

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) Sub Team for Data
Wednesday, 25 July 2018 at 17:00 UTC**

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Coordinator: The recordings have started.

Julie Bisland: Great. Thank you. Well good morning, good afternoon and good evening everyone. Welcome to the Review of All Rights Protection Mechanisms Sub Team for Data call on Wednesday, the 25th of July 2018.

On the call today we have Susan Payne, Michael Graham, Kristine Dorrain, we have also guests Stacey Chan and Greg Rafert from Analysis Group. We have apologies from Lori Schulman and Rebecca Tushnet. From staff I have Ariel Liang, Julie Hedlund, and myself, Julie Bisland.

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

Julie Hedlund: Thanks so much, Julie B. And welcome, everyone, and for what we hope is our last call. And just as a reminder of where we were on the survey, and I'd sent the notes around for just that section as well, we were in the brand trademark survey, you see the link there in the Adobe Connect room. And we were on Question 26. And just to remind us of the notes, the notes we

captured were that we want to know whether trademark owners file a UDRP as a result of a NORN, if you have filed a UDRP did you file against exact match, near match, something match?

We're trying to understand whether exact match is sufficient. The question is whether claims notice is effective. If the UDRP challenge has been successful and is not an exact match, then that may necessitate the evaluation of the rule with regard to exact match. Staff noted that they've extracted out the data of UDRP cases filed up to the end of 2017. And we'll get a refresh of the data and the TMCH database, the notices sent and lined the notices to the domain registered.

There would not be exact alignment. Trademark owners could have gotten a notice but they may not file UDRP three months after, etcetera. There could also be other factors that a trademark owner doesn't file a UDRP. NORNs do not necessarily correspond to UDRP cases filed.

And then Kristine was maybe going to provide some suggested input to Question 26, so I think that is – I think that is where we left it. And just again as we note, that's Question 26 and for the remainder of the survey there's a fair – 26 has 26a and 26b and then we also have some changes and comments to 27a, b and c, and then that brings us to the end of the survey.

So I'd like to go ahead and open it up for discussion, thoughts from anybody on how we might proceed here. And Kristine, please.

Kristine Dorrain: Thanks. This is Kristine. I'll kick it off since I'm the one who's got to bail. So per the request, I did make a – so I'll back up a second, I know that Lori had a few suggestions to some of these questions so we might want to just go back I think maybe starting on 19 or so, she had a couple of – with just some little bit of wording tweaks so I don't know if maybe that can happen while I'm off the call because I had agreed with all of her suggestions but I don't know that they're entered into this doc yet.

But to jump ahead to 26, so one draft a while ago had three or four sort of questions with a bunch of dropdowns and they turned into these two big tables. Unfortunately I'm not sure that the tables are crazy helpful. And I don't know what the dropdowns provide, you know, because if I can guess that's somewhere between 11 and 20, I might as well just use an open text field and type 15 and then we on the backend can group them into people who have filed 1, 2-5, 6-10, 11-20. So because the problem is is that we want to know how many – if we want to know how many of these you've received a NORN, it just seems like the two different grids in Q26a and Q26b, have just a whole lot more work for the respondents than just simply entering four numbers.

So my suggestion to replace both grids is to say, "Thinking about all the times you filed a UDRP or URS case, or litigation," I guess the new gTLD domain, "tell us, how many total have you filed, best guess." In that case, you know, you're going – you can either answer this question or you can't. So I don't know what providing fans is doing here.

Of those, you know, how many of those received a NORN? Fill that answer in. So let's see, I had 15, I got a NORN on like three of them. How many were an exact match? You know, you're either going to go do the research or you're going to be guessing, one or the other. How many were a creative misspelling? In this case I would not put the domain name is not an exact match because it either was an exact match or it was a misspelling and on the graph you have, you know, you don't need to have exact match, not a match or misspelling.

So ultimately I think that at a minimum we can get rid of that row. And then did you win, yes or no? Or on how many of those did you win? And from there we can crunch the numbers and do the math and slice and dice it anyway we want and then provide the answers in the bands. But I think this shortens it a lot, makes it much less work for the recipient and if they're going

to be guessing, they're going to be guessing, and if they're going to know the answers, you know, it takes into account either way. What do you think?

Julie Hedlund: Thanks, Kristine. And Michael please.

Michael Graham: Yes, Michael for the record. Kristine, thanks for offering this. I think the approach I much prefer to the chart, I think the chart is if nothing else, intimidating. My suggestion would almost be to go back to somewhat earlier version of the questionnaire where we had the general question, "Have you ever brought – how many UDRP, URS or litigation proceedings have you brought against a new gTLD domain?" however we phrase that. And then, you know, that would get the general number.

And then break it down but do it then in separate questions, "How many of these proceedings – for how many of these proceedings did you receive a NORN?" would be one question. Then – and I guess your suggestion is then to have that answer totally open ended. The earlier version we had bands but I suppose leaving it totally open ended is fine; either they're going to know the answer or they're not. And this way we're asking them to give a specific number which would be even more helpful than the bands that we've got.

But then it would be separate questions, so I would suggest that we have one for did you receive a NORN? How many of them were in cases where the domain names are exact matches? I don't know – I sort of agree the not exact matches doesn't help. I wonder if we could – because this is the information we're trying to get, how many of those were for domain names that included an exact match of the trademark but had additional characters in it and then a separate one would be the imaginative spellings, how many of those were for imaginative spellings of your trademarks. And then perhaps an Other.

And the reason for that of course is going back the purpose of asking this question is just to find out to get that evidence of whether or not there was an

overwhelming number that were not – of challenges that were not based on exact matches but some variation so that we can utilize that information in that discussion. Thanks.

Julie Hedlund: Thanks, Michael. And Kristine please.

