

**ICANN
Transcription
Rights Protection Mechanisms (RPMs) Sub Team for Data
Monday, 18 June 2018 at 16:00 UTC**

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Coordinator: Recording has started.

Julie Bisland: Okay. Great. Thank you. Well good morning, good afternoon, good evening everyone. Excuse me. Welcome to the Review of All Rights Protection Mechanism Sub Team for Data Call held on Monday the 18th of June 2018.

On the call today we have Kathy Kleiman, Kristine Dorrain, Michael Graham, and Rebecca Tushnet. We have no apologies at this time. Susan Payne will be joining us late. From staff we have Ariel Liang, Julie Hedlund, Mary Wong, and Antoinetta Mangiacotti, and myself, Julie Bisland.

And I'd like to remind everyone to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I'll turn it back over to you, Julie Hedlund. Please begin.

Julie Hedlund: Thank you so much, Julie Bisland. So thanks everyone for joining and at the new time. And so just to ask - thank you also Kristine for sending those two documents. I'm just wondering if all of you had a thought of which one we

wanted to start with, would like to - oh, and I see we don't have (Greg) or (Stacy). Hm. Yes they are supposed to be on. Well while we are - oh here comes (Stacy). Okay, very good.

So while they are joining, then let me ask what is your preference as far as the documents that Kristine has sent? Do you want to go back to the matrix or staff was wondering if maybe we wanted to go ahead and continue the discussion that we had on the registrant survey and the hypothetical questions and the proposal that Kristine has sent?

Not hearing anything. Yes? And Kristine, I was hoping you would raise your hand. Thank you.

Kristine Dorrain: Thanks. This is Kristine. Oh, and I see Kathy is raising her hand also. I think where we left off was discussing those hypotheticals and those use cases, or whatever we're calling the end of the registrant survey, and talking about how it interacted with the potential registrant survey. So I do think we should - I mean I think we've already sort of discussed what was there. We decided that we weren't real happy with the way it was originally drafted.

So I'm going to propose that we take a look at what I sent, and if everybody hates it, then that's fine. We can start over or ask Analysis Group to go again. But I would be interested just to get some feedback if there are things about what I sent that people liked or that they didn't like. You know, just, you know, up for discussion. Thanks. Kathy, go ahead.

Julie Hedlund: Just a moment. Thanks. And everybody please, I did put that document up into the Adobe Connect. So thanks for that, Kristine. And I have Kathy and then Rebecca.

Kathy Kleiman: Yes. First thanks to Kristine for her work. I would recommend we actually start with the Analysis Group material and go through it in that last section just to kind of refresh our recollection. And I'm not sure that it wasn't well

written for the purpose that it was intended, and so I would recommend we start there, then move over to Kristine's and see how it addresses the issues of concern. But I'd start with the Analysis Group because it was a good question for the purpose.

And I just wanted to do it as a premise and I just wanted to confirm with the Analysis Group that this is not a survey of registrants who have seen trademark claims notices, right? I wanted to confirm that. I wanted to confirm that you're talking to 500 registrants and that it's possible that none of them have ever seen a trademark claims notice. And so let's start with that, and again the idea that we might start review where we started with the Analysis Group and then move on to Kristine's. Thanks.

Julie Hedlund: Thanks, Kathy. Rebecca, please?

Rebecca Tushnet: Rebecca Tushnet. Thank you. So just two things. I do think it is important to have a concrete example. I still think that if we just ask them like I wanted to start a blog, we're not going to get really good answers because they won't know well was the - did the blog have anything to do with the domain name that I got the notice for? Because, you know, if I want to start a blog at even virtue.food, if it's not about food and eating well, I don't really know why I would proceed having received the notice. It seems odd.

The other concern that I have, I love Kristine's breakdown but I think as a matter of survey practice, it's probably not a great idea to present all of them to all the respondents because they're going to start making internal comparisons. They're going to - their answers are going to be thrown off by the presence of the other options, right? So they're going to start rating and ranking in ways that they might not if they just received a notice for some particular thing that they had done, or that they wanted to do.

So, you know, again I want to ask (Stacy) but my sense is that unless we can subgroup in some way, we should not ask - I mean maybe we can get away

with two, but they should be presented separately. But I really want to hear from (Stacy) on that. Thank you.

Julie Hedlund: Thank you very much, Rebecca. Perhaps we can hear from (Stacy) and then switch to Kristine. (Stacy)?

(Stacy): Hi thanks. This is (Stacy). Great so I'm looking at the questions that Kristine had drafted, that's what we're discussing? Is that right?

Kathy Kleiman: No. The question that - this Kathy. Two questions for you, (Stacy). One, how many registrants are you interviewing? Two, do the registrants all have to have registered new gTLDs? Three, do any of them have to have seen a trademark claims notice as a threshold for being interviewed? Like will they all have seen trademark claims notices? How are you identifying registrants? So three questions for you at the outset about the survey. Thanks.

