

ICANN Transcription
Review of all Rights Protection Mechanisms Sub Team for Sunrise Registration
Friday, 05 May 2017 at 14:00 UTC

Note: The following is the output of transcribing from an audio recording of the Registrar Stakeholder Working Group Meeting on the Wednesday, 01 February 2017 at 16:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Attendance may be found at: <https://community.icann.org/x/TwTfAw>

Audio may be found at: <https://audio.icann.org/gnso/gnso-rpm-review-05may17-en.mp3> AND
<https://participate.icann.org/p87ze0chjn1/>

Coordinator: Recording has started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. And welcome to the Sub Team for Sunrise Registration on the 5th of May, 2017. In the interest of time there will be no roll call, attendance will be taken via the Adobe Connect room. If you are only on the audio bridge, could you please let yourselves be known now?

Kathy Kleiman: Good morning, good evening. It's Kathy with a cold and I'm only on audio.

Terri Agnew: Thank you, Kathy. I hope you're feeling better soon.

Lori Schulman: I do too, Kathy. And I owe you an email personally about your inquiries about Klaus, so thank you. This is Lori Schulman, I'm...

Kathy Kleiman: Thank you.

Lori Schulman: Oh, this is Lori Schulman...

((Crosstalk))

Terri Agnew: Lori, just before you, I'm so sorry, I just want to remind all folks that please state your name before speaking for transcription purposes and to 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 our chair, Lori Schulman, please begin.

Lori Schulman: Okay. Hello. This is Lori Schulman again. I'm chairing, I think this is our fourth meeting on sunrise questions and comments for discussion. And we got a lot done last week, just to catch the group up, we consolidated questions, we took suggestions for clarifications, we took suggestions for data that we might need in order to answer the question properly for the entire group. And we also – we also started talking about timing, how much timing we think the group would need to discuss each of these questions. And we also considered a rewritten question submitted by Kathy Kleiman.

So what you see here in front is a redrafted chart. Mary Wong and I had a separate telephone conversation earlier this week to talk about streamlining the questions, condensing the discussion notes and making the chart a little easier to read for the group. And Mary has done a really good job of that.

So one of the suggestions I had, though, looking over the chart today, was perhaps we add a fourth column and that is the column should be Data Required for each question. That way we'll have it all condensed in one place.

And then I have a point of procedure that I'd like to ask someone on the phone or maybe even Kathy as Chair would know, this group in the first call decided that instead of redrafting questions, that where we thought there

could be clarifications or perhaps agreement that a redraft comes down the pike, is in footnotes rather than taking the liberty of changing the question without getting consensus or agreement from the full team.

So I want to just go back to that issue for a moment because if that's the case then we – I would say we would put the updated question as proposed updated question and not literally update the question until there's some agreement. Do I have any comments or thoughts about that?

Kathy Kleiman: Lori, this is Kathy.

Lori Schulman: Yes.

Kathy Kleiman: Okay, again, apologies for the cold...

Lori Schulman: Please go ahead, Kathy.

Kathy Kleiman: Great. This is not really a cochair response, and of course any of the cochairs are on, you know, please, yes, everybody's equal on this. But footnotes, a lot of people ignore footnotes. Would it be – how about putting it in a separate column so that everyone could kind of read it easily? But, you know, the working group – if the sub team vote to not modify the questions and show the variations, you know, I fully support that. It sounds like a very reasonable route to go.

Lori Schulman: Okay.

Kathy Kleiman: A little...

((Crosstalk))

Kathy Kleiman: ...different than some of the other sub teams but the more readable we can make it the better. I just know a lot of non-lawyers skip footnotes. We gravitate toward them and they skip them.

Lori Schulman: Okay. I get it. I understand. And Mary noted in the chat that was going to be the staff suggestion as well. And I'm open to that. What I didn't want to do is I didn't want to presume that we had the authority to edit the questions definitively, that these were suggestions and recommendations from the group to be considered by the subgroup to be conspired by the entire group.

So that would actually comport with Mary's suggestion because we have the draft updated questions, the comments and discussion, now what I don't understand is the column that says updated question. Is that the original – because we have a draft updated question and an updated question. So I just would like some clarification.

Amr Elsadr: Lori, this is Amr.

((Crosstalk))

Lori Schulman: Yes. Go ahead, please.

Amr Elsadr: Yes, the document on the screen in front of us is the new Google Doc, the exported into PDF. So it doesn't have the original charter questions that the sub team was looking into. I could put that up on the screen if you like as well. So this is meant to be sort of just a cleaner easier to review document with what the sub team has come up with so far. And the empty column on the right with updated questions is the event that, you know, the draft updates that are already in the left column, if the sub team would like to refine those any further then we can put those up in the updated question.