Kristine Dorrain: Thanks. Yes, I don't really have like a huge opposition to sort of structuring it as the separate questions. In that to be fully transparent, I think I just added in the Google Doc were an exact match or descriptor and then other open ended. And that's fine too. If people want to they can answer that. Yes, I'm not – and like I said, I'm not even married to are these separate numbered questions. I guess I want people to be thinking of the UDRP URS cases, I have questions. And so however Analysis Group decides to sort them is fine. If people like the way that this is organized I think it is better, it's shorter and it's cleaner. So thanks.

Julie Hedlund: Thanks, Kristine. And I see that Greg and Stacey say, "We like this proposed change." And Susan Payne says, "I like that." That was in response to Kristine's suggestions. But let me ask Greg and Stacey, you know, granted staff are taking notes here as well but does this approach sound clear to you? Both Kristine's and Michael's suggestions.

Greg Rafert: Yes, excuse me. It's a very clear so we don't have any questions on kind of how we'll implement these changes.

Julie Hedlund: Great. Thank you very much. And Kristine, to your question about changes earlier in the document, so we – Analysis Group I think has – I don't believe that the changes that we captured on Friday's meeting are entered into the document; I think we wanted to complete the discussion of the document. So say if you're starting like if I were looking at the notes that we sent around, you know, those would be – that would be the guidance for the changes for Analysis Group to you know, include in the document so we have notes, I think you mentioned going back to Question 18 or 19, capturing some of

Lori's suggestions. Certainly we did attempt to capture them as clearly as possible in the notes.

But please go ahead, Kristine.

Kristine Dorrain: Thanks. This is Kristine. I will clarify, there was a little bit of back channel discussion just about trying to make sure that the people that were kind of thinking about the trademark rewording, mostly Michael and Lori, were having a chance to kind of figure out what those changes should be before presenting them to the group and to make sure that we addressed it.

So for instance, we haven't – so we haven't talked about it yet. So Question 19, Lori just suggested, and we don't know about this yet, so one of the things that we want to say, Lori suggested there's a 30 day minimum for a sunrise period, provide a sufficient for trademark owners to register, sorry, so the – oh wait, no, the question is totally different. Okay. Never mind. There was another question there before that talked about the registry operator's offering a 60-day sunrise and making a note that it was voluntary. So I guess Question 19 has changed. So never mind. I'll go through and take a look and see if there's anything we want to make sure to add here and I'll raise my hand if I see anything. Thanks.

Julie Hedlund: Oh well great. Thanks so much, Kristine. Appreciate that clarification. So back on Question 26, we've got the suggestions for changes to Question 26. And let me just ask to be clear, does that approach also then apply to 26b, which also is a table format but it's a different table format.

Kristine Dorrain: Yes, my question should – sorry, this is Kristine. My fix to 26a should include all of – the rest of 26 so both tables should be gone if you include the rewrite that's in the Google Doc now.

Julie Hedlund: Okay thank you. And sorry, you know, for that just wanted to make sure we had that clear. Thank you very much.

Michael Graham: Hi, it's Michael real quick. And Kristine, just to clarify, I guess in directing how Greg and Stacey revise this, if they do do this as separate questions, which again, I think is much easier and clearer, for each of those questions you'd be asked, how many of them, for example, for how many of them did you receive a notice of registered name – question mark. Did you – in how many of these did you prevail?

And then the next question would be, in how many of these were based on exact match of your trademark registered with the Trademark Clearinghouse? And I think we have to say that “registered with the Trademark Clearinghouse.” Did you bring, question mark. In how many of these did you prevail?

Is that the way that you were thinking of it?

Julie Hedlund: Go ahead, Kristine.

Kristine Dorrain: Yes thanks. This is Kristine. So that's not the way I was thinking of it. I guess I see your point but I'm trying to determine if – I mean, I know we went into this last week about how much homework recipients are going to do and how many people are actually going to go look up these answers and look it up per type. So oh, how many UDRPs did I file? I can get that. How many were an exact match? Now I've got to go dig it up. Of the exact match ones, how many did I win? I see your point. My proposal is just to ask, “And how many of the total did you win?” But that's for us to discuss, I guess.

Julie Hedlund: Thanks, Kristine. So...

Michael Graham: I'm sorry, I'm holding up my hand.

Julie Hedlund: Yes, sorry, that's okay. I didn't see it but please go ahead, Michael.

Michael Graham: Yes, Kristine, I totally appreciate that and I think it is sort of a hassle whenever you ask someone to go back to get that data. I'm just wondering obviously I guess it would be most useful the more granular that we can get, you know, for someone who's going to be able to give a gross number, I'm just trying to think which would be easier to give. I mean, I would have to go back and get my, you know, outside counsel to help me out figure out all this and say okay, how many of these and how many did we succeed in to break it down, but I would have that information.

So I don't know how much more difficult it would be to get that slight breakdown of exact included and others and the NORNs. I mean, if we want that. I'm happy either way if anyone else has any opinion, I just think, you know, maybe we ask the question; if they can answer it, give them that option and if they can't, allow them not to answer it. Thanks.

Julie Hedlund: Go ahead, Kristine.

Kristine Dorrain: Yes, now, I mean, I guess I see why this is – I sort of see why this was a – we did the table this way. Be happy to hear Susan's opinion. I know she's super smart about this sort of thinking. I mean, maybe it is really how many total UDRP URS litigation have you filed? How many did you win? Ask all these questions. If you (unintelligible) how many, you know, you could ask for the more granular data and if you don't, obviously none of these can be, you know, survey ending questions. We've talked about this before, we cannot force users to answer these questions in order to proceed.

I don't know, I'd welcome Susan's input on this. What do you think?

Julie Hedlund: Thank you, Kristine. Susan, do you have any thoughts?

Susan Payne: No, I've got a bit confused. I'm sorry. I sort of lost track of where I am in the document.

