brand owner survey to include some hypotheticals. What would be the difference?” Lori is saying, “I feel like there is a different kind of request for information that would be something to ask in the design phase of our project, not necessarily in an evaluation phase.” And Kathy, I see your hand is still up.

Kathy Kleiman: It's an old hand but an old question as well, whether Stacey can come on and talk with us about kind of reaching, you know, a broad group of individuals, which is the type of group we're talking about now, individuals, small businesses, entrepreneurs and what helps them get their hands around, you know, complicated issues? Thanks.

Julie Hedlund: Thanks, Kathy. I have Kristine and then we'll get some – we'll get some guidance perhaps from Stacey as well as that point of view. Kristine please.

Kristine Dorrain: Thanks. This is Kristine. And thanks to Susan for reminding us about this whole like we didn't actually resolve the hypothetical question before. I note that I am the author of the opposing viewpoint that said we should not use hypotheticals. But I think I don't know if we are – I don't know if we're mincing hairs here on what a hypothetical is. So my proposal, funnily enough, I haven't even remembered this, but funnily enough looking at Page 29, what I'm proposing now is actually the same but I think it could be truncated; obviously it was way wordier and longer in my original proposal.

And so I think it, you know, getting to use cases is different than a hypothetical. So there's a limited – relatively limited number of ways – categories in which domain names are used, right? I mean, you can have a kind of like I've said it already, sort of personal/blog, you've got, you know, possible investment domain name, you know, you've got some potential plans for it, maybe it's a business or something or you for sure have plans like you actually know you're starting a business or you have a business. I mean, those are some general categories that people generally fall into and that's sort of what I've outlined. Like given those sort of general categories of why people register domain names.

You know, given, you know, would – what would this claims notice, would it strike terror in your heart? Now I have contended that we should not use an example domain name as a hypothetical; I am not currently dying on the virtue.food hill because I'm just not. But I don't – I'm wondering what the group thinks about this concept of use cases versus hypothetical and because maybe it just, you know, 10 o'clock on a Friday and it's been a long week and I'm losing context here. But I'm not entirely sure what we're disagreeing on actually because I felt like we were kind of moving towards

agreement. So what's the – where are we disagreeing and maybe how can we, you know, resolve it I'm not sure.

Julie Hedlund: Thank you, Kristine. And I see that Michael says, "Mixing use and hypothetical questions would contaminate both types of answers." But I think Kristine, you're suggesting this is a use question, not a hypothetical. Kathy says, "Good question." And I see Susan is typing and Lori is typing. Well maybe while that's going on let me ask Stacey, now that you've heard all of this background and we – any thoughts that you might have on this – if this is a use case question, is it a hypothetical question, how useful is a question like that in this context? Thank you.

Stacey Chan: Thanks. And thanks, everyone, for this discussion. This is Stacey. So I think – I'm hearing multiple things related to this question and the hypothetical and how to phrase the hypothetical. First to explain why this hypothetical ended up in the Registrant survey, this is follow up to earlier in the survey where there's a comment that we had gone through Q2g, which is at the bottom of Page 2 where I had the comment, "Registrants," who are responding to the Registrant survey, "may also have abandoned registrations in the past so this could be an opportunity to ask some questions from the Potential Registrant survey."

And so the Q2g sub 1, 2, 3, etcetera, that we've been discussing, these hypothetical questions are taken from the Potential Registrant survey. So it's possible that we may want to rethink whether or not it makes sense to present a hypothetical to respondents who have actually registered domain names, maybe they would think about a hypothetical in a different way. We did end up including the hypothetical in the Potential Registrant survey, and I don't want to jump ahead because I know that we're not discussing the Potential Registrant survey right now, but that is where these questions are coming from.

And I'm sorry, I think I'm going to need someone to redirect me at this point because I've started to lose the other points that were discussed in the rich conversation that was going on. But I'm happy to continue responding...

Rebecca Tushnet: So this is Rebecca Tushnet, so whenever.

Julie Hedlund: Yes, go ahead, Rebecca.

Rebecca Tushnet: Yes, so I think Stacey, I think I myself have no desire to die on the hypothetical versus use case hill either. So the basic question it seems to me that we face is, we want to know what an – what some set of people who are the kind of people who register domain names – we want to know when they see the trademark notice, as it is currently worded, what is it doing to them, right? Because if it – we have good possibilities and bad possibilities and right now we just don't know what it's doing to them. So this is an attempt to figure out what – what a person who sees this notice thinks who is the kind of person who would see this notice.