But ultimately I think Kathy's earlier suggestion is a good one. I think when presenting to the full working group it would be a good idea to have two

columns, one with the original charter questions and the second column with the final deliverable of the sub team just to make clear to the working group what the sub team came up with. Thanks.

Lori Schulman: Okay. Thank you, Amr, that's great. And I think that's how we'll proceed because it looks like there's agreement about that. What I would, again, also just like you to make a note to please add that fourth column about data required. Oh I see that as an action item in the notes. That's great.

So where we left off last time is we were going to continue to talk about timing of questions and we were all going to take a look at Kathy's suggestion about a reworded question about SMD. And again, acknowledging that Mary sent around a very helpful learning – self learning document about SMD files and how they work.

So I did look at Kathy's question. My sense of the question is, it is a basic mechanical question about how SMD work and if there is a concern about this knowledge. And I don't know necessarily have a problem leaving it in, but because I think the answer will be fairly quick in that we can explain the SMD at a very high level and include the educational material that Mary passed around as a reference point to answer the question.

So we have the question asked so that those others who don't have the information you know, some people are embarrassed to ask but here we have it asked. And we actually in a sense provide the answer in terms of educational materials. In terms of the revocation question, there – to my knowledge, there isn't a particular problem with this ,and again, I think it's something that could easily or quickly be answered. So I personally don't have an objection to the rewording of the question, I think it's much clearer and I think it adds some technical knowledge here that others may not have. But I'm interested in listening to other people's opinions or comments.

Kristine.

Kristine Dorrain: Hello. This is Kristine. (Unintelligible).

Lori Schulman: Oh, yes, but you're very amplified, very, very loud and a little fuzzy in my hearing.

Kristine Dorrain: Okay, is that any better?

Lori Schulman: No, you're still distorted.

Kristine Dorrain: Okay, I have this problem with this headset (unintelligible) quite using it I think. (Unintelligible) hold on.

Lori Schulman: Yes, you're busting out our ears. Sorry.

Kathy Kleiman: Hello, all, this is Kathy. Is there any sound on this call? I seem to have lost it.

Lori Schulman: No, we're waiting for Kristine to adjust her audio. She was using a headset that was blowing out our ears so we were waiting.

Kathy Kleiman: Oh thank you. Okay. Thank you.

Lori Schulman: But I see that Mary has typed in the chat, "When circulating links to the materials along with the questions, the sub team can also ask if working group members think there needs to be further discussion after they've reviewed the material. We can also suggest to other sub teams that any time a team feels an informational educational type question should be included a similar approach be proposed." I agree with that, Mary. I think that's a very good idea.

I think that's worthy of suggesting in the notes. And I know that skips us ahead to Question 8, but that was the top of the business when we left the call last week so I just wanted to make sure that we closed the loop on it

before we go to evaluating questions any further. Kristine, are you back online yet? Okay, I just want to make sure we don't skip Kristine, but I'll acknowledge her as soon as she comes back online. Kristine and Maxim are typing. Yes, Kristine is back, and yes, Kristine, please go ahead, you're in the queue.

Kristine Dorrain: Thank you. I'm not sure what you've discussed in my absence. I dialed in now. This should hopefully work better. I don't know why...

((Crosstalk))

Lori Schulman: You sound very very clear now.

((Crosstalk))

Kristine Dorrain: Adobe Connect and my microphone and my computer just are not a good combination apparently. Now I wanted to just highlight, I think it was when we were in Denmark but it may have been another meeting, when – so I wanted to talk about Question Number – item Number 8 which is that SMD file in the educational materials. Because the – Vicky Fullens answered the question in one of the meetings about what happens when the SMD file – when a mark is no longer registered.

And like that entire process, she went through all of that already. So I think it could be useful, I don't know if we can give staff an action item, but perhaps we can go back and find that like discrete bit of information and also append that here, because it seems to me that the work- the information has been provided. I know one of the things we're kind of trying to do is generate questions, things that we need further information on.

But I think that this entire question at least the information gathering part of it has already been done. To the extent that the group needs to make any decisions or make any proposals based on that information, obviously that's

not the purpose of this. But I would suggest that someone go back and find that bit of information from Vicky where she clearly articulated, you know, the process of what happens with that SMD file and what happens when it's no longer valid and that sort of thing. So we've already asked this and I think we should add that to the record.

Lori Schulman: Thank you, Kristine. Yes, I would support any additions of information that we don't have. And to Kathy's point, we would be showing the world, the community, that we have asked the question and if there is an answer to the question so that while we may not need any additional time on it, we would have a report that's complete with the information. Does anybody have any comments on this particular topic?