Julie Hedlund: That's okay. It is confusing. So we're on Question 26b, so if you say yes to the previous 26a then what portion of uniform domain name dispute policy, UDRP, uniform rapid suspension system or litigation proceedings that you have brought against new generic top level domains, or new gTLDs, for each of these scenarios have been successful? And then there's a table that follows with various choices on the left hand column and then various options running across the top row. Almost none, none, less than half, approximately half, more than half, nearly all, don't know, not sure.

And I think the question was whether or not rather than using this table format and 26a, I think we were moving to just a question format, and I think you know, the question is is the tabular format helpful here? Is there another format that would be helpful, you know, without having – recognizing that in some cases people – respondents might not be able to have a ready answer without having to go back to research for the answer.

And Michael has put in the chat, "Four types of claims, where you received a NORN; 2, where the domain name was an exact match of the trademark you recorded with TMCH; 3, where the domain name included an exact match of a trademark you recorded with the TMCH (unintelligible) characters; 4, where the domain name included a typographic or other variant of a trademark you recorded with the TMCH." And his question is, "Yes, is that the case?" And I see Kristine is typing.

And Kristine says, "Yes, I think so. The only issue I have is that respondents can check one plus any of the others."

Michael Graham: And this Michael. And yes, and that's one reason why I would make them separate questions because I think NORN – oh I see you would want the NORN for each of these, correct? Is that what you're getting at, Kristine, that that would only...

((Crosstalk))

Kristine Dorrain: This is Kristine. I'm not – yes, I'm not sure that – I guess I'm rethinking it. It wouldn't be for each of those but the situation in which you get a NORN is where the domain name is an exact match of a trademark recorded with the TMCH, right? So you can't have a NORN unless the domain name was an exact match. You have a domain name that was an exact match recorded with the TMCH and not get a NORN for multiple reasons including the claims notice is over; including you changed email addresses and you just didn't receive it.

So you could have 2 but not 1 but you can't have 1 without 2. And that's sort of the chief reason I didn't like the table, other than the fact that I think it's kind of confusing because I don't think the table gathers the whole, you know, NORN plus, you know, I don't think that – I think that the problem is is you've got the Venn diagram of 1 and 2, is tricky for the data analysis results I think.

Susan Payne: Hi, it's Susan. So I'm back to my confusion then because I've lost the sense of what it is we're asking this question for. I'm really sorry. Because I can see why we might ask a question if you've received a NORN and then we want to know kind of what you did next. But don't we, you know, if we're then asking about other cases is that to try and get a sense of, you know, whether if there had been a claims notice for non-exact matches whether that would have been that helpful thing to have? I'm just – I've lost why we're asking this. Can anyone help?

Michael Graham: It's Michael. I've got my hand up.

Julie Hedlund: Yes.

Kristine Dorrain: Oh yes, this is Kristine. I'm going to say something and run because I've got to run downstairs to a quick meeting. Yes, that's why. It's because we're trying to figure out not only you know, how effective is the NORN? Do people use that and then file a UDRP or not? Do they – if you get a claims notice – if

you've got a claims notice then did people – were people more likely to file? What – and then how many creative misspellings and how many exact match plus descriptors, which wouldn't have been included, did trademark owners have to face such that we need to talk about doing something different with sunrise or claims to protect against those things.

This is all the super big jumble open-ended hodge-podge question that we're trying to make it not be a super big jumble open-ended hodge-podge question. And after dropping that bomb, I'm now going to run away and hopefully come back in 30 minutes.

Julie Hedlund: Yes, thanks so much, Kristine.

Susan Payne: Thank you.

Julie Hedlund: And go ahead, Michael, please.

Michael Graham: Yes, I was going to say that Susan, that's exactly why we were asking this, to try and determine whether or not having the NORN based on exact matches was sufficient, whether – which would also go back to whether or not having the trademark claims notice limited to exact matches was effective in limiting or eliminating trademark infringement in the domain name space type of things.

I guess – I'll go back do...

Susan Payne: So...

Michael Graham: ...think that having the questions with fairly simple straightforward answers is a better way to go than a chart that I think just looks intimidating. I know I could go ahead and answer it but I think asking them open ended-ly to provide the numbers we're more likely to get more accurate numbers and, you know, also not be intimidating, have that factor. And thinking about

whether or not it's redundant to ask whether you received a NORN or whether or not you have an action that was for an identical trademark that you recorded with the TMCH, I'm kind of interested in finding out if we do get a discrepancy there. It actually goes to answer another question which we've already asked, and that is whether or not they understood what the NORN was.

My other thing I'm going to put this out there, I don't want to scramble the works and if we can shoot this down I'd be very happy and that is whether or not we should ask the same question generally of actions that were taken against domain names in the new gTLDs that were not recorded with the Trademark Clearinghouse. And I'm just going to put that out there as to whether or not that's worth considering and pursuing and a second line of questions or not. Thanks.

Julie Hedlund: Thanks very much. And Susan, was that- did that help explain what we're after with this question?

Susan Payne: Sort of. So a question for you then, Michael, is, and the first one is you received a NORN and the second one is the domain name is an exact match of your trademark. So as Kristine was saying, you could have had situations where it was an exact match of your trademark but you didn't get it because the trademark's not in the Clearinghouse or it's outside of the claims period. But should we – should we be making that distinction or should we be saying, you know, the domain name was an exact match of your trademark, but you didn't receive a NORN because it didn't qualify, you know, you know, but you didn't receive a NORN for some reason.

So because otherwise we're getting all of the ones they answered in column – in Row 1, all of those will be included in the answer to Row 2.

Julie Hedlund: Thanks, Susan. Any thoughts, Michael?

Michael Graham: Well I'm getting rid of the row so...

Susan Payne: Yes, yes, yes, I get that.

Michael Graham: But I think, yes, I think the way you asked that question does point out something that in all of these questions I think we have to repeat time and again that what we're asking about are – at least this point as I understand it is an exact match of a trademark that was recorded with the Trademark Clearinghouse. I think that's the limitation of our ask.