And the reason to provide use cases is that in the abstract it's hard to understand what that kind of person, like me, right, I've registered domain names, in the abstract I don't think anything about it because I want to, I mean, I assume I'd be doing something legitimate, but I'd need to know. So the reason for the use cases is to figure out what they think and what they think it means and there's just no way to figure that out and there's no way to ask them questions without something to think about because (unintelligible), you know, you were trying to register a domain name and you got this, I think the first question they'd ask or they would just assume an answer to it and then we're even more trouble because we have no idea what's going on in their head, the first thing they ask is, well what the hell am I trying to register, before they start answering the question of what it would mean to them.

So the use case is the way of getting it out of the mysterious depths of their heads and at least giving us some purchase on what they might be thinking.

So I guess I would like Stacey to speak to, you know, what is the way, what is the best way to figure out what this notice means to the kind of people who might register? Thank you.

Julie Hedlund: Thank you, Rebecca, very helpful. And Stacey then, does that provide a little bit more guidance of what the sub team is looking for here and the kind of responses they're hoping to elicit?

Stacey Chan: Thank you. Yes, this is Stacey. Yes, thanks, Rebecca, that is very helpful. And I do see that issue with asking the hypothetical without really understanding where the, you know, the true background for whatever responses would come in response to the hypothetical. And so I guess I have two thoughts. One is, perhaps it would make sense to keep this hypothetical situation for potential registrants and revisit it when we discuss the Potential Registrant survey. And then make sure that we have questions in this Registrant survey when we're asking questions about whether or not the registrant received a Claims Notice, if they did, how they responded to it, having some question in this survey about what the purpose was behind their registrations when they're giving reasons for continuing or not continuing with the registration and I'm wondering if that would get at those issues?

Julie Hedlund: Thank you, Stacey. And I'll just note a couple of comments in the chat as we've been talking here. So Lori says, "I think that asking what you would do is fundamentally different than what you have done." Susan says, "And I guess I'm okay with the Page 29 scenario since we get an understanding of what the respondent is thinking when they answer." And Kristine says, "Agree, Lori. The section above is for what you've already done; this section is just what do you think about the Claims Notice." Michael says and he does say he has to leave the call, that "Questions about actual events and actions will provide metrics; hypotheticals will..."

((Crosstalk))

Julie Hedlund: Yes, please – yes and I just – and Michael says, “Think about what should relate to what they actually thought, not what they might have thought.”
Please go ahead, Rebecca.

Rebecca Tushnet: Yes, this is Rebecca Tushnet. So consumer perception surveys are (unintelligible) and you know, in (unintelligible)...

Julie Hedlund: I think you just dropped out for us, Rebecca.

Rebecca Tushnet: Oh I'm so sorry. Can you hear me now?

Julie Hedlund: Yes.

Rebecca Tushnet: So consumer perception surveys are actual data. So you – or there are a number of different questions and one of the questions we have been tasked to answer is, what does the notice mean to the people who get it? And one really good way of figuring that out is asking what it means to a bunch of target consumers or recipients in this case. Now if we could guarantee that we were going to get 500 notice recipients, it might be reasonable to say, let's only ask notice – actual notice recipients what they thought.

I don't think that's going to happen. I think we're much more likely to get people who did register or would register in a new gTLD enough of them to get a decent sample. But in that case we got to show them the notice and try and figure out what it means to them. So and that is real data; it's not hypothetical, it's a comprehension question is the kind of thing that surveys ask all the time. So I (unintelligible) only way we're going to get an answer to the question, you know, what – how do people understand this notice, is by showing it to people and asking them what they think. And once we do that they need a way to think about it.

Julie Hedlund: Thank you very much, Rebecca. Kathy, please.

Kathy Kleiman: This is Kathy. And that makes sense to me. That is the target question here. And I just wanted to confirm with everybody, since I apologize, I was not here for the beginning of the survey, that these – this is a registrant survey but it's completely possible that 99% of the registrants are in the gTLDs, that's my sense going back and looking at the beginning but maybe – I mean, so that idea of having the hypothetical to make sure that we ask those, you know, this target group, I like that term, of people who are already pretty well, you know, obviously know what a domain name is, asking them the question. But let me just double check and stop there, is it possible that most of the people who are taking this survey are in the legacies? Thanks.

Julie Hedlund: Thank you, Kathy. And I see we have Kristine please.

Kristine Dorrain: This is Kristine. I think we're trying to account for that for this survey because the very first question is, "Have you registered domain names in the new gTLDs or have you registered domain names in the last five years in the new gTLDs?" So we were trying to filter for that. We are trying to get people – by the time you get to this you should have already registered domain names or attempted to – actually, no in this case you should have already registered domain names in the new gTLDs by the time you see this question on this specific survey.