(Stacy): Okay. Thanks, Kathy. This is (Stacy) again. So for the registrant survey, in our original proposal we had suggested that we would work with ICANN to do outreach to the registrant group. So it's not - so that will be the group that we'll be focusing our efforts on. Whether or not they need to have registered in a domain in a new gTLD, those - that is one of the early filtering questions in the registrant survey, so they'll be asked if they have registered in a new gTLD and if so they continue on with the survey, and if not then they may be filtered over to the potential registrant survey, although to clarify, this hypothetical question is now being proposed for both the registrant and potential registrant surveys.

And then the last question, whether or not they need to have seen a claims notice in order - as we had originally drafted this section, they do not necessarily have to have seen a claims notice, which is why here it's suggested that when they start this section of the survey they'll be shown an example of a claims notice.

Julie Hedlund: All right. Thank you very much. And I see Kristine and Michael. Please.

Kristine Dorrain: Hi. Thanks. I just wanted to weigh in on the survey as currently drafted by Analysis Group. The - so yes, to what (Stacy) said, I mean they have to be part of a gTLD - they have to have tried to register a domain in the gTLDs. They may or may not have been presented with notice. But if you read back, it says like if you were presented with a claims notice, what did you think?

I mean it asks follow-up questions about that specific interaction. Now I don't - I think our conversation last time was it didn't go as deep as it should have. So I think we definitely do want to go - dig a little more into, you know, what the use - what the person thought about the claims notice. I mean I think we talked about how it wasn't super clear, but there is a section for that.

But then you move on to another section which - so we are surveying people who have already seen a claims notice and say yes I've seen one. So that's one complete section of the survey. Then we move on to sort of a generic like all right so whether or not you've seen one, I'm going to show you a claims notice again because it might have been two or three years. Then this section is for those people.

And I think it would be interesting, and as Analysis Group pointed out last year - or last year, it feels like a year ago in some ways, as Analysis group pointed out in the last call, if you do the questions in such a way that you can get like a one-to-one correlation, so we ask current registrants what do you think of the claims notice, here's five questions, you ask potential registrants what do you think of the claims notice, here are the same five questions, you'll actually get two different sets of responses for the exact same questions based on two different profiles

So you'll be able to bifurcate and say people who have already registered domain names answered this way and people who have never registered a domain name, have registered - answered this way, so it's kind of interesting.

Or we might out that it's the same across both sets. So I think that's actually - the way the survey is currently broken out by Analysis Group is correct.

For the purposes of this conversation, we are only talking about the sort of great, whether you've registered a domain name in the past or not, whether you've seen a claims notice in the past or not, now we're going to ask you five questions that are specific to the claims notice. We want to try to not dig into how much do you know about trademark law because now you've got a survey of what do respondents know or, you know, domain name registrants know about trademark law.

So that's why we need to kind of bifurcate. So that's - for context, I wanted to back up because that is where this is at. That's just this - this part is just about trying to get a uniform set of examples about the claims notice itself. Thank you.

Julie Hedlund: Thanks, Kristine. Michael, please.

Michael Graham: Yes. Michael for the transcript. And I guess my question has to do with that - and my suggestion earlier in response to looking at Kristine's suggested revisions, which I do like, but my question in that regard is whether or not we contaminate the responses of those who have seen claims notices by having them go through then this set of possibilities.

Initially my thought was well, you know, if they did receive a claims notice then they would go through a set of questions that could be reflective of these but they would be based on the understanding of that applicant. And then if they did not receive claims notice, then they would come over to this line of questioning, this second line of questioning, so that they would not be - have received claims notice, propose their answers, then come into the - this second analysis and rethink perhaps what they had answered initially.

And I'm just concerned that there might be some, you know, some infection of those earlier answers by these -- and again, I'm going to call them hypotheticals because they really are -- of these hypotheticals where we're asking how would you react to this if you saw this. I think we do want to ask this but I wonder if we are doing this second level with those who also answered as people who received claims notices if there's a way of protecting those earlier answers from being infected by these. And that would be my concern.

And then secondly, Kristine's point I think is excellent. Being able to have the two classes of respondents and being able to compare to see if there is a difference between the two I think is really important to this. Thanks.

Julie Hedlund: Thank you so much, Michael. Rebecca, please.

Rebecca Tushnet: Rebecca Tushnet. Thank you. So I think good to be able to reassure people. Both of those things are standard survey practice. So the way that you protect against contamination is by keeping the survey moving forward. So it is temporally impossible for exposure to these use cases, hypotheticals, what have you, to infect the answers because we ask about the actual claims notices, if any, first. So I would not be concerned about that.

And then of course from everything Analysis Group has said, I expect them to follow the standard practice of letting us break down the groups by whatever divisions that we are interested in. So I do want to emphasize though that, as far as I'm concerned, we're still talking about the single use case in the original survey for the reasons that I articulated, that if we don't separate them, we're going to start getting a non-representative of the standard conditions scenario, which is not going to help us to figure out how actual registrants understand this.