If we want to make it broader that's where I was saying, you know, that would be a second line of questions. But I think the real question is really limiting it and focusing on those trademarks that were recorded for which you should receive a NORN, if there's an exact match, but then to give the opportunity of there being a discrepancy, I don't think we can then go back and ask, you know, why is there that discrepancy because I don't think the trademark owner is going to know.

But identifying that as a discrepancy points out that there may be an issue with how the NORNs are being sent out or something else in that area that we might look at from a PDP standpoint at least to point out that there is that discrepancy. Does that help?

((Crosstalk))

Susan Payne: But it's not going to – I mean, it's not going to identify – it might identify a difference between those two answers, but it's not necessarily a discrepancy and unless they could tell us why the difference was there, it's not something as a group we're going to be able to look into because we'll just have some data saying there's something – but we won't have as a PDP working group it will mean nothing to us. You know, it's perfectly possible that the domain wasn't registered during the claims period, so then you wouldn't get a NORN, for example.

So I – okay, I guess I don't mind. But it's helpful to have that clarification, I think it does need that clarification that we're talking here about trademarks that are – that are, you know, that the trademark is in the Clearinghouse, that's what we're talking about here because the question doesn't say that at the moment.

Michael Graham: Right. This is Michael. I agree, I think we need to insert that language for clarification in each of these.

Julie Hedlund: Thanks, Michael and Susan. So any – in Question 26b then how do we want to rephrase it to include that language? See I'm just looking at it too.

Michael Graham: Yes, well the question there is whether or not we want to ask was it successful in each of those cases or if we want to ask in how many of the cases that you brought were you successful? That was what Kristine and I were talking about whether or not you wanted for exact matches, for exact plus, for other variations and for NORNs, or do you want to just do it for all cases that you brought?

Julie Hedlund: Right, so then it wouldn't be for each of these scenarios, it'd be for all cases.

Michael Graham: Right. So it's one or the other. My druthers is that we would ask, you know, how many did you bring for exact matches, and then B of that question would be, how many – in how many of these cases did you prevail? Then go to the next.

Julie Hedlund: Okay for exact matches and how many of these cases did you prevail? But as far as adding in the language that for those entered in the TMCH that needs to be part of it as well.

Michael Graham: Right, so what I typed into – this is Michael for the record. What I typed into the chat there of the four...

Julie Hedlund: Oh okay great. I'm sorry, looking at the survey at no the chat, pardon me.

Michael Graham: ...where, you know, where you received a NORN for a trademark that you recorded in the Trademark Clearinghouse...

Julie Hedlund: Okay.

Michael Graham: ...2 would be where the domain name was an exact match of a trademark you recorded with the Trademark Clearinghouse.

Julie Hedlund: Okay.

Michael Graham: So that language would be there for each of those four – those would be four separate questions basically. And under each of those once there was an answer then you'd ask, in how many of these did you prevail?

Julie Hedlund: Okay. All right. And that replaces then the table...

Susan Payne: And that would need to be for A and B I think.

Michael Graham: Right, that would replace both of those.

Susan Payne: The same situation arises on A as well.

Michael Graham: Right.

((Crosstalk))

Michael Graham: B would just become – so your A question would be, I need my glasses. How many of the total UDRP, URS, litigation cases that you filed against new gTLDs were after you received a notice of registered name of a trademark you recorded with the Trademark Clearinghouse? That was – let's call that

26a. 26b would be, in how many of these cases did you prevail? 27a then would be, how many of those were exact match of a trademark that you recorded with the Trademark Clearinghouse? Question mark. 27b would be, in how many of those did you prevail? Etcetera. Does that make sense?

Julie Hedlund: Right, since these all follow on from the next.

Michael Graham: Right.

Julie Hedlund: And does that make sense, Susan, but also more importantly does that make sense, Greg and Stacey?

Greg Rafert: It does make sense to us.

Julie Hedlund: And we're trying to get that in the notes as well especially since that changes the numbering a little bit also. But I can see how the 26 and 27 are linked I mean, they all follow along from each other. Okay.

Michael Graham: Does that make any better sense, Susan? I know it would make more sense if it were typed out but.

Susan Payne: Yes, I think that makes sense.

Michael Graham: Yes it's just, you know, I look at my eyes glazed over when I looked at the charts I'm afraid.

Julie Hedlund: Well thank you. That's really helpful, Michael. And I think we've captured that and Greg and Stacey understand that as well. I'm just looking at what is currently Question 27c has a comment, and we've got some textual changes in 27. I don't see any objections to those. But the comment is from Kristine saying, "Assuming we split this into two, we might want to re-ask the sunrise versus claims question and not that IP owners who took both would have

answered twice, so don't double count them." I'm not sure if I understand that comment. Unfortunately Kristine's not here.

Susan Payne: I do.

Julie Hedlund: Oh good.

Susan Payne: I think what she's saying is because this is – we're now in the claims section of this survey and potentially we might have split up the sunrise and the claims as we were talking about on previous calls. And if we did, at the end of the sunrise section there's a question – I can't remember the numbering without looking back for it, but there's a question about you know, which do you think is more useful, the sunrise or the claims?

And so she's sort of saying if we do split those two – the parts of questions out, so that you might only answer the sunrise or you might only answer the claims, then we want the people who only answer the claims set of questions to also get asked that one but obviously if anyone selects to do both we don't want them to answer that question twice.

Julie Hedlund: That – okay that makes perfect sense. And does that make sense to you, Greg and Stacey as well?

Greg Rafert: It does, yes.

Julie Hedlund: Okay great. Thank you. I'm probably the only one then who didn't understand but now I do, thank you. Michael, please.

Michael Graham: So just to be clear then that question which in this version is Question 21, and then 21a, that would be moved after the – after the claims notice question, so after what's currently 27, but would appear whether or not you completed the claims section or the sunrise section or both, correct?

Julie Hedlund: I think that's what we're – this is Julie from staff – I think that is what we're aiming for, yes. Either that if you just did one or the other either way you'd get that question. Is that your understanding too, Greg and Stacey?

