

**ICANN
Transcription
Review of all Review of all Rights Protection Mechanisms (RPMs) Sub Team for
Trademark Claims
Friday, 05 May 2017 at 16:00 UTC**

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Coordinator: Excuse me, recording has started.

Terri Agnew: Great. Good morning, good afternoon and good evening to all. Welcome to the Sub Team for Trademark Claims on the 5th of May 2017 at 1600 UTC. In the interest of time, there will be no roll call. Attendance will be taken via video connection. If you're only on the audio branch, could you please let yourself be known now? Thank you.

Hearing no names, I would like to remind all to please state your name before speaking for transcription purposes and to please keep your phones and microphone on mute when not speaking. With this, I would like to turn the meeting over to our co-chair, Kristine Dorrain.

Kristine Dorrain: Thank you very much. This is Kristine and just - we have a very short agenda today. Our first action item is to review the Google Doc questions that were sent around. I know Michael had taken the first crack as he

promised last week on the call. And then I kind of came in from my vacation and came over to job and took a second crack.

So I think the two of us, you know, kind of made some serious changes to the charter questions. The point, I know for Michael and I both, was to keep the integrity of the charter questions intact and really kind of get to the underlying meat of what we were trying to understand and not to change anything other than really inflammatory language, or language which sort of presupposed a problem or pre suggested a solution.

So that was that. So I think the first thing we're going to get through today is try to review the new questions, compare them to the far right column, what you're seeing on your screen is the new revised questions. The far left column is sort of what you guys ended up with at the end of the call last week while I was gone.

And so the goal was to kind of make sure that all of the concepts were brought in from the left of the column on the right. And so we're going to do that first. And for anyone who's just on audio, I will just actually read through the question on the right to make sure that that's on the record.

Then if we're happy with that and we get through that today, before this call is over, our intention is to move into the kind of thinking about the questions that we may need to do further research on, so that we can start to kind of map these questions to our work plan.

And we only have a few days, two days to be precise, completely devoted to claims review and two days in which claims review/protected mark lists are on the agenda. And so we'll definitely have to decide if we think we're going to need more time or not so that we can make sure to present that information to the co-chairs of the actual work - the main working group.

So, I'm working on my laptop today so I'm going to kind of toggle back and forth between screens so I can actually see the doc. I will attempt to monitor the queue, but Amr, I invite you to interrupt me if anyone has their hand raised. And I see your hand is up, so go ahead, Amr.

Amr Elsadr: Thanks, Kristine. This is Amr. I just wanted to point out that - so that when we do get to discussing the work plan that staff had worked with (Laurie) in light of adjustments to the working group's work plan on Sunrise. And so we do have an updated work plan that - but that did not taken - that has not yet been edited as a result of the call we just had today, but that is available in the Adobe Connection. So when we do get to that discussion, if you like we could post it up and then take a look at it.

Kristine Dorrain: That's fantastic, Amr. Thank you very much. I appreciate that. So turning in to the very first question, we had a general question and several sub questions. And as a result of those general questions and sub questions in which there was a lot of redundancy, the revised wording that Michael and I came up with as a result of the couple of calls we've had, is as follows.

The main overarching question number one, is the trademark claims service having its intended effect of deterring bad faith registrations? And then the first sub question, if no or if it could be better, what about the trademark claims service could be adjusted, added or eliminated in order for it to have its intended effect?

Sub one, romanette one, should the claims period be extended, and if so permanently? Sub two, should the claims period be shortened? Sub three, should the claims period be mandatory? Sub four, should any TLBs be exempt from the claims RPM?

I invite anybody who has any comments on this specifically, we want to clarify and make sure that all of the general questions and sub questions in the left

hand column, all of those concepts are included in the right hand column. Is there anybody who wishes to comment?

As you're thinking and I know everyone needs a chance to look at it again, I will just say that one of the things that we wanted to do was take the redundancy out. So the first question is, goes to the intended effect. The second question we'll talk about in a minute is the unintended effect. So we're trying to do a balance.

And then for both questions, we're trying to say if there's not a balance, what are the changes that need to be made to either address intended or unintended effects? And I list - we listed the same sub points, one, two, three, four for both intended effects and unintended effects. So the extension, the modification, the man - should the claims be mandatory? Those are all the same for both types of questions.

I'm not seeing any hands, so I guess that's a good sign that more or less people are in agreement that what's on the right is an accurate representation of what we were intending to get at on the left. So I will move on to question number two.