So again, you know, if we sub-cell, so if we really did get 200 potential registrants, 50 in a sub-cell seems perfectly acceptable and we could do four

different use cases. But I just want to make sure, and I would like (Stacy) to talk a little bit about that. Thank you.

Julie Hedlund: Thank you very much, Rebecca. Kathy and then Michael. Then I would like to go to (Stacy) because I think we've gotten a - teed up a few questions for her as far as procedural items. So Kathy and then Michael.

Kathy Kleiman: Yes. Julie, could you put up the original that we're looking at and position on the left? Because I just wanted to reference it and what I'm going to talk about.

Julie Hedlund: Kathy, let me -- this is Julie from staff -- do you mean the RFP appendix, which is the original questions that were sent to Analysis Group or do you mean the survey that Analysis Group provided that is the Google Doc?

Kathy Kleiman: Good question. The latter, the Analysis Group document.

Julie Hedlund: Okay. That is actually only a link that there's no good way to show it in the Adobe Connect so we've been doing the link.

Kathy Kleiman: (Unintelligible).

Julie Hedlund: Yes. So the link is in the agenda here on the left, but I'll go ahead and...

Kathy Kleiman: I thought it was the opening document when we came in.

Julie Hedlund: The only document we've shown so far is this one that you seen in front of you, which is Kristine's suggestion.

Kathy Kleiman: You don't have the Analysis Group document as edited by Rebecca, who was the head of our group on that one?

Julie Hedlund: That's always just been a Google Doc, so I've - and we've always just followed along in the Google Doc for those. And so that's the link that we've shared right here. Because if we try to save them as Word documents and show them in the Adobe Connect room, we're going to lose all the edits. You won't be able to see them. So. Because in PDF, the edits disappear. So that's why we've been using the links.

Kathy Kleiman: Okay. Then if people would go to the link. So first since I wasn't here at the very beginning, right at the very top, right at the very top -- and this is a question for (Stacy) -- we used three examples, none of which were new gTLDs. One's .com, that's legacy, one's .uk, and one's .de. They're both ccTLDs. If we're going to use examples I think and put people in the frame of mind for new gTLDs, it might be petdogs.love, shoes.horse, and amazon.shop, just so we get people out of the older TLD mindset. (Stacy), does that make any sense? That wasn't the purpose of this but if we're paging through it, I just wanted to pause. Does that make any sense? Does anybody object to that?

Julie Hedlund: Okay. So I have two hands up. I have Michael and Kristine.

Kathy Kleiman: Well, no, no. That wasn't why I was in the document. I was just pausing for - I did want to go down to the - I don't think it's a hypo - it's really a use case. And I wanted to ask again why since the people, since Rebecca is - has been a trademark expert at the Federal Trade Commission and they use this type of example, virtue.food, they use this type of example in, you know, at the Federal Trade Commission in other work which she's done as an expert, since the Analysis Group offered it to us and since we use exactly the same type of example when we were dealing with registrants and the first Whois review team when we were surveying registrants around the world, I just I don't understand if it helps focus the questions and the data and will help us parse the data when it comes in, I guess I'm still missing why and the other ways of more general data gathering don't give us that focus and knowledge

because we don't know what's in the registrant's head, why wouldn't we use the one that's designed to give us quicker and dirtier and cleaner data.

I guess I'm still missing this. Thanks. And so I'm on, I don't know, the last question of the original document from the Analysis Group on registrant survey. Thanks.

Julie Hedlund: Thanks, Kathy. I have Michael and Kristine, please.

Michael Graham: Hi. Michael for the record. Thanks. Going back, Rebecca, yes I understand. I've been involved in surveys forever and yes if you have a forward track and cannot go back, you can't infect. I did not hear that that was the case with this survey, but if it is then I think that that is the solution. A lot of these surveys though are set up to allow you to go back and change your answers before the end. So that would be my concern. Thanks.

Julie Hedlund: Thanks, Michael. Kristine, please.

Kristine Dorrain: Hi. Thanks. This is Kristine. I'm very confused. I'm not sure if we're just all speaking a totally different language and we're just talking over each other and saying the same thing, if we're saying something totally different but using the same language. So where I come from we talk about use cases and we talk about scenarios, and what I provided are use cases and scenarios.

What I'm hearing -- this is what I'm not entirely sure about -- is if - so the header - so looking at the Analysis Group document, I guess what I really want to hear from maybe Rebecca and/or Kathy is what do you think it should look like then? I've put my idea of what I think it should look like out there. I understand that people disagree with that and that's fine. It's a straw document. We can decide we hate it. That's fine.

But the rationale was that I thought that you two wanted more specific sort of stories or situations that dove a little deeper to figure out like what people would do in various scenarios when presented with a claims notice. Giving them a single domain name does not allow us to unpack any of the baggage around what they might think that domain name stands for. And so I'm a little bit concerned about that.

Secondly, and this is just for the Analysis Group giving Kathy's sort of example of changing the example names at the front, I didn't object to amazon.com at the top because that's an actual domain name that Amazon uses and it's pretty famous, but I do object to you saying amazon.shop because that is not something that Amazon does business under at this time. So you can choose something else please for that if you're going to use a .shop example.