Greg Rafert: Yes, it is. Yes, so that makes a lot of sense.

Michael Graham: Okay, yes, that makes sense. Thanks.

Julie Hedlund: Great, no, thank you. That's – it's important to clarify that. So that actually brings us to the end of the survey. I know Kristine had...

Susan Payne: Julie, could I...

((Crosstalk))

Susan Payne: ...could I interrupt just really briefly? Because as Kristine mentioned there were a couple of things from Lori that I know if she were on the call she'd planned to raise. And I think a lot of them are in relation to the questions we've just been dealing with and so addressed, but there were just a couple that we'd need to scroll up a little bit on.

Julie Hedlund: Sure.

Susan Payne: Firstly I think it's Question 22 and she just sort of flags up that I think that's the first time we refer to a notice of registered name, and she's said we need to explain what that is.

Julie Hedlund: Exactly, to have a definition there.

Susan Payne: Yes and then scrolling down to I think it's 22b, yes, it's this one about have any domain name applicants you have challenged indicated that they did not understand the claims status. And Lori made a comment about this language and perhaps it not being terribly clear, and to be honest neither the language

nor Lori's comment is terribly clear to me but it seems to me I mean, this is a reference to domain applicant whose received a claims notice. I'm not sure that as a brand owner I would necessarily view the automatic generation of a claims notice as me being a, you know, having issued a challenge to a domain name applicant.

But so maybe it's like, you know, have any of the domain name applicants who received a claims notice indicated to you that they didn't understand it?

Julie Hedlund: Right, so take out – so not having...

((Crosstalk))

Julie Hedlund: ...challenged in there. Go ahead, Michael, I'm sorry.

Michael Graham: Oh no, sorry, that's an old hand.

Julie Hedlund: Oh okay. I thought I heard somebody trying to speak in the background. That must be my imagination.

Susan Payne: Might have been me talking to myself.

Julie Hedlund: Oh that's okay. So, yes, so if we reword that, "Have any of the domain name applicants to whom you have sent a claims notice indicated that they did not understand the claims notice?" Would that work?

Susan Payne: Well the thing is – the thing is, you know, you like as the brand owner don't send the claims notice.

Julie Hedlund: Right, okay, yes.

Susan Payne: I mean, frankly you don't even know it's gone. So it would only be if someone contacted you afterwards and like on receipt of the claims notice and went,

I've got this claims notice, it's about your brand; I don't understand it. I think the scenario where this is going to happen will be almost zero but I mean, if we're going to ask I think we just have to say have any domain applicants who received a claims notice contacted you and said they didn't understand it?

Julie Hedlund: Great. Thanks. And Michael, please.

Michael Graham: Yes, I'm wondering – I'm looking at this and I'm not sure which question it is. But I wondered, you know, the only situation as you were saying, Susan, where this would show up would be that I could anticipate would be I bring a challenge against someone and they go, oh yes, I did receive that but I didn't understand what it was saying. I'll stop using the mark. That would be the one instance and I have no idea how often that would be. Of course all of the innocent infringers that I've dealt with would have a similar story so I don't know how useful that is. But that's the only way that I think it could be expressed. Maybe it's worth capturing because it's another way of finding out that there was confusion out there without going to the confused party which we may never be able to find.

Julie Hedlund: Right, so we could say then I think as you said, Susan, "Have any of the domain name applicants who have received a claims notice indicated that they did not understand it?"

Susan Payne: Yes. And then that would pick up the scenario where they randomly contacted you or Michael's scenario where your later on in a dispute with them and they say oh, yes, now I realize I got a claims notice and I didn't know what it was.

Julie Hedlund: Great. Well thank you. We'll capture that. And then you said there were other comments that Lori had.

Susan Payne: No, I think that was it. I think the rest is picked up. Thank you.

Julie Hedlund: Oh okay. Very good. Thank you. Then I think we have captured everything with respect to the survey. And we've provided the notes thus far to Analysis Group and we'll provide these further notes. Your hand went down. Oh, Michael, you have your hand up.

Michael Graham: It went back up. Sorry, Michael for the record. I just wanted – as we move off of this and thanks for all the comments on this, I just wanted to return to a discussion that we were starting to have and I want to make sure it does not come back again, which is why do we have this – these questions about URS, UDRP and such. I think we've settled that but just to be clear, it comes from the fact that an earlier original question that was going to be asked of trademark owners was, "What evidence do you have that the trademark claims based on exact matches was or was not sufficient?" and it was a broad open ended question that really would lead to no real usable information.

And so putting together these questions was to address that issue and I think, you know, after hashing through all these I think they do it quite well to the extent that we can get this information, so I just wanted to close the loop on that, that this was something based on an original question and it is something that we should ask and we aren't wandering into the URS UDRP zone because we're not asking about those processes or procedures, we're just asking about the objections. Thanks.

Julie Hedlund: Thanks, Michael. That's very clear. And Susan, your microphones seems to be lighting up as though you are speaking and...

((Crosstalk))

Susan Payne: Oh sorry.

Julie Hedlund: Oh, no that's okay. I think it'll pick up...

((Crosstalk))

Susan Payne: Sorry, I didn't have it on mute.

Julie Hedlund: That's okay, I think it picks up any random noise so I just thought I'd make sure you weren't trying to speak and not being heard so thank you for that. So we've captured then all of these notes for this survey. That completes the surveys. So unless there are further comments and we've noted your further comments also, Michael, we could go to the next steps for finalizing the revised surveys and beta testing.

And staff have had a discussion with Analysis Group, they are going to be you know, they're in the process of making the revisions to this survey. They'll release them as they are complete. We're not anticipating further meetings on them but we will ask at least perhaps the survey authors or leaders to take a look at the final versions of the surveys and I think that the intention is to have all of these completed and then ready to go into beta testing I think by the end of next week. Does that sound right, Greg? I'm trying to remember from our conversation yesterday.