Question number two, is the trademark claims service having any unintended consequences such as a chilling effect on good faith registrations? You'll notice the chilling effect is in quotes. We have had some discussions about whether those words are more inflammatory than they need to be. I think that for now they're in there so that we can remember what our concept was.

The concept is preventing people or otherwise causing people with a good faith intent to register a domain name from not going through with it. So we can certainly discuss if there's a slightly more neutral way to phrase the words chilling effect, but for now we've left it in there because that is sort of - you know, that sort of summarizes where we're at.

Same general sub questions. Sub A, if so, what about the trademark claims service should be adjusted, added or eliminated in order to avoid having those unintended consequences. Sub one, should the claims period be extended, if so, permanently? Sub two, should the claims period be shortened? Sub three, should the claims period be mandatory? And sub four, should any TLBs be exempt from the claims RPM?

So you'll see that the sub questions are largely the same for unintended consequences vs intended consequences. Does anyone wish to engage in any discussion? Do you believe that question number two as currently written, pulls in all of the concepts and concerns raised in the original charter questions on the left?

(Mary) proposes in the chat, Kristine, what about such as deterring good faith registrations rather than such as a chilling effect? I think that that definitely provides language that is more neutral and doesn't require any sort of quotes for understanding. So I could support that. Looking for people either by raised hands or in the chat to agree or disagree with deterring good faith registrations.

Michael Graham supports that. Roger Carney says that that was why his hand was up. He wanted to make the same comment. Beth Allegretti agrees. In the chat, Alison Simpson agrees with (Mary). Good. Okay, let's make a note that we've agreed to add the language or replace chilling effect with a deterring such as deterring good faith registrations.

Fantastic collaboration early on a Friday morning, at least here in the United States on the West Coast. For the rest of you, you may be having your afternoon drink already. Okay, moving on. We may get through the question list fairly quickly today, or maybe I spoke too soon.

Questions three and this is one difference. I pulled out the claims notice piece as a separate question and I have a comment on that when I'm done

reading the question. Does the trademark claims notice to users meet its intended purpose? If not, is it intimidating, hard to understand or otherwise inadequate? If so - that's awkward I guess. If so, how can it be improved?

So that means, if it is intimidating, hard to understand or otherwise inadequate, how can it be improved? B, does it inform potential registrants of the scope and limitations of trademark holders' rights? If not, how can it be improved? That is the third new question in the Google Doc.

Any questions with respect to the trademark claims notice? Questions or concerns about the way the charter questions for the claims notice have been reworded? I see a few people typing in the chat. Do we assume B as the intended purpose? For the - yes, for the purposes of the claims notice, we are assuming that the purpose of the claims notice is to deter bad faith registrations.

If possible - I mean maybe you guys can tell me, does anybody think that there's going to be significant disagreement, that that was the intended effect? Not that it's doing its job, but that the intended effect of the claims notice was to deter bad faith registrations?

While you're thinking about that, I'll just check the chat. Rebecca Tushnet says one question. Should we add a specific reference to translation to other pages? Rebecca, could you clarify? Is it translations of the claims notice? (Roger), you've got your hand up. Go ahead, (Roger).

Roger Carney: Yes. Hi. This is Roger. I guess my question in the chat was kind of based on are there two intended purposes here? The service is to stop bad faith registrations, and is the claims notice itself ask for registrants - that's not necessarily to stop bad faith, but that's to provide awareness. Is there two different purposes that we're looking at?

Kristine Dorrain: Yes. So it's my understanding that the (trademark) claims notice is to put the potential registrant on notice that a brand owner is claiming rights to that string that's attempting to be registered. It does not attempt to stop them, but to put them on notice that they may possibly be infringing the claims notice.

It's supposed to provide a place where the registrant can access information about the brand owner's rights such as limitations on goods and services or other sorts of limitations, so that the registrant can go out and do independent research and make an educated decision about whether or not they should proceed.

Hopefully that would deter sort of innocent infringement. People who don't realize that there may be someone else who is already using that trademark for that particular goods and services. But it theoretically should allow people to make an intelligent decision of hey, I want to register this string, you know, for promoting my cat grooming services and someone else is using the string for, you know, the provision of, you know, computer installation services. So I think this is going to be okay. I'm going to proceed. That's sort of the intent as I understand it. So yes, it's a dual purpose.