Kathy Kleiman: This is Kathy. It sounds good to me.

Lori Schulman: Good. Thank you, Kathy. I'm glad we came to a good resolution on this issue for everybody. It's what we aim for.

Kathy Kleiman: Exactly, we aim to deliver answers, right? Terrific.

Lori Schulman: Right. And so I want to ask the staff to remind me – if I recall correctly, that we had gotten up to Question 4 on discussing how much time some of these questions would take. Is that correct? Do I remember correctly that we stopped at Question 4 in terms of timing notes? Or was it 5? We definitely got through 1, 2 and 3. I just can't remember – I think we had started 4 but I don't recall if we'd finished 4.

Amr Elsadr: Lori, this is Amr. Are you referring to how the working group work plan would need to be adjusted in order to accommodate answering these questions? Is that your question?

Lori Schulman: Yes, yes, yes. If you recall last week, we decided to go through each question and ask two more questions. The first question would be, "Do we need

additional data to answer the question? Yes or no.” And what that data would be. And then, “How much time do we think it would take the entire group to discuss the question to reach a conclusion?” So those were the two questions we were asking to every question in order to come up with the plan.

Mary has asked me in the chat, “Shall we make an action item to discuss possible definitions for premium names, reserve names and premium sunrise pricing?” Yes, Mary, I think that would be super helpful because I think there’s a lot of confusion about which is what. And I know speaking with a brand owner hat on rather than a subgroup chair hat on, at the moment, it’s this precise issue that has brand owners very inflamed. And so if we could have common community definitions I think that would help everybody.

Maxim is also typing. Oh, Maxim is going to move one of his comments to text. Okay. So I think my memory is correct. I think we were on Question 4, “Should each registry publish a list of words on their reserve name lists that are also in the TMCH lists?” So in other words, there would be basically a match you could see whether or not there was a match to a premium name, I mean, to a reserve name and a name that’s been verified in the Clearinghouse.

So the question is, “What data would we need to support this question?” I don't know that we would need any data because right now we know that there aren't lists such as this so I'm not sure what data we would draw on. Oh, Maxim, yes, I see your hand. Please speak.

Maxim Alzoba: Maxim Alzoba. Do you hear me?

Lori Schulman: Yes, Maxim, we do.

Maxim Alzoba: Actually I'm against the publishing of the reserve names because in most jurisdictions the registries as a legal (unintelligible) they actually have

responsibilities for the things they publish online and in cases of like profanity language in the reserve list we actually prohibited from publishing that. And thus we will not be able to comply with that due to the restrictions in local legislation. So I suggest that we do not go there.

Lori Schulman: Maxim, this is Lori again. I appreciate you expounding on the position of the registries. And I think that is the – that answer would be what the entire group would discuss. My understanding about our mission here is that we don't answer the questions as much as we note whether or not we would need additional data or whether or not it should be deleted for redundancy. I don't believe this question is redundant to any other question. But I take your comments to note. But I think that they're probably more appropriate once there is a deeper dive into this issue by the entire group.

Kathy Kleiman: Lori, this is Kathy. May I join the queue?

Lori Schulman: Yes, yes, thank you Kathy.

Kathy Kleiman: So then as a – I think the third column is the data gathering column. So in follow up to the comment, should there data gathering prior to the working group getting this question, that tells us if there are associated legal risks with making these lists public.

Lori Schulman: Okay, I think that's a fair question. I think that's a fair comment. That might be the data and that data about whether lists are being published, but data regarding the risks of publishing the list.

Kathy Kleiman: Great, should we ask how that – Maxim, what do you – okay. Thank you.

Lori Schulman: Thank you, Kathy. So how much time do you think we would need to discuss this against the timed work plan, one call? Half a call? Kristine, I see your hand.

Kristine Dorrain: Thanks. This is Kristine. I think it could take – the call itself might not be very long, I don't know. I think the data gathering might take a little while. Because we're going to want to hear from a variety of differently situated registries – oh Maxim just pointed out in the chat it may vary from country to country. Yes, that's kind of my point. Different registry operators are going to take a completely different view on this based on their local laws. So we would need to probably, I mean, survey the registries is maybe a bad description, but we'd need to get a fairly decent sampling.

And then I think the registrars would maybe possibly weigh in as well because, you know, I think that they're in the process of, you know, they sell the reserve names. So I think that the background research could take a little while. I don't know what the actual conversation would take that long, I'm not entirely sure about that. I think it's one of those things...

Lori Schulman: Okay.

Kristine Dorrain: ...though that we could – we could start the registries and registrars down that path before we get to – before we get there, we don't have to wait until we get there to start the, you know, to start the – kick off the process I guess.