Greg Rafert: Yes, I think what we were thinking is that we would you know, certainly circulate revised versions of the surveys based on all of the feedback and commentary from you all by the end of this week, no later than Saturday of this week, and then we would begin programming the surveys next week. And so I think beta testing would likely begin during the week of August 6.

Julie Hedlund: Right, right. And thank you for that. Right. And so then I think also what we were considering is suggesting that we could ask for volunteers for beta testing actually ask the full working group for volunteers and the reason that we suggested that is that it might be useful to get beta testers who aren't as familiar with the questions. This small group, you know, while we certainly would welcome your assistance to in beta testing if you're interested, you are

also extremely familiar with the questions and it might be useful to have you know, just a few working group members volunteer who haven't been involved in the drafting of the questions. But I'm happy to hear any thoughts on that suggestion from Michael or Susan and then Kristine if she's able to join us when her meeting is over.

Not hearing any further thoughts on that suggestion, so I think that's what we'll do. But we'll certainly record that in the notes for this meeting and if anybody who's not on this call, Kristine or Lori, you know, has any concerns about that they could let us know but that was our rationale for that approach.

And then once the beta testing is complete of course then the surveys will be released and we're – we'll be adjusting the timeline slightly then, you know, looking at releasing them as they're ready to go into, you know, into the beginning of August which would bring them, you know, being finalized or closing at the end of August and then what we'll then do is as I think what we'll do is as the, you know, if there are updates that we can receive as the surveys are proceeding so for instance if there's any updates on how they're going, what the responses are like and if there's further outreach needed, we'd certainly welcome that from Analysis Group.

And then I think then we would look to perhaps the second full working group meeting in September, say September 12, to begin the review of the survey results. And so that's what we're thinking. And yes, and Greg and Stacey, thank you, we'll be sure to provide frequent updates on the number of responses received on each survey, yes that's extremely helpful. And thank you, Susan, yes, happy with that.

So that is the plan for finalizing the surveys, beta testing and getting them out. And then the other item on the agenda for today is talk a little bit about the survey distribution channels and outreach plans. And we do have a – do have information on that. So what you see here on the screen is plans for the different surveys.

So the Registry survey, staff can send these out directly through the GDD Customer Support Team to the registry operators. According to the GDD, the total number of unique registry companies is about 540; there are about 270 unique registry companies that can manage multiple TLDs. We'll ask GDD whether they can filter the different categories of registry operators such as generic, brand, geographic, when distributing the surveys. If not, Analysis Group suggests adding a gating question at the beginning of the Registry surveys asking respondents to identify whether they are brand registries or not.

And then we also could contact the leadership of the Contracted Party House, Registry Stakeholder Group, to request help in distributing the survey to their membership mailing list with GDD's facilitating the communication. There are 85 companies in the Registry Stakeholder Group membership roster. And on the response rate to render the results statistically significant the desired response rate is 10% of the total universe of registry operators; about 50 companies.

Given the current survey length, Analysis Group expects to get responses from perhaps 5% but we would like to try to – we'd love to have that be higher and, you know, would certainly be helpful – happy if it was higher than that but we are cognizant of the length of the survey may dampen the responses somewhat. So let me stop there and see if there are any questions that approach for the Registry survey.

Not seeing any hands up. I'm just going to move ahead to the Registrar Survey. Again, just send this out though GDD Customer Support to registrars. And there are a total of – a total number of unique ICANN-accredited registrar companies including registrar families, there's about 450. Again, staff could contact the leadership of the Contracted Party House, Registrar Stakeholder Group to request help in distributing the surveys to the membership and mailing list with GDD facilitating the communication.

There are about 107 companies in the Registrar Stakeholder Group membership roster. And again, the desired response rate is 10%. Though we come below that given the length of the survey. So we do have a similar outreach approach there.

And Susan please.

Susan Payne: Yes, I circulated an email but it wasn't that far in advance of the call so I thought I might as well just make the comment here that I mean, this is about the RPMs and so it seems to me that we only need the registrars who have signed up to the latest version of the RAA to – I'm not sure to the extent to which some haven't done that but I think there might be some. So, you know, I think if they don't offer new gTLDs then we don't need to be surveying them.

But it may be – I don't know if it's possible to do that at the outset or whether it just needs to be a kind of gating question. I mean, there is a kind of gating question at the beginning that's, you know, do you – I'm pretty sure there is one about do you, you know, offer new gTLDs? But so it was just a comment that, you know, if they haven't signed up to the relevant RAA they don't really need to be sent it at all.

Julie Hedlund: Right. No, I did see but thank you for repeating it here, I appreciate that because then can also get it on the recording and get it in our notes. Let us, as staff, take that back as an action to ask GDD whether or not that can – that filter can be applied or if not I do believe there is that gating question at the beginning of the survey as well. And thanks again for that. Any other comments on the Registry or Registrar surveys?

So onto the Trademark and Brand Owner Survey, here staff will contact the leadership of the Commercial Stakeholder Group, IPC and BC, to help request help distributing the survey to membership and mailing list and also contact GSC Team to request help distributing the survey to their relevant

contacts and Analysis Group would contact Deloitte to request help distributing the survey to trademark and brand owners with validated trademarks in the TMCH and/or their trademark agents.

And then so with respect to INTA, and we'll ask this separately of Lori since she's not on the call, but we'll ask whether or not she might be able to assist in outreach to INTA recognizing that I think Lori had previously mentioned that they, you know, might not necessarily want to have been contacted or that there might be sort of a survey shock going on there, but at any rate we'll take that up with Lori as well.

And then again with response rate, to render the results significant – statistically significant the response rate would be 50 companies that are trademark owners. Well here with the survey length now we are talking about breaking up the survey so that possibly could help with response rate. But Michael, I see you have your hand up. Please go ahead.