Roger Carney: Okay. And again, I think that that's how I always perceived it from the beginning was, you know, obviously the reason for this service is to hopefully stop any unknowing or bad faith registrations. But really the claims notice that the registrars are providing is really an educational thing to help the registrar understand the issues around that string.

Kristine Dorrain: Yes.

Roger Carney: Okay.

Kristine Dorrain: (Phil), you have your hand up.

(Phil): Yes. Thanks, Kristine. (Phil) for the record. I think we should just note at this point and think about whether we need another question to deal with the possibility. Since the full working group now has a proposal before it which was presented but not yet debated to allow the registration of portals, of trademarks or trademark plus keyword in the clearinghouse, that in the event that the working group decides to permit anything other than an exact match of a trademark, the exact trademark to be registered in the clearinghouse, we're probably going to need to either revise the claims notice to reflect the or design a second claims notice for situations other than an exact match of the mark itself because the language now says you're trying to register something that matches a registered trademark. If we go beyond the trademark, then wording of the notice would have to be different to be accurate.

Kristine Dorrain: Yes. I think that's a good point, (Phil) and I think, you know, that maybe it does warrant an additional new question, maybe not even tweaking this question because this question I think - I mean tell me what you think it is, but these questions really go to reviewing the RPMs as they.

But I do agree that to the extent that we want to make a change and do something different to the RPM's, you know, over here on this other part of the tree diagram, that we want to make sure that we leave a place when we get to claims to make sure that we've addressed any changes we made upstream. Is that kind of what you're suggesting?

(Phil): Yes. Pretty much, that just we should be aware as we design these questions, that we may need one, to reflect a possible change in the scope of what can be registered in the clearinghouse.

Kristine Dorrain: Okay.

(Phil): That would require a corresponding change in the language of the claims notice or a second version of the claims notice for those situations.

Kristine Dorrain: Okay. So Amr, I'm going to take an action item to take my first stab at revising and adding kind of a new question or a sub question for this. If you wouldn't mind putting that - there you are. You're already putting it in the notes. I will take a first stab at that and then circulate it so that people, especially (Phil), can decide if that is kind of what you were hoping for and people can kind of weigh in on that. Michael?

Michael Graham: Yes. I just wanted to comment on that. (Phil), I think that's an excellent point and that is something and I think you're addressing specifically the proposal that I've made. And what might be a way of resolving the issue that, as you pointed out Kristine, we've been asked to look at the notice as it is, is perhaps I should revise that proposal to add a comment, which is just sort of an alert that if that proposal is accepted, then a new type - a second type of notice should be considered for all the trademark claims. But I think that's an excellent point, (Phil). Thanks.

(Phil): Thank you.

Kristine Dorrain: Thanks, Michael and I think I would definitely appreciate that and I think the group would appreciate that. So we'll make sure that that's cross referenced here. Fantastic. I missed a couple of things in the chat when we were chatting. I noticed Rebecca was talking a little bit about language. And so I want to just go back and make sure that I'm understanding what we're talking about.

So Rebecca says, should we add a specific reference to translation to other languages? And by reference, are you asking do registrars translate the notice? Or are we asking should they or are the translations correct and effective, all of the above? So is that - are you kind of like wanting to just kind of pursue a whole line of questioning about that?

I think the breadth of that indicates - Rebecca says, I think the breadth of that indicates what's going on with translations. Okay. I think fair point. I think I will take a stab at adding something and we can add that into the next iteration and make sure that we're handling translation questions properly in this document as well. And then we can kind of work that into the schedule as well.

Good. So that goes to, you know, not only are they effective, but are they reaching the right audience and, you know, being effectively understood. Michael, is that an old hand or you have another comment?

Michael Graham: Sorry. It's an old hand.

Kristine Dorrain: Okay, thanks. Okay, good. We've got some good additions here that really I think are making our scope a little broader and really thinking outside the box. I think and I know this has come up a few times now on these calls, but I think, you know, to the extent that we sort of ask and answer a question in the main working group either on the list or as part of a group decision that, you know, there may be instances in these sub team questions that when we get there, we'll just be able to say asked and answered.

So I think the point is we want to get those questions listed, make sure that all of the questions are articulated and eventually coming down the road, we may eventually be able to say asked and answered to some of these. (Kathy), you just joined. Thank you. We just ran through all of the revised questions.