But going back down to question 2g whatever it is going on down there, I would really love to hear if Rebecca could, or someone could walk us through what they were thinking, because I understood that Rebecca did not like Q2g and its progeny any more than I did, and so I would be super excited to hear what it is that you were looking for because apparently I think I'm walking past you. I don't - I'm apparently missing it. So thanks.

Julie Hedlund: Thanks so much, Kristine. And Michael, is that a new hand?

Michael Graham: Oh no, sorry. Old hand.

Julie Hedlund: And, Rebecca, to Kristine's question, please. Go ahead.

Rebecca Tushnet: Rebecca Tushnet. Sorry. I did the checkbox instead of the raise hand. So, Kristine, I love the stuff you've done but what I'm concerned about is the stuff that you took away, right? So the key issue for me has always been that if we give a claims notice and then say X, you know, for the string that you entered, then we are telling the respondent to make up some X and different

respondents will make up different Xs and they'll be answering different questions.

And so the virtue.food example is really useful because it actually helps you say okay now I know what I'm looking at, and, you know, it may well be that there's somebody out there with a valid, you know, virtue trademark and now has to think about whether - how nervous that makes me given what I know I'm going to use this for. So I actually think - I like your scenarios.

Like I said, if we're getting enough people to subgroup I'd just like to spread them out among the different respondents. I just don't want to ask the same person, you know, multiple times to - because then they'll start rating and ranking in a way that probably does not match actual registrant experience, since as you say registrants comes in with, you know, some sort of goal in mind.

So my concern is that we not remove a domain name and make them - make one up, because they are going to make one up, right? So we can't actually have a survey that doesn't ask them to imagine some domain name. All we can do is lose control over what it is that they're going to imagine. And other than that, you know, I'm totally happy with your examples. I just don't think that it's representative of the actual environment to ask them all together.
Thank you.

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

Lori Schulman: Sorry. Can you hear me? My mic is vibrating. (Unintelligible)

Julie Hedlund: You're a little bit muffled but we can hear you.

Lori Schulman: Okay. I'm on a different headset today so my apologies. Trying to make it work the best I can. I still - I heard (unintelligible) is going to go to a respondent will be a pool of broad people who have volunteered to do this

work. And I guess I'm still unclear as to whether or not there's going to be a threshold question asked as to whether or not this particular (unintelligible) has ever applied for an abandoned a purchase of a domain name.

Because I think if that's not the case, if there is no thresholding at all, then I think what Kristine's doing makes complete sense. However, if there is threshold questions being asked, perhaps I'd more follow along the lines of what Rebecca is arguing. But I'm still not clear who's answering these questions and how much background we really have.

Julie Hedlund: Thank you. So before I move to Kristine and then Michael, is it helpful again, I think (Stacy) did state earlier but Lori you may not have been on the call at that point, to whom we are asking this question or if there is a threshold question to this set of questions. It seems there's still some confusion there. (Stacy)?

(Stacy): Thanks. This is (Stacy). Yes so there is. The current filter for this set of hypothetical questions is that the respondent has at some point attempted to make a registration in a new gTLD and did not complete the registration.

So right now it's suggested that these hypothetical questions are presented to potential registrants, so people who have never completed a domain name registration, but also in the registrant survey if they completed registration it is also possible that they attempted some registrations and didn't complete them. And so if that's the case, if they did complete but also attempted and did not complete some, then they will be filtered in this hypothetical situation as well.

Julie Hedlund: Thank you, (Stacy). Kristine and then Michael.

Kristine Dorrain: Thanks. This is Kristine. Sorry. I have a follow-up question for Rebecca. I think I'm starting to see a little bit more about what you're saying here. I disagree that I think people who are here taking this survey for this, you

know, being told by the time they get to this point in the survey and they under - you know, about the registration of domain names, I think they're going to be sophisticated enough to understand that people register domain names for different uses.

And I would be interested to find out more about this taint that you're referring to because I'm not - I think people would come in. I mean if you give me the survey -- and granted I've been in this industry for a while -- I - and you said should I register virtue.food, I would have so many questions. I'm like well maybe. What am I going to do with it? I mean I think that's important and I think that people will get frustrated with - when they're told well here's your specific use case, decide.

But be that as it may, I mean I'm not the survey expert and maybe that's the problem. But my question goes back to even maybe a more basic question. So let's go back to the original header. Assume you are attempting to register and we say the domain name virtue.food and receive the following claim notice, do you then also have to say, you know, that there's a - I mean are you assuming the - and maybe this is the problem.

I'm assuming that we're just going to show a generic claims notice that's been kind of random, genericized, are you saying that you would actually say that there is a trademark for virtue in the class of goods and services related to, I don't even know, and, you know, therefore blah, blah, blah? I mean maybe that's what my understanding - maybe that's where my breakdown is, is I thought we were going to send out a generic claims notice instead of something specific to the word virtue that we're just going to sort of fabricate.