Lori Schulman: Right, right. Because that kind of goes – I think to the whole question too about publishing data in the TMCH, right because if you're going to publish the list of words of reserve names that are also in the TMCH then you're also maybe publishing data from the TMCH that IP owners are definitely not open to revealing either. So I think this could be a thorny – a very thorny issue. To Maxim's point, whether or not this is something the group should or shouldn't discuss, it is a question in the charter so I think we can't ignore it. But we could certainly make some notes about our concerns.

And I agree, I think the information would be more difficult to get but the answer itself is either going to be a thumbs up, thumbs down kind of thing and or maybe not, you know, maybe the recommendation is well depending

on the jurisdiction but that's kind of strange too, so your comment is noted. Do you have another comment, Kristine? Is that a new hand or continuing hand? An old hand? No hand. Okay, so we'll put those in the notes. Let's say we would need maybe half a call, 45 minutes, once we have the data, not a whole call. Do people agree with that? Use your little green buttons if you do or don't.

Okay, seeing no response – oh, Jeff does not agree. Okay. Kristine.

Kristine Dorrain: Just so that you're on the only one talking.

Lori Schulman: Yes, that's all right.

((Crosstalk))

Kristine Dorrain: I'm looking at the chat and, yes, I think I kind of agree with Jeff. I kind of – originally I was thinking maybe it wouldn't be so much of call, once you had the data, but I think there's going to be a lot of different interests here and I think this could potentially turn into a pretty intense discussion, so I think it could take a long time. And I know Jeff can't talk so I'll speak up. I agree actually, I've changed my position, I think it could take more calls because I think this could potentially be pretty complex.

Lori Schulman: Right. And I said, you know, if you advocate for disclosure of one list and then you're advocating for not disclosing another list, that can create a real inconsistency that we may not want to even approach. I love Maxim's suggestion, let's get rid of it, but I don't know that we really can in good faith. Phil, please go ahead, you're next in the queue.

Phil Corwin: Yes, thank you Lori. Phil for the record. You know, as we think about rephrasing these questions, I think we have to think about what the point of them is and how much information we need. I'm not sure we need that much – we can know from economics, you know, looking at Questions 2, 3 and 4,

we know that at higher price points taking advantage of a sunrise registration becomes less attractive to a rights holder.

Obviously, if you've got a trademark in the TMCH and you go to a new registry opening and want to do a sunrise registration, there is a big difference in your willingness to take advantage of that right whether it's \$50 to register the name or \$50,000.

We know that if – even without knowing what names are on the reserve list that match those in the database – in the TMCH database, we know that if it's on the reserve list, your sunrise right cannot be exercised as long as it remains on the reserve list. So you got impact of price on the ability to use the RPM and impact of reserve names list on the ability to use the RPM.

So really what the – right now the registries have complete discretion in those areas both of pricing – and I'm not sure pricing is in our working group rather than the new TLD subsequent rounds working group, as an overall question for the program. Reserve names, I'd have to think about. But really in the end we're saying should there be some rules that make the sunrise registration right more exercisable, more meaningful for trademark owners as opposed to the current situation where you've got the right but the cost of exercising it or the ability to exercise it may be mitigating factors against its use.

I'm not quite sure where that leads but I guess what I'm saying is we don't need a whole lot of data to know that pricing affects use of the sunrise registration, that placement of a trademark in the reserve names blocks the use of the trademark of the sunrise registration. So as we think about the phrasing of the questions, we also need to realize that no matter how they're phrased the fundamental effect is really logically already known. And the question is whether we should try to do anything about that or leave things as they are. Thank you.

Lori Schulman: Thank you, Phil. This is Lori, just responding to Phil and then I'll recognize Maxim. I agree. And I think for a lot of brand owners that the sunrise has become more of a nuisance than a help in a lot of ways because of the pricing issue. So I think if pricing is being used to subvert sunrise in some way that that's something the group to really think about from a practical perspective.

And I think – I want to, you know, remind people of Maxim's point because a reserve name versus a premium name is a different issue, right? Premium names are about pricing whereas reserve names are about names that are not going to be released as I understand it. Maxim, please speak.

Maxim Alzoba: Maxim Alzoba for the record. Actually I think we need to check how many TLDs decided to use premium names and due to the demands that in AGB that the financial stable models should be presented, we could check how many financial models relate heavily on premium names to understand how much business plans are going to be unstable. If we, in the end of discussion, decide to like cut it into pieces.

So we should be aware that there is a balance between the earning and spending and during the last round due to different delays, actually TLDs bled money and I'm not sure that they would survive without premiums. Thank you.