We have - just to quickly recap, there was not any real debate over the questions themselves, except for we have two proposed new questions. One relates to making sure that we consider the effect of any changes that we make to the trademark clearinghouse or the sunrise programs and how that might affect the claims notices, such as we may have to change the wording

of claims notices, if as (Phil) pointed out, if we decide to add trademark plus descriptor into the trademark clearinghouse.

So we would definitely want to make sure that we tie into the work of this subgroup. We would want to tie the two together, sort of the main working group outcome with some additional charter questions around the future work. And then the second point that Rebecca wanted to add was making sure that we were addressing the value of the translations of claims notices. Were they doing their job? Were they effective also? So not just in English.

Short recap, but if you have any questions after reading the doc, feel free to raise your hand. I think that was very quick work for us on an early Friday morning on the West Coast, or late Friday afternoon depending on where you are.

So it's time I think that we do what Amr suggested and move to the work plan. I know that there's not really a good way to kind of view the questions side by side. So I think if we can kind of group our questions into those sort of five categories as far as we wanted to talk about unintended - intended consequences, unintended consequences, claims notice, translations, which is probably a sub of the claims notice, and future impact of future work or changes related to future work, where those would fit in with the overall work plan as provided.

And Amr, if you could just put that up when you have a moment, that would be great. Amr, you have your hand. Go ahead.

Amr Elsadr: Yes. Thanks, Kristine. This is Amr. I just wanted to point your attention to a question (Mary) put in the chat on whether question two in the left column they'll be necessary assuming the sup team approves the changes to question one. So there was a second question. If you scroll a little bit further down past question three in the right hand column, there's a second question

in the left hand column that goes, should the trademark claim period be extended beyond 90 days?

Kristine Dorrain: Yes. So the intention, and that's a good point (Mary), so let me explain. The intention of all of the questions on the right hand column were to include all of the comments for questions two and three. So where the question on the - question two in the left hand column, so should the trademark claims period be extended beyond 90 days?

If you scroll back up on the right hand column, under both one and two, the new one, the new two, A1 says, should the claims period be extended, if so permanently or should they be shortened? That gets to this point of whether or not the claims period should be extended. And it also asks if it should be shortened because I think I'm only asking if it's extended, should be extended, limits our horizons.

So question both one and two of the right column, yes, one and two of the right column, sub romanette one and two of the right column, include question - all of question two I think in their entirety. Does anyone disagree? Does anyone think that we did not adequately cover left column two in the new questions? (Kathy), please go ahead.

(Kathy): Hi everyone. Sorry for joining late. My question has to do with queueing up the questions. So if we're only looking at question number one, whereas - then what about question number two? They seem so intricately entwined and maybe the recommendation is to look at them both together.

But is it having its intended effect? You know, should we extend it permanently? Looking at that first and then two weeks later coming to, is it having any unintended consequences? Should we shorten that? Just help me out with the flow. It almost seems like we're going to be coming back to the same question from a different angle later. Am I missing something?

Kristine Dorrain: Yes. No, I think that's completely fair. Yes. So you're seeing the text under the main one and two are really the precursor questions to the A, romanette one through four and then A, romanette one through four and you're suggesting that we get to those first.

(Kathy): Yes. I'm not sure I follow, but it's all part and parcel of the same thing.

Kristine Dorrain: Yes.

(Kathy): And maybe that's how it's grouped, but I always think about going through the question sequentially and you're right. It's all under - well, no. One and two in the right hand column are different sets. Let me turn it over to you because you've got the better handle on it. Thanks.

Kristine Dorrain: Yes. Thanks, (Kathy). That was - that's an excellent suggestion. When I went through it, I was going through it more from sort of an if than tree diagram approach. I know that was one of the approaches that Michael and I had talked about. I do not think that our tree diagram or our sort of outline view, was intended to be the work flow view.

I definitely think the questions could possibly warrant another reorganization to fit a work plan at this point. I mean so if we can agree - I guess my point was, if we can agree that one, two and three and then with the addition of the languages, the claims notice and the addition of the future work, if we can agree that that sort of covers the universe of questions, then I think from there our next step - and maybe we can take the first stab at it as co-chairs, is to now rearrange them in a meaningful work plan way.

But the best way in Michael's and my mind, if I dare speak for Michael, was to make sure that we were going through everything in a very linear fashion at first, to make sure we answered all the questions. Does that make sense?

(Kathy): It does, but I see one and two more intertwined than three. Three I think is a separate question for the trademark claims notice.

Kristine Dorrain: Okay.