Maybe you can address that a little bit more and maybe that's where part of my confusion is. So we're going to fabricate that? Okay I see that. And then we - this is - I'm going to jump way ahead and so this is for Analysis Group in the future, we also talked about surveying people in different languages. Are people also going to see the same thing in different languages as well?

So I would love to hear more about this rationale that says users can't distinguish between the different use cases and think about how they might use a domain name based on what a different scenario might be and why you would want to randomize that. So thank you.

Julie Hedlund: Thank you. Michael, and Rebecca I see a green checkmark but I'm not sure if that's a hand up. Michael, please.

Michael Graham: Yes. Thanks. Michael for the record. And I guess I just sort of have a - it's either a question of a comment, and that's if we were going ahead and utilizing, as Rebecca was discussing, you know, a sample so that there could be focus and we could, you know, have a unified set of responses because it's to that particular example, my concern is that if we give them any type of particular example, that is - has a huge potential for affecting the results as well.

Virtue obviously is clearly a generic term when it's used in connection with virtue and it's not in connection with other goods or services. So presumably this is someone who maybe thought they would just register the domain name, were not aware that there was a trademark. Okay, well that's one case. How about another case where it's clearly a trademark, Xerox.yours, whatever? That would be a different line of responses I think.

So I think if we are going to give an example we might have to give a couple of examples to cover that field. Otherwise we're going to be affecting the results based on our selection of that result. So just wanted to point that out. Thanks.

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

Rebecca Tushnet: Rebecca Tushnet. Sorry. So, Kristine, I'm so sorry I clearly have not communicated that I really like your examples. I think you're exactly right that

people do approach the registration process with something particular in mind and so it helps to focus them and to make the survey more like what a real registrant would be thinking by having a use case in mind.

So the question is - that I have is merely one of survey administration, which is to say because they do have something in mind, I think it can be troublesome to present them a whole list and ask them to, you know, say what they do, because they may start shaping their answers by comparison, like I'd go ahead with this one but not this one. And that is actually not representative of what an actual registration process would be like, where you do in general have something in mind, whether that's building a portfolio or something else.

So let me throw - I'm also certainly happy to add in a Xerox one. I think that'd be useful information too. The, you know, if you want to Xerox food for all these. What I then think we need to talk about, first of all I think again we need to be doing some sub-grouping and we need to do some randomization and rotation. So, you know, if we want to do a Xerox and a virtue for all four of these, that's great. We just make sure that every respondent gets one Xerox and one virtue and randomize.

And I think that would be really helpful actually. But again, this is why I want (Stacy) to talk a little bit about the - making the survey as similar to the actual - what the registrant would be doing as possible. Thank you.

Julie Hedlund: Thank you, Rebecca. Kristine and then I'll ask (Stacy) to address that point. Kristine, please.

Kristine Dorrain: Thanks. This is Kristine. And I appreciate that, Rebecca. I think I'm really starting to understand more about what you're looking for. I - and I will stop asking this question because I might be the only one on here who's not understanding this, and it probably truly is some sort of survey administration like protocol that I am just unfamiliar with, the idea of only giving people one

domain name, and again I'm not dying on the hill of one domain name, that's fine, but - and only one use case to kind of pick and choose with everyone's life experiences and we're only having 50 surveys to start with, I guess I don't understand why people can't rank and pick and choose.

If you're presented with these four options, maybe you'll say I'm going to proceed with all four or maybe you're the super cautious type. Oh I'm going to stop every single time. I guess that's the part I'm missing is I don't understand why everybody can't see them all. That's - and then I don't need to have like, you know, the MBA course on surveying.

If you just tell me of course Kristine, if (Stacy) tells me that's just not how it's done, fine tell me it's not how it's done and I'll stop. But I don't understand it because I don't understand why they can't. I've been presented with many surveys where I rank and randomize - I rank things and I say should I be able to do one, two, three, or four, yes to all, yes to some, yes to none. So I'd love to hear some more about that.

Secondly, I am strongly opposed to using actual brands that we actually know about, especially names that are arbitrary and distinctive, and even more so names that have been in danger of genericize in the past. So I think if you use Xerox for example, A, it's an arbitrary and distinctive term and you and I in the United States might realize that that is such a case but people presented in other places might not understand that.

Also there is a small subgroup of people that actually think Xeroxing is a verb and it not a trademark. So I think we run into major danger if we choose a mark that we already know about. I'm fine if we use virtue, assuming that we're sort of willfully blind and we don't go look it up, but a truly famous mark I'm strongly opposed to including that. Thank you.

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

Susan Payne: Yes. Thanks. Hi it's Susan. I'm late joining so I've only sort of come in partway through the conversation but I just wanted to say I don't think you're the only one, Kristine, who doesn't understand. I think the various sort of scenarios that you were suggesting I can't see why you can't ask them of everyone. I think it would be quite helpful for the reasons you say, that we're probably going to have a limited pool. And so it would be useful to understand what their thinking would be, what the same person's thinking would be in different scenarios as well.