Lori Schulman: Thank you, Maxim. And I see in the chat Kristine has made the point that reserve names may be released at some point, which is true. And Phil agreed, exactly, reserve names for this exercise are those not available for sunrise but that may be released subsequent to it or may never be released. So I think that's a good clarification for us to note in our notes when clarifying terms.

So we have our notes for this question. It looks like we have some agreement about what kind of data we might need. There was an agreement that the

calls may actually be longer than we think. So I don't know if there's a group consensus on whether you think one or two calls, you know, 90 to how many minutes would be spent on this particular call. And perhaps 4 and 5 – Questions 4 and 5 might be able to be discussed together on that issue.

I see Maxim, Maxim, is that an old hand or a new hand? Maxim. Old hand. Phil, please go ahead.

Phil Corwin: Yes, just one other comment, I guess slightly contradicting what I just said. The one area where I think it might be useful to know either pricing for specific words on a registry's premium list or what's reserved, would be to compare generic descriptive dictionary words to unique identifies. For example, you know, a premium pricing of apple, a dictionary word, for me at least would raise less of an eyebrow than premium pricing or placement on a reserve list of Microsoft, which is a very unique non-dictionary term specific to one rights holder.

So that's the one place where I think it might be useful to get some information absent any policy to either control prices for sunrise registrations or to justify placement of names on reserve lists, it doesn't make much difference but it would be useful to know if specific, you know, major brands are being targeted for either very high pricing of their unique marks during sunrise or unavailability during sunrise. So that's the one place where I think getting – going beyond what we know from theory and knowing the details could be useful. Thank you.

Lori Schulman: Okay. Thank you, Phil. We'll note that as well as possible data to collect. I'd like to go on to Question 5. Kristine, please go ahead.

Kristine Dorrain: Thanks. Real quick question, to respond to Phil's point, and to ask you a question, Lori, is the data...

Lori Schulman: Sure.

Kristine Dorrain: ...point that Phil was talking about which is the – how many brand owners felt like their names were held back due to reserve names or premium names list during sunrise, is that available as part of the INTA survey?

Lori Schulman: We have anecdotal evidence but we don't have what I would say direct evidence. We have...

Kristine Dorrain: Okay.

Lori Schulman: ...kind of war stories but we didn't ask that question that specifically. I don't recall anyway.

Kristine Dorrain: Okay I just...

((Crosstalk))

Lori Schulman: No, no it's a great question. Kristine is referring to the cost impact study that INTA just completed in collaboration with Nielsen and with ICANN. The survey was done in response to a request from the Consumer Choice, Trust and Competition Review Team, the CCT-RT. The report is final now. We are just now internally confirming – messaging a communications plan and making sure that INTA leadership sees the data before it's released to the public just as a matter of fairness because we did agree that we would release all of the data that we collected whether it was pro or con, some of the positions that we've taken in terms of brand owner interest in the domain name system.

That data will be presented to the CCT-RT on May 10 so less than a week from now. Once it's released on May 10 INTA has agreed to allow any of the working groups that find the data helpful to use the data. And I think it would be very relevant to what is being discussed in this RPM group. So hold on, we're less than a week away from the data being available.

Okay, does anybody have any other comments or questions? Let's go onto Question 5, and I think we're probably going to have the same types of concerns as 4. "Should holders of TMCH verified trademarks be given first refusal once the reserve name is released?" So I would interpret this question as saying, well should there essentially be a sunrise period for reserve names once they're released?

Maxim had commented that he doesn't think that this is a necessary question to be asked. I think it is a good question to be asked personally. You know, how far does a, you know, a TMCH registration – verification, I should say, as opposed to registration, verification get you? Kristine, please. Feel free to go ahead.

Kristine Dorrain: This is Kristine. Thank you. I would like to propose – I know we're kind of trying to finalize the wording, but to your point, Lori, I think the wording is awkward here. I think we're sort of suggesting the solution. Possibly say, should sunrise, you know, should the sunrise terms apply to every domain name within 30 days of that domain name's release? Or something to that effect, which does not imply that there's a, you know, there's first refusal or that sort of thing. It goes more toward the questions about when and where the sunrise terms are applicable.

And this generally, I think, can be lumped into that category. Just throwing that out for discussion.

Lori Schulman: Yes, Kristine, thank you. I completely support that suggestion. I would suggest a rewrite of this question along the lines that Kristine had suggested, because as you noted, even as I repeated it, I felt like the need to rephrase it, because this really is about, you know, a sunrise two so to speak, or three or four or five or whatever.