(Kathy): And I want to ask a question about that, but only after we're done with one and two.

Kristine Dorrain: Okay. Does anybody object to (Kathy's) proposal that we kind of rework one and two to be together with what I'm understanding is basically we say, just for example wording, not that it would necessarily be this, is the trademark claim service having any intended or unintended consequences such as deterring good faith registrations?

If, you know, if there are problems either and over - either it's not meeting the intended or it's having unintended effects, then romanettes one through four, extension, shortening mandatory and exemptions, then you can address those as solutions. Is that - does everybody agree that we can take another stab at reordering?

Michael Graham: (Kathy), it's Michael. Yes. Could I jump in?

Kristine Dorrain: Please go ahead, Michael.

Michael Graham: Yes. I think, to address the issue. One reason why they are separated is the observation or the acknowledgement that these are really two different questions. One is looking at the intended effect of the trademark claims notice is that is the claims notice having the intended effect? Yes or no, and then if the question is yes, I suppose you could ask about could it be improved?

If the answer is no, then you would ask what's going wrong? How can that be paired? The second question is, even if the claims notice is having the

intended effect, is it having unintended effects? And again that might be a yes. If it's yes, what are they? They could be positive unintended effects. They could be negative unintended effects. And then you look at, you know, how to address those.

But I see those two questions as being separate. If you build them together, then you have an either or situation, which I don't think reflects the reality, which is it could be doing exactly what it was intended to do, but have a negative effect that we need to address, we think should be addressed.

And that's why the two are separated and why I don't think they should be combined. I think that they were separated in order to get away from that and to be able to answer the questions, not only in a linear fashion, but as the separate sort of concepts that I think they encompass. Thanks.

Kristine Dorrain: Thanks, Michael. I will - (Kathy) is next in the queue and I'll put myself in the queue after (Kathy).

(Kathy): So I have a quick question for Michael. Michael, are you a programmer? This feels very much like the old spreadsheets I used to work on and sorry, flow sheets I used to work on.

Michael Graham: I do have some programming background, but my programming background doesn't translate real well. I did do HTML, but my real programming background is Fortran, so.

(Kathy): Okay, and mine is Lisp and Pascal and all that - and C and all that crazy stuff.

Michael Graham: Yes.

(Kathy): Okay. So here I think we're getting - and maybe it's these little, what do you call them, Roman numerates? I guess Kristine is calling them - that I think I

agree with everything you just said. Is it having its intended effect? Is it having its unintended effect? That's the conversation.

But what I see in the way this is set up is that we're getting to a decision tree of - we're getting to the part in the flow that says, what do you do about it before you've got to the second half of the evaluation question. So I guess based on what I just heard you say, we do all the analysis together, which is really 1A and 2A I think, because I'm having - it's pretty small on my chart.

But getting to - what I'd recommend is getting to the, should the claims period be extended? if so, permanently or should it be shortened, is something we should only do after we look at the intended effect and the unintended effect, not look - the way it seems now is to look at the intended effect and then decide what to do next, and then the unintended effect and then decide what to do next.

So again, doing the analysis first, the evaluation first and then only deciding what to do next once. Does that make sense?

Kristine Dorrain: Michael, your hand is still up. Did you want to respond or is that an old hand?

Michael Graham: Yes. No, I put it back up. I think that does make sense, (Kathy). It makes good sense and I think, you know, the numerates, I love that term, the Roman numerates, I think those really are, and correct me if I'm wrong, Kristine but I think when we were looking at these, these are sort of examples of areas to explore to address the answers to 1A, 2A and they derive from some of the earlier questions that we had that really were more ways of looking at something rather than answering the question.

So, you know, if we put those down, one, answering the two questions 1A, 2A and then having a third question that somehow relates back to those answers and says how can the positive - I don't know how you would put this, the

positive effects be encouraged or supported and how can the negative effects be addressed, something like that.

So I could see that being a third question, which really is almost not so much implementation, but as you said really then getting into how do we address those issues? So that does make sense and maybe a bit more drafting, Kristine.

Kristine Dorrain: Yes, thank you I'll take that action item to do that. I agree completely. I think it is making a lot of sense hearing you, (Kathy) and Michael talk through it. So I do really like that. I think that one of the words that is coming to mind that I'd like to include as we sort of think about the transition between 1A, 2A and then all the romanettes is the word balance.