Michael Graham: Yes, I just wanted to point out something, and I had sent an email as well earlier, I think addressing this in part. But both our messaging and soliciting the information and the distribution from the various constituencies, and such, CSC and IPC and from the organizations, I think we do want to stress that we would appreciate if this goes out not only to large trademark owners but also to smaller companies that may have, you know, a limited participation in or access to the new gTLD system. But I think we want to try and reach them as much as possible so we get that broad range.

I know that the issue that was raised in questioning some of the statistics from the INTA survey that was conducted was well those are INTA members are all large trademark owners and so I think to the extent possible we want to message out that we would like to get the you know, as broad a range as possible.

And in that regard, you know, reaching the law firms and such that are participate on behalf of clients and also organizations on behalf of clients and the IPC and the BC, would be important to message to them to convey the survey to their clients that may be smaller trademark owners, smaller businesses and such. And I just wanted to point that out so that we have that – keep that in focus. Thanks.

Julie Hedlund: Thanks, Michael, that's very helpful. I'm just trying to think here where we would – how we would get to those contacts. I mean, we have GSC going to their contacts; they might be in there, I don't know. If we're going to Deloitte, that's going to all trademark and brand owners with validated trademarks so I'm not sure if that would capture some of the law firms representing clients.

We could of course include this, you know, as a cover note to the survey as far as, you know, along the lines of what you said, you know, that we do want to have as broad outreach as possible in particular to the smaller trademark holders and, you know, or their representatives. So perhaps that might be at least one way to address it. Let us go ahead and take this note and think a little bit too and perhaps check with GSC as well and just see if, you know, if maybe a cover note is the way to do this or if there is some other targeted way that we can get some of these smaller organizations.

Michael Graham: Yes, Michael again. Our thought in – on the INTA side of the surveys and I will note that I'm sure that Lori will express the concern that we might be over-surveying through that membership but the same people might respond in any event. But that reaching out to the law firms for them to communicate to their clients was one way because they deal with a lot of smaller businesses that may not be members either of a IP organization, or ICANN, so that's one target. And there are a good number of firms that work with trademark owners in both the Business Constituency and the IPC.

Julie Hedlund: Okay, so maybe yes, so maybe that is one way to in directing outreach to Business Constituency and IPC to, you know, empathize that we're trying to

reach that targeted group. Thank you for that. Any other comments on the Trademark Brand Owner Survey outreach?

So then onto the actual Registrant Survey, here ICANN staff will contact the leadership of NCSG, NCUC, NPOC and At Large to request help distributing the surveys to their membership and mailing list, also contacting the GSC and reaching out to their contacts and then registrars to request help distributing the survey to their customers who have registered new gTLD domain names with GDD facilitating the communication.

But with the caveat that Analysis Group thinks that the registrars may not be willing to participate in this outreach attempt and we are going to follow up with GDD on the feasibility of this. And Susan, please.

Susan Payne: Yes, hi. Well yes, and again it's sort of to build on the comments I put in my email but I'm just – I guess I mean, I'm not sure I've got some solutions to this but I'm just concerned that sort of the NCSG, NCUC, NPOC, At Large, is going to be a quite a sort of narrow group of actual registrants, for want of a better word. But, you know, they're people who are kind of actively engaged in ICANN and so I'm not sure – that was why I was commenting that it seemed to me that if a few registrars are willing to do this, that that would be the much better way to get the more sort of typical registrant or a, you know, a decent cross section of the different types of registrants.

But I do agree with Analysis Group that they may not be terribly enthusiastic about doing so. And I thought rather than trying to go to the something like the Registrar Stakeholder Group leadership it might be the sort of thing where, you know, a conversation with a few registrars direct might be the way to go to see whether they are likely to do it because I definitely think that would be the better source of registrants but I'm doubtful about how successful we'll be.

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

Michael Graham: Yes, Michael for the record. And I agree with Susan, trying to get the most representative of registrants would be ideal and certainly in terms of who we would contact to request the distribution. I think that list is really too limited; I think what we have to do is contact all membership and participants in the multistakeholder community, IPC, BC, CSG. They are also and in many cases some of the largest registrants and really do need to be addressed so that we have a broad range of both opinions in what's happening and also experiences, so however we can do that whether it's through a ICANN wide distribution or it's through utilization of registrar information, I think that's the direction to go. Thanks.

Julie Hedlund: Thank you, Michael. And that's a really good point, opening it up to basically to all of the constituencies and stakeholder groups, I mean, at least while – at least to the – you say adding also in, you know, Commercial Stakeholder Group, IPC, BC as well in the outreach. I think that it may not work necessarily do this as a sort of an announcement to, you know, to ICANN – the ICANN community as a whole; I think it probably still needs to be targeted outreach to the different groups. You know, and with their help in getting the notices out to their membership. But we certainly can broaden this to try to get as many actual registrants as possible.

Michael Graham: Yes, it's Michael again. And I think underlining what Susan was saying, the benefit of going to the registrars if possible is that I would imagine, you know, a number if not a majority of registrants are not involved or may not be involved in ICANN community at all so that that would be one way of reaching them.

Julie Hedlund: Right. And so, yes, so and just another point is that the Registrant Survey will be open to other targeted respondents and so here – so for each survey for other targeted groups just noted here Analysis Group could ask if the respondent has registered domain name in a new gTLD and if so would they willing to take another short survey, i.e. the actual Registrant Survey.

So potentially –but the note is that this could potentially bias a sample of respondents if many respondents from one targeted group agree to participate, so for example if many trademark holders choose to proceed with the Registrant Survey. But Analysis Group could add a question at the beginning of the survey to indicate the respondent's original target group for the sub team working group to evaluate the results.

And yes, Kristine, we are now on the distribution channel document on the actual Registrant Survey and this was from the email that was sent around just yesterday from Ariel. So – and Michael is saying, “Sounds like there will be opportunity for some serious review discussion of data at ICANN 63.” Yes, well and before that also. So and again, with the response rate to have results that are statistically significant, the desired response rate is 50 complete responses. And again, whether that's attainable will depend on how many potential respondents are reached and how targeted the outreach is.