Mary notes in the chat, “Lori, on the scope reason for this question, from the public comments received, it’s more likely that sunrise can be the mechanism but may not be the only or preferred one.” Okay, that’s interesting, like if a reserve name is released, should it be auctioned? Is that you’re talking about? And then Kathy also responds, “Data gathering, what type of overhead costs and management would then be required for a sunrise two type or first refusal type program?”

Maxim has noted, “The reason is poor design of the ALP around geos. Geos could not use it, only one tried and still not launched.” Phil then asks, “Should there be a sunrise registration period for any domain released from a registry’s reserved list?” And then Maxim suggests, “And the reserve list is the only way to deliver names to cities. Police should go to the public authority and not to (unintelligible) maker.”

All right, I’ll read Mary’s reply and then I will recognize the people in the queue. So Mary responds, “Sunrise was suggested but I believe the commenter’s were open to other mechanisms if they exist, or can be developed and are viewed as better than sunrise.” And Maxim, I see your hand. And then I’ll recognizes Kathy.

Maxim Alzoba: Maxim Alzoba for the record. The issue is the – I think that claims might be the resolution here. So for example, upon release of the name from the reserve list, it’s a claims period for this particular name, for example. Is just thinking. So the owner of the trademark is aware and can do something with it. And but the situation which it’s going to be against a sunrise I don’t think it’s viable because, for example, yes, with this police, you might not remember but it was in the GAC message when the – I think it was France they said that no way public authorities will have less, yes, probability of having this domain than the trademark owner.

And it’s relevant only to the domains which goes to the municipal entities or wholly owned subsidiaries because they do represent public interest because

someone voted for them and it's not just ICANN, yes (unintelligible). Thanks.
So it's...

Lori Schulman: Thank you.

Maxim Alzoba: ...about claims against – versus sunrise. Thanks.

Lori Schulman: Thank you. And Jeff noted in the chat that claims are already required. Phil, please speak next. Phil. Okay, Phil doesn't seem to be responding. How about Kathy, she's next in the queue. Kathy? Can either Phil or Kathy hear me at the moment? Both of their hands are raised. I've called them and neither is responding.

Terri Agnew: Hi, Lori. It's Terri. I see that both Phil and Kathy are on the telephone. I'm able to hear you with no – oh and Kathy just dropped – disconnected off the telephone.

Lori Schulman: I'm going to presume that Phil did as well. I see Jeff's hand...

((Crosstalk))

Terri Agnew: Phil is showing connected but I'll have the operator pull it now.

Lori Schulman: All right, is Kathy back on the line? Or let's go to Jeff and then we'll jump back to Kathy and Phil.

Jeff Neuman: Yes, thanks. This is Jeff Neuman. Hopefully you can hear me. I just want to make the same comment I made in the chat that this whole discussion on reserve names really needs to be coordinated with the Subsequent Procedures PDP specifically I guess it would be Work Track 2, because there are lots of different reasons why names are reserved. Maxim talked about one of the reasons especially with geo TLDs, right, lots of times they're reserved for public authorities and other TLDs may reserve names for

specific organizations within their either geo or within their industry or whatever.

So just to basically impose a sunrise restriction or any other rights protection restrictions other than something like claims, I think really needs to be coordinated with that group and that this group alone can't or shouldn't make that decision that we really – this is a complex topic of talking about why names are reserved before you get into discussion of what should be done when those names are released and who they're released to. Thanks.

Lori Schulman: Thank you, Jeff. Mary, has suggested in the chat to myself and Jeff, "How about the sub team agrees on the rewording per Kristine and suggests that the working group that we park this question until it can be discussed with SubPro?" I would definitely endorse that idea. I have a procedural question that perhaps staff can answer or maybe Jeff can answer, when we talk about coordinating with another working group how does that physically work?

Do we take all of the parked questions and group them together and then have joint plenary meetings? Or are we going to create, you know, kind of cross working group teams? I don't – when we say to coordinate I'm not sure what that means pragmatically. What would be the action item in terms of how to coordinate with another work group?

((Crosstalk))

Jeff Neuman: Lori, this is Jeff.

Lori Schulman: Hi, Jeff, yes. Please go ahead. Oh and then I see...

((Crosstalk))

Jeff Neuman: Yes, I would just say that really Phil, Kathy, J. Scott, we actually – they actually meet with the Subsequent Procedures cochairs, that's myself and

Avri, hopefully more on a regular basis going forward. But I see just basically talking to each other and then perhaps issuing a couple joined calls for creating some sort of list or something to talk about.

Once we have the questions nailed down here, and really understanding the scope of what would be subject with the joint discussion, I think we can just make it happen, which is what I wanted to say as opposed to just parking it, it would be once these issues, and we know it's going to be something that is joint I think that we should put it high on the list and then immediately make it an action item for the cochairs to talk about on the path forward. Thanks.