So as we, you know, we've been talking about it in the working group too. Yes, we know that some people - you know, it's got to be a balance, right? You know, people are trying some - you know, people are trying to do their best to curb cybersquatting. We're trying to do our best to make sure everybody gets access, and then how do we balance it out? The same thing.

Are all the intended effect working right? Are the unintended effects working poorly? How do we balance any sort of negative outcomes we're seeing and come to the proper solution? So we think that whatever we come up with for the next iteration will probably have the word balance in there when we get to the romanettes.

It looks like we've got some agreement in the chat from (Kathy) too, and she's got some suggestions for language also. Amr, would you capture (Kathy)'s quote language right there too in the note so we have that for, you know, as we draft? Good. I think this is good. We've made some good progress on these questions and I think it's helpful because we're now moving into the section of where we get to talk about the actual work plan and how we're going to order our work and how we're going to fit this in.

So if we say that we're going to first discuss 1A, 2A, let's just start on some days out there. What do we think? And I don't know if Amr, if it's a good idea to throw - really quickly throw the work plan up and then take it back down just so people have a chance to glance at it? I think maybe looking at the questions is slightly more helpful. Amr, your hand is up. Go ahead.

Amr Elsadr: Yes. Thanks, Kristine. One hopefully final interruption. Before heading to the work plan now, I was wondering if the sub team wants to consider whether there is any data that you all feel might be helpful in answering some of these questions. I know that the analysis group for example in the revised report tried to answer some of these or tried to address some of these, but acknowledged themselves that they had the limited data to work with to provide the definitive answers.

So I was just wondering, before moving on and before considering how this might affect the work plan, whether there are any ideas or thoughts on getting more data, whether internal or external to ICANN. Thank you.

Kristine Dorrain: No. you were perfect, Amr. Thanks. That was on my - supposed to be on my agenda also and I missed that. So you're an excellent job keeping me on track this morning. Yes. So we're thinking about how many days we're going to need and what order in which we're going to kind of discuss things, although I sort of think our particular questions force themselves into the order we've described.

What do we need to know? What are the first questions we need to ask ourselves? Do we need any additional data to be able to answer some of these questions? Michael suggests the first step is what information do we need to answer these questions? Second step, answer the questions. Third step, how do we think issues should be addressed?

Obviously this sub team is not going to answer any questions, but we definitely need to come up with suggestions about what we want ICANN staff to go looking for in preparation for our turn. It's looking like our turn will come in July after Johannesburg, if that's still correct. So I think that we need to think about when our turn comes up, what information will be sitting here waiting at the working group's disposal?

Can anybody think - oh, Michael, sorry. So much - not so much we as PDP. Yes, exactly. So I think we - you know, let's throw out some suggestions. What would you like to know to be able to answer question 1A? Is the trademark claim service having its intended effect of deterring bad faith registrations?

Oh, and then you know what Amr, can we just make another note? Someone had noted in the chat, I want to make a little note about the bifurcation of the intended effect, which is awareness also, to prevent - not just deter bad faith registrations, but prevent innocent infringements or put - not even that, to put registrants on notice so that they can, you know, be informed and do adequate research.

I'm not sure if we're going to tie that in, but I think we definitely need to somehow include that so that we know that the working group - so the working group knows we've considered that as being one of the intended effects of the claims notice. What do you think? What do we need to have, information should we get?

(Mary) knows that the analysis group has provided some information. What did she say in addition to what the analysis group has provided? Michael says there may be other sources of info from the CCTRT maybe about the inter-survey and noting we may want to specifically note the sources we already know are there.

I have not read the inter-survey yet. I don't know how valuable it is. Maybe someone has read it or has participated in it, can talk about it or knows what's been published in some of the other areas. Suggestions.

Michael Graham: Yes, Kristine, it's Michael. Can I put up my hand?

Kristine Dorrain: Yes. Go ahead.

Michael Graham: Yes. The INTA survey of results, my understanding is those are going to be presented to the CCPRT, to the review team their next meeting, which is next Wednesday the 10th and should be available at that time. I'm not sure if the entire report or a summary, one or the other. But I think yes, it would be really useful to take a look at some of these other studies as well. They may have information that would be useful to answer these questions.

So maybe that is, you know, sort of what's the information that we would want to look at or that the PDP should consider in answering these questions? And then identify some possible sources for that - of that information. You know, if we can build that in, to the extent we can build that in as sort of a starting place, I think that it would be useful.

I'm not looking - obviously it's