Julie Hedlund: Thank you, Susan. Rebecca and then Kathy.

Rebecca Tushnet: Rebecca Tushnet. I really want Analysis Group to speak to this. The reason I am insisting on this, and I will give up if I hear someone who does this tell me it's not worrisome, my background in surveys suggests that a survey does best when it most closely replicates the circumstances under which the potential, in this case registrant, is proceeding. So if they ask you to think like you ordinarily think when you're doing things of this nature, that's the best survey possible.

Now I don't - I've only registered a few domain names in my life so I may not be particularly representative, but when Kristine said registrants have something in mind, that struck me as correct. So the reason that I object to especially a simultaneous presentation, you know, a serial presentation you can do some things to correct for it like randomizing the order, but a simultaneous presentation starts to ask the potential registrant to do things differently than they would if they are actually thinking about making the registration.

So the - again, I feel like the Analysis Group really should have been offered an opportunity to answer my question, which is now the third time I'm asking, can we talk about what's the best way to get people to behave as they - as close as possible to how they actually would if they were actually trying to register. Thank you.

Julie Hedlund: Thank you, Rebecca. And I think at this point we need to go to Analysis Group. So, (Stacy) and (Greg), please.

(Greg): Thank you, Julie. This is (Greg) speaking for the record. So, Rebecca, I completely agree with your kind of - the point that you're making and the concern that you raised. You know, one thing I guess I would like to throw out there as an option to address it, and of course we look forward to your feedback and reactions to it, would be to have a type of screening question where we essentially ask people, you know, if you were to going to register a domain name or when you registered domain names in the past, you know, what are you most likely to be registering that domain name for.

So are you doing it because you're thinking of starting a business using that name or do you - or are you trying to start your own personal blog or something like that? And then based on the answer to that screening question, you would be kind of ported or you would then be funneled into the question that I think we're currently looking at or kind of the grid that we're currently looking at.

And so if you only said that you were thinking of starting a business using that name, you would then be asked only - or kind of only provided with that as an option and then kind of, you know, would you proceed with the registration, would you stop, et cetera, et cetera. And some people might say they were thinking of starting a business and sometimes they've also in the past started or thought about starting a blog using that name. And so if they did that then they would see two of the four options or I - yes two of the four options in this grid. So I'll stop there, but. (Stacy), anything?

Julie Hedlund: Thanks. And I see Rebecca you have your hand up. Please go ahead.

Rebecca Tushnet: Sorry. Rebecca Tushnet. I just said in the chat if that will - if that suggestion gets us to where we want to go, great. You know, obviously we might not end up with equal subgroups but I can live with that. Thank you.

Julie Hedlund: Thank you, Rebecca. And I see in the chat Michael is saying, "Kristine, but if you're agreeing" - "If you agree asking about reaction to claims notice on a generic descriptive term would be different from a more distinctive type of term, perhaps we clarify that we're not asking about adoption of terms that are similar to known trademarks."

Susan says, "Funneling could work, although we might not get any respondents for some scenarios." And, Kristine, please go ahead.

Kristine Dorrain: Thank you. This is Kristine. That's been very helpful. And I just want to be clear that I really am truly trying to understand, so thanks to everyone for their patience. A couple of comments. I'll respond to Michael. I was going to type it but why not just say into, you know, the microphone. So I think that what I'm understanding is that we're offering a pretend scenario. Nobody wants to throw their trademark up on the altar of this survey, so I think what we're talking about is a pretend scenario.

So if we leave in the original scenario term, which is virtue.food, and we don't actually, you know, we think that's not a trademark, certainly we've never heard of it, and then provide a claims notice. So the domain name is virtue.food. We provide a claims notice for this artificial trademark virtue. I think in this case in theory this would be sort of arbitrary and distinctive because virtue, generally speaking, is not going to be a trademark for I don't think anything. I just don't even want to go there and think about what it could be distinctive, generic or descriptive for.

So I'm thinking that that's where they're headed. I'm not opining, I'm just trying to answer your question. But actually the example that we're providing is somewhat arbitrary. I'm also thinking about the funneling. I think it's

creative and interesting and I think - I'm thinking that it could work, again not the survey expert, but I'm also concern with Susan that it might be too limiting.

I know we've talked about offering the survey to 50 respondents. How, you know, can we talk about maybe opening it up to more or is it the fact that -- maybe I'm going to answer my own question -- maybe if we ask this exact section, whatever - however it looks at the end of the day, to both current respondents and potential respondents, we're going to get the 50 current respondents and the 200 potentials, in which case we get a much bigger pool of people, in which case maybe we - I'm a little bit less nervous.

So maybe (Stacy) or (Greg) could talk to the numbers of the funneling and how the funneling would work if we used the 50 versus the 200 versus both. Thanks a lot. I really appreciate everyone's patience with my ignorance on this.

Julie Hedlund: Thanks so much, Kristine. And (Greg) and (Stacy), please.