Lori Schulman: Thank you, Jeff. Amr.

Amr Elsadr: Yes, thanks, Lori. This is Amr. I was just going to point out that, you know, there are a number of ways to coordinate between the two groups. Jeff mentioned the ones that have proven effective so far. To add to that, I believe there are actually liaisons appointed between the two groups if the two PDP working groups choose to utilize them. I think there are two of them. I don't recall who they were. I think Robin Gross might've been one of them, and I'm not sure who the second was. Thanks.

Lori Schulman: Okay thank you, Amr. All right so why can we agree here? We agree that this is a question that needs to be dealt with by two groups. And that we may need some research, correct? Because to Jeff's point, reserve names are reserved for many reasons so we would want to know the reasons or have a consolidated list of reasons. Is there any other work that we feel needs to be done on this question at this point or are we done with the question?

I think based on what we've just discussed we are probably done with the question right now. Is that a correct assumption? If you agree that you use your green disc? Or if you disagree, use red. I just want to get a sense if you think we can move on from this question. Kristine is thinking. Yes, think about it for a minute because I think we could, but I want to make sure I haven't,

you know, left anything out. We're on Question 4 and 5 – really 5, we're on 5. We got through 4. We're on 4. I mean, I'm sorry, we are on Question 5.

Okay people agree that we're done. So let's move on to Question 6. Yes, okay. So Question 6, "Are the sunrise periods as typically implemented having their intended effect? Are there things some registry operators are doing that makes sunrise more or less effective? Should we recommend standardizing some of the more effective practices?" Does anybody have comments on this question? So remember, the two questions we're asking here today are do we need more data to answer the question? And how long do we think the discussion might take? And if anybody can suggest any useful clarifications to put into the notes. So it's actually three questions.

Kathy, please go ahead.

Kathy Kleiman: Hi, Lori. And apologies, all, for falling off earlier. So on this question, and it's almost a knee jerk reaction for anyone who's in trademark claims sub team as well. Whenever we see the term "having their intended effect" we seem to be adding the are there any unintended effects? Because you can have your intended effect and still have side effects. So I would offer that same thing here.

You know, which may be a quick no, but are the sunrise periods as typically implemented, having their intended effect? Are they having any unintended effects? Thanks.

Lori Schulman: Thank you, Kathy. That's noted. I think that's a very good suggestion. Someone's got a busy – thank you. No. Kathy's hand is still up. Kathy, do you wish to say more or okay, Jeff, please go ahead.

Jeff Neuman: Thanks. This is Jeff Neuman. I think we need to ask the question, what is the intended effect of sunrise? If the intended effect of sunrise is to give those in the Trademark Clearinghouse the first right to register names then the

answer is pretty easy, yes. Because that's what happens when they apply. But I'm not sure that that's the intended effect. So we need to – what information we need to gather is what is the intended effect of sunrise? And that will also help with Kathy's question which is what are the unintended effects? Thanks.

Lori Schulman: Thank you, Jeff. I think that clarification or at least noting the intended effect in the report would be very very helpful. To Phil's point, he thinks the intended effect was to give rights holders a fair chance to register as domains those marks they have placed in the TMCH. I would say that's probably true.

And the issue of fairness I think has been challenged based on some premium pricing that we've seen in the sunrise period. Mary has noted for the claims sub team, (unintelligible) out back and looked at the IRT and STI report and ICANN documents for the AGB to find the rationale. Shall we do the same here? Yes, Mary, I think that would be extremely helpful.

And Maxim notes, "Rights holders are not limited to TMCH." He's explained he had to have a local LRP for small trademark owners. I'm not sure that I'm aware of the program that Maxim is describing, the local LRP for the small trademark owners. So, Maxim, maybe if you could explain that that would be helpful. And I see Kristine's hand and then Jeff's hands.

Kristine Dorrain: I'll let...

((Crosstalk))

Maxim Alzoba: Maxim Alzoba...

Kristine Dorrain: ...Maxim, do you want to jump in the queue and answer the question first before I go?

Lori Schulman: Yes, Maxim, if you'd like to answer...

((Crosstalk))

Maxim Alzoba: Just two seconds.

Lori Schulman: Thank you, Maxim.

Maxim Alzoba: The issue was as a geo TLD we (unintelligible) domains to the local community and to the local businesses. And since we tried to persuade them to participate in TMCH, and miserably failed because most small SMDs they actually didn't see value because they used to use transliteration from Cyrillic to Latin script in the past and they couldn't use it in TMCH because there is no such thing as transliteration there. So we created small limited period in which local trademark owners registered with the – yes, trademark office could apply so they have, yes, benefits similar to the TMCH sunrise.