Any other comments on the actual registrants? Then for the Potential Registrant Survey, okay, yes, if we're going to email on the survey distribution – actually okay, so on Item 3 so on the actual registrants, Brian Beckham said on email, “You may also consider reaching to ECTA, the Marques corollary is called the Cyberspace Team. And he has some notes there which we can capture as well.

And then on Item 4 he's noting that Analysis Group sets targets for significant – statistical significance building on outreach plan in Item 6 perhaps you could go beyond NCSG, ALAC, membership to other SGs perhaps less the ACs and research now SSSI, that's listed for Item 5. He's just making these suggestions to cast as wide a net as possible. So yes, and I think that also goes to some of the other channels as well.

So on the Potential Registrants, Analysis Group will use Research Now, SSI's online panels to reach potential registrants in North America and

English speaking countries outside North America, UK, Hong Kong, India, Singapore, South Africa. ICANN will – staff will contact the leadership of NCSG, NCUC, NPOC, At Large to request help distributing the surveys to their membership and mailing lists. We'll also contact the GSC team to request help distributing the survey to their relevant contacts.

And then also the registrars to request help distributing to their customers who attempt to register new gTLDs noting that registrars may not be willing to do this and we'll also check with GDD on the feasibility of that suggestion. And again, the desired response rate would be 150 complete responses and Analysis Group expects that this response rate is achievable.

And the target respondents are the people who are interested in registering a new gTLD domain name or tried to register a new gTLDs in the past, not just ones who attempted to register new gTLDs and received claim notices. And I'm looking at – Michael says, "Same, contact all ICANN constituencies for five as for four." Okay we'll make a note of that. Thank you, Michael.

And then other channels, we'll consider an ICANN Org announcement, website announcement. It might be more appropriate as a GNSO website announcement than ICANN Org but we'll check with our communications team on that; and then social media channels.

And then what happens if we're unable to reach the desired response rate? If that happens, you know, we do not that it'll be difficult to generalize the results of the survey if we do not have the desired response rate and also a weakened ability to draw conclusions from the results. To help increase the response rate, Analysis Group will monitor the survey completion and provide status reports periodically and coordinate with ICANN staff to send out reminders in a timely manner.

If the response rate is below the baseline near the survey closing date, any further outreach or Plan B would be driven by the analysis of whom

responded to the survey so we'll have those data and we can see how we would respond accordingly.

And then as mentioned previously, for beta testing, we're suggesting three to four volunteers from the working group, not necessarily from this Data Sub Team, and ideally those who are not extremely familiar with the survey questions as testing subjects for the beta testing. And that brings us to the end of the discussion of the survey distribution channels and outreach plans.

Any questions or comments? And Susan, I think we'll note that with respect to the Trademark Survey, another comment you had was that your colleague, Nick Wood, is the Vice Chair of the Marks Cyberspace Team, and you're the member of the (FITMA) Committee so you could assist in the distribution to those groups from your email.

Susan Payne: Yes, that's right.

Julie Hedlund: Oh great. Thank you. And we've noted that and gotten that into the recording then here as well. So and Kristine, just so you know, we did come to, you know, we did finish to the end of the survey. And I don't know if you – and we did also capture – Susan brought up some of the issues that Lori had raised as well so we captured those in the notes.

And we talked about the, you know, the getting rid of the tables in 26 – Question 26 and switching to the question format. And made that clear and then also the follow on questions in 27 so clarified that format. I know that Analysis Group is clear on that redrafting and we've also captured that in the notes so there weren't any hanging questions there or remaining questions with respect to the survey.

And Kristine, please.

Kristine Dorrain: Thanks for the update. This is Kristine. Quick question, did you decide that we were going to take out the tables or did we decide it was just – we might as well leave them in since we're still asking the grid style questions? Not that it matters either way, just so I know.

Julie Hedlund: We decided to switch to the question format and take out the tables, unless I'm severely mistaken.

Kristine Dorrain: Okay.

Julie Hedlund: I'm not seeing anybody contradicting me. Yes, so we did. So I have 13 minutes after the top of the hour; that was all we had for our agenda today. Does anybody have anything else they wish to raise? And, Kristine, just so you know, again, for the next steps, Analysis Group will be finalizing the surveys, they'll send them to us and we'll send them to all of you as they are finalized. We're not expecting any further calls. But of course if any of the survey authors or leaders, you know, have any questions as these surveys come back, you know, we're certainly welcome to bring those back to Analysis Group.

And then once they're all programmed then we will start with the beta testing and as noted we'll ask for volunteers for the full working group. And once the surveys are finalized, just so you know, the final surveys will go to the full working group as an FYI, not as a review, but as an FYI, I'm really tongue tied today, along with the Inception report from Analysis Group. So that is another step that we should note as well.

And so and then when – as the, you know, we'll get updates from Analysis Group as the results come in, and once the surveys are closed we'll probably do a preliminary review of the results projected for say the full working group meeting mid-September probably like the 12th of September.

So I'm not seeing any hands raised or any other issues raised. So I want to thank all of you for joining again, for this last call and for all of the tremendous amount of work you have all done on this – well this long journey to produce these surveys and thank you also to Analysis Group for your diligence in getting these put together and addressing all the changes. And so we'll look for the revised surveys, we'll send them around as we have them, we'll ask for comments on the list if there are any and so we have no further calls scheduled. Thanks again to everyone. And we will then go ahead and adjourn this call 15 minutes early.

Michael Graham: Great. Thanks a lot, Julie.

Julie Hedlund: Thank you very much and I hope you all have a great morning, afternoon or evening wherever you may be.

Susan Payne: Great. Thanks, everyone. Bye.

Michael Graham: Thanks. Bye.

Julie Hedlund: Bye-bye.

Julie Bisland: Thanks, everyone. (Simon), you can stop the recording.

END