(Greg): Sure. This is (Greg) again. So I think we'll want to ask this question of both registrants and potential registrants. So that gets us 250, as Kristine noted. I think, you know, we can certainly open up the registrant survey to more people and, you know, to some extent, you know, the - as large of a number of individuals as we can get, to some extent, the better. So I don't think - we certainly didn't kind of intend to restrict the survey to 50 respondents, and once we got 50 we would, you know, we would close the survey.

So I think we're more than willing to have additional beyond the 50 respond to the survey, which would hopefully increase the odds that we would get at least some people who would be funneled into each of these options.

Thanks.

Julie Hedlund: Thank you, (Greg). Susan, please.

Susan Payne: Thanks. So I have a question, and apologies if you've already covered it or I'm asking a stupid question, but so in this scenario of virtue.food we're going to give them a claims notice and I can't remember, I'm sorry I haven't got the claims notice in front of me, but is that going to - what this notional trademark for virtue is registered for? Because - and if not, should one of our scenarios be I would, you know, look up what the trademark is registered for?

Because I still think we're coming out with a solution where we don't know what the person is thinking when they are ticking the various boxes of whether they'll proceed or not and their decision on whether to proceed would be different depending on what their trademark is registered for.

Julie Hedlund: Thank you, Susan. I'm not sure who wants to answer that question. I think Rebecca had said before that the idea was that if we say virtue.food that we would show a claims notice that would be for virtue.food. But let me put that out there and see what the understanding is or if we go this route - and Kristine, please.

Kristine Dorrain: Thanks. Yes this is Kristine. Susan, it's my understanding that what we're going to do is fictionalize a complete claims notice as you would normally see it. So we're going to tell them you want to register virtue.food, you are presented with this claims notice. So it's going to say virtue at the top of the page and then it's going to show a claims notice one would normally receive it or normally see it presented to a domain name registrant.

So it would have all the normal elements but we would just fictionalize anything that was, you know, not for real. I think that what we're talking about here is we want them to decide - I mean if there's no - so the actual claims notice has goods and services as part of it so we would have to fictionalize that and, you know, I'm not even sure like I'm sure that's a whole separate phone call.

And then from there the user could decide. And if we look at the grid that I have, which is on the screen, it was if you're seeing a claims notice for virtue and then these specific goods and services and international classes, for some people that actually has meaning and they might say proceed with the registration or I'm going to stop or I'm going to talk to a lawyer or whatever. For some people that might mean nothing but it doesn't - I don't know that it truly matters because ultimately at the end of the day people are just going to be making decisions with the information they have available to them at the time.

So I don't know, Susan, if that answers your question of if you have more of that but I see your hand up so go ahead and jump in and I'll see if I can - if we can answer from there. Thanks.

Susan Payne: Yes. Thank you. So right. Yes I took the opportunity while you were speaking to do what I should have done initially which was look up a claims notice and remind myself what's in it. But so yes, so the claims notice has the mark and it has the goods and services covered.

So my question is, assuming we're fictionalizing this claims notice, we have to decide if this is, you know, someone in a scenario who wants to register virtue.food and we've got a fictional mark virtue, well what is virtue registered for, which class and which goods and services? Because we have to decide. It does. Rebecca, in response to your question, yes it does. It says - I think it does anyway. According to the one that's in the trademark RPMs requirements, it includes details of the mark.

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

Kristine Dorrain: Yes. This is Kristine. Okay, so I think we've established that it does include the goods and services and so that's interesting. I think the - that in this - I don't know, Kathy says should we leave this to the Analysis Group. I think we need to direct the Analysis Group because what we want to do here is just

this claims notice has to be written and I don't think the Analysis Group is an expert on a claims notice, so I think we want to decide.

And I think what we're trying to do is not set people up for an actual cybersquatting experience. So I think to the extent that we're attempting to register virtue.food I don't think you want to have virtue in the class of goods and services for restaurants or for produce, right? I think we want to have virtue in the class of goods and services for something else. Because if you've got - I mean if this is an actual - I mean if you're - we don't need to set people up to be cyber squatters because we already know that it should be deterring cyber squatters.

And if it's not, what we've got - you know, they've got a problem and they're going to get a UDRP or a lawsuit. I think we want those people out. So we really want this set up in a situation where we're not setting it up as a cyber squatter. So maybe this answers Susan's question. Oh Susan says - Rebecca says for medical equipment. Okay. Oh I didn't see the link for medical equipment. I didn't understand that. Okay. Yes I agree. There you go. Thanks. I think medical equipment is fine. Thanks.

Julie Hedlund: Thank you. So I'm not seeing anybody else in the queue at this moment. It seems like we are coalescing on agreement to use virtue as the - for the claims notice and as the example. And then as Rebecca is pointing out that the service would be - goods or service would be medical equipment and - but then we would go with the grid that Kristine has provided. Does anyone disagree with that? Kristine, please.

Kristine Dorrain: This is Kristine. I don't know that we were going with a grid. I believe that the ultimate decision there was to use a funnel and ask people what they would do with such a domain name and then ask them questions based on their own possible use cases, not hypothetical and would not be something related to them. I'm just trying to make sure I've captured that correctly that we did coalesce around the idea of a funnel, not the grid for everyone.