Yes, we did the same for the local media and the governmental agencies and things like that, but I need to underline that it's not limited to TMCH due to various restrictions and financial too actually for small businesses in some countries it's like not affordable to pay each year this amount for the trademark given that they are small bakery or things like that. Yes, that's it. Thanks.

Lori Schulman: Thank you. And so Maxim, I just have a clarifying question, so when you say local you mean in the local language? Was this done in Cyrillic only or was it also done in Roman – in ASCII? ASCII in Moscow. Okay.

Thank you. I note we have three minutes left, so I'll ask for quick comments from Kristine and Jeff and then we will figure out next steps for next week. Thank you, Maxim, for the answers. Okay, Kristine.

Kristine Dorrain: Thank you very much. This is Kristine. I have one – two quick comments. One is I think that we're sort of on the list going through the sort of painful

discussion of what the intended effect of sunrise is because we're discussing like whether or not it's valuable as a thing. So I think to the extent that we're calling some questions parked, because they may be asked and answered at the time that we get to them, the intended effect piece may actually sort of be resolved by the time we get here. I think we should absolutely leave it or maybe flag it. But I think we may – we may actually resolve that specific intent question before we get here.

Secondly, I just wanted to tag onto what Maxim said, which is any registry operator can have an LRP for anything. So we could start up a TLD and we could say we're only allowing trademark owners of this whatever in. And so you don't have to participate in the Trademark Clearinghouse. We could say, you know, if you have any US PTO registration whether you're in the Clearinghouse or not, you can get in.

So other TLDs can have limited registration periods as designed by themselves that stand apart from the Trademark Clearinghouse. So it's not just Maxim's TLD, anyone can do that. Thanks.

Lori Schulman: Okay, thank you. And Jeff.

Jeff Neuman: My – I'll try to be quick. It was said – I think Mary said that she'll look up the rationale from the other reports to help with this question. But I do want to point out there is a difference between the rationale for a protection and an intended effect. And maybe the question is not asked right, maybe it should be, you know, is – you've given the rationale, is this what the sunrise is doing as opposed to intended effect. I see those as two different – two very different questions. Thanks.

Lori Schulman: Right. Intended effect versus actual effects. And the actual effects may or may not be good or bad. Like we don't want to put a value judgment on after effects until we understand what they are. Is that the point you're making, Jeff?

Jeff Neuman: Because I think you're going to see rationale from the STI or from the IRT and STI that basically says we want to, you know, protect intellectual property rights and, you know, the sunrise is just one of a tapestry of protections that they wanted to put in place. That's the rationale. The intended effect is a different question. I don't think people would say the intended effect is for trademark owners to always get every mark in every TLD. It's just a confusing question. But I agree with Kristine that hopefully by the time that we get to these questions some of this is already flushed out.

Lori Schulman: Okay, thank you, Jeff. So I would, Mary, for next week, note that we stopped here and that this might be a question where we suggest some rewording and that some of the answers may actually reveal themselves in prior discussions. Okay? So I want to thank everybody for their participation. I'd like to end the call on time.

Mary is going to look into – I am giving a presentation to the CCT-RT plenary next Wednesday and I don't remember the time off the top of my head. If I don't have a conflict, I'm happy to chair this group at the Wednesday slot rather than the Friday slot which I would prefer because Friday for me – it's five o'clock here. I'm living in Europe at the moment and this is a tough call for Europeans this time.

So, Mary, let's look at the schedule and then – oh right, next week is the GDD Summit, that's why we were not going to have this call. So, Mary, maybe the idea is, yes, what I would suggest, Mary, if the time is free, maybe we just poll this group to see who would attend the call and if we have enough participants just hold it or we could stick to our Friday. I don't have a strong preference. Maybe it's just easier to stick to the Friday. Yes, let's do this, Mary, let's stick to the Friday but take a poll about attendance. If we have low attendance then let's not hold the meeting.

Plus I'm going to be out of commission the next two Fridays because of the INTA annual meeting just as a note. Okay, Friday plus poll, we agree. And Lori is out the following two Fridays as some other members of this group may be.

I want to wish everybody a good lunch time, afternoon, evening, wherever you are. I think this is a particularly good session. And just I thank everybody again for their continued engagement on difficult issues. And we'll talk next time whenever next time is.

Terri Agnew: Thank you. Once again the meeting has been adjourned. (Anthony), the operator, if you could please stop all recordings? To everyone else, please remember to disconnect all remaining lines and have a wonderful rest of your day.

END