You may not have seen a Claims Notice, so there's some questions that say, "Have you seen a Claims Notice? What did you do?" But this section, I believe, is trying to capture for those of you who have registered domain names in the new gTLDs, but didn't actually see a Claims Notice yet, you know, here is one, what would you do? That's I think what this section is trying to get at but I admit, I am incredibly under-caffeinated so I may not be following along. Thanks.

Julie Hedlund: Thank you, Kristine.

Rebecca Tushnet: This is Rebecca Tushnet. Can I add to that?

Julie Hedlund: Yes, please, go ahead and then after Rebecca Kathy please.

Rebecca Tushnet: So I just want to confess error here. I should have thought harder on this earlier on. It never made a lot of sense to do registrants and potential registrants as completely separate surveys, and in fact, you know, as some of my comments indicate, part of this is putting people on the right path, right? Because in fact the class potential registrants includes people who tried to register a gTLD and failed for whatever reason and people who haven't but would legitimately consider doing it. And so a lot of these are just overlapping paths to the same question.

And, you know, it's actually one survey with branching paths. And then, you know, some people who won't qualify for any of those paths. So if honestly I could live with a survey that said that – said I have received a Claims Notice, and didn't ask the use cases, if that's the hurdle here, if the people who really have received Claims Notices get asked about their stuff and not the use cases, I can live with that. What I would like to make sure happens in that scenario though is that those people are also given an opportunity to refresh their recollection of what the Claims Notice said. And again, this may also provide them an opportunity to say, oh, actually I didn't get a Claims Notice, you know, you should be giving me the other part of the survey.

Julie Hedlund: Thank you very much. And before I go to Kathy I'm just – I'm looking at Page 29 and I'm looking at the sort of the alternative to the hypothetical. And I'm wondering if that's what we're sort of getting back to where we can still try to get to a state of mind, you know, what would you do if you got one of these because you haven't gotten one of these but here's a Claims Notice, and there's a, you know, then a series of questions that the, you know, on the other hand option that tries to get to sort of the same place but without using a hypothetical.

And you know, and I think Susan, you said earlier something like well I would be happy with the option on Page 29, and I don't know if you were talking about the (nine) hypothetical response there or approach, should I say. And, Kathy, please, and I realize we're two minutes after the hour so I think we'll be needing to wrap this up. And actually Stacey needs to drop off so I think we're going to have to pick this up at our next call. But Kathy, I'll give you the last word.

Kathy Kleiman: I think the last word is I'm going to think about it but that idea of having registrants of new gTLDs in front of us – and thank you to Kristine for clarifying that – but that those registrants may have come in after the trademark Claims Notice period but still putting it in front of them in some way and asking what you think about this and I think is really important so sounds like we have a lot to think about.

Julie Hedlund: It does. And thank you all and thank you, Stacey, so much for staying on and just and I know you have to leave. So we do have a call scheduled for Monday. This was added in and we did ask if people could let us know if they were not able to join on Monday and Monday's call is actually at 1700 UTC so starting one hour later than this because there's otherwise an overlap with another GNSO meeting. Are people able to join on Monday? Kristine says, "Preschool graduation on Monday." That's very important. Let me ask Susan, Rebecca and I think Rebecca in particular we would need you if you would be able to join?

We don't mind being second fiddle to your five-year old. Sorry, that's great, Kristine. Rebecca, Susan, Lori, Phil, others? Lori says, "I may be able to join half just not first half." Rebecca, would you be able to join us at that time on Monday?

Rebecca Tushnet: I should be, shoot, but I have to go, I'm really sorry.

Julie Hedlund: Yes, no sorry. Let me let you go and we'll send around a notice and if folks can't join, you know, we'll ask people to let us know. And I'm just reading the chat. But thank you, everyone, for joining. Phil can't join. Kristine join very early on Monday. Okay and Susan says, "It's not the best time, I can if I have to but not ideal." Kathy says, "I checked and I can join." Okay. All right well thank you all for your comments and we'll get a notice out perhaps if we can make it a little bit earlier, I'll just have to check. Thanks, Susan. And maybe if we can make it an hour earlier we'll try to see if we can do that, we'll just have to check with the support staff. Yes, noted, Lori, we're trying to bring these to an end, we promise.

Well thank you all for joining. It's now six after and sorry to hold you up. And we'll work out something for Monday. We're getting very close to finishing which is great. Thanks again and Michelle, let's go ahead and adjourn the call.

Michelle DeSmyter: Thank you. The meeting has been adjourned.

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