Julie Hedlund: Thank you, Kristine, for remembering the funnel, and apologies from staff for not. Susan, please.

Susan Payne: Yes. Thanks. And apologies. And I - sorry for dragging this out. But now that I've seen the example that Rebecca very kindly posted, it looks like that is a genuine example, so there is a trademark for virtue and it is registered for medical supplies. So surely I thought we just had an agreement we weren't going to use someone's actual trademark and now it seems like we've deliberately selected one that is.

Julie Hedlund: Please go ahead, Rebecca.

Rebecca Tushnet: Rebecca Tushnet. So, Susan, I believe we discussed this on Friday. There is no chance that an English word is not registered by someone for something. There's actually a great article on this that just came out in the Harvard Law Review called Are We Running Out of Trademarks? And the answer is if you don't consider goods and services, clearly yes. There's pretty much nothing.

So we don't really have choices here. Now what we can do is pretty easily choose something that clearly has limited rights. So virtue for medical equipment I have no reason to doubt that it's a valid mark but also I would think anyone can see that it can't possibly give them a monopoly over virtue in all goods and services.

So we definitely did not agree. I said specifically that I was pretty certain that there was a virtue out there, and now my intuition was correct, with a valid virtue mark. The question is what is a reasonable example to use for consumers. Yes. That's it. Thanks.

Julie Hedlund: Okay. So we're putting this out there then as a reasonable example, recognizing the fact that it does exist in the wild, so to speak. Kathy, please.

Kathy Kleiman: Yes. Given that Phil and I and probably everybody are Googling virtue right now and finding it, should we just - would it make people more comfortable to make up a virtue? Sorry about that. That sounds weird. But make up a virtue for, I don't know, doors, windows, vases, purses, something that is, you know, pick your jurisdiction. Would that people comfortable and move this forward? Because I'm not sure we have to use a real trademark. They're just easier to use because they're out there. Thanks.

Julie Hedlund: And thank you, Kathy. And I see Rebecca saying, "Happy to make up virtue for doors." And Phil is typing. So where we stand then would be virtue for doors and we would use a funnel to then sort of direct the responses. Let me ask, we have four minutes left. This is only a 60-minute slot. We have another 60-minute slot that we'll be announcing that's for Wednesday. We'll have the working group meet for 30 minutes to just do brief updates and then we'll have 60 minutes again for what we hope will be discussing the potential registrant survey.

But let me ask (Stacy) and (Greg) are you clear on where we stand now? And Rebecca I see your hand's up too. So let me defer to you and then to (Greg) and (Stacy). Or is that an old hand? And thanks, Kristine. Noted. Okay. So, (Greg) and (Stacy), no hands are up right now. Do you have a sense of where we stand?

(Stacy): Hi this is (Stacy). Yes. This was all very helpful. Thanks. I think we do have pretty good direction for this section.

Julie Hedlund: Oh, wonderful.

(Greg): And no questions here.

Julie Hedlund: Great news. All right. So three minutes left. I think we have gone to the end of this and we know where stand of the registrant survey. And the plan for Wednesday, Susan, we originally had the timeslot from - at the normal

working group timeslot, and I know you asked that question before, Susan, so it's good to repeat this. The co-chairs have talked about this.

Originally this sub team was going to meet from 17:00 to 18:30 but the co-chairs would like to use the first 30 minutes of that slot for just a full working group brief meeting so that we can all get on the same page with respect to what is happening in ICANN 62 and any updates from the sub teams that were looking at data and then, but not this particular sub team, then the remaining 60 minutes from 1730 to 1830 would be for this sub team.

And I apologize. We were going to send an announcement out about this, which will we shortly, and then a new calendar invite. So that's where we stand right now. And thank you, Susan, for asking that question. Anybody have anything else they want to raise before we adjourn the call?

Lori's typing so we'll give Lori a minute. Sorry, Lori. Apologies for that. We are trying to close things up as we can, recognizing how difficult it is for - sorry about that, Lori.

Lori Schulman: Yes but I just want to - yes I know, and I'm trying to be a good scout about this but this is the last week that I will do this. I will not do it after ICANN 62. There is so much other (unintelligible). If we can't figure out a way to do more on the list or something more efficiently, I question whether I can be engaged anymore. This is really becoming a problem for productivity in other areas. When I add up the hour meeting, the hours of review, getting ready for the meeting again and delaying the results of the meeting, it is becoming unbearable. I don't know how else to say it.

Julie Hedlund: And we totally understand, and apologies for the pace and the multiple meetings. We are hoping that this Wednesday meeting will be enough to be able to finish things off so that we will not need more meetings. That's our goal. But thank you all for your dedication. We really appreciate it. And now it's top of the hour and we will adjourn the call. Thanks everyone.

Julie Bisland: Thanks everyone. Thank you, Julie. Operator, can you go ahead and stop the recordings please? And everyone enjoy the rest of your day or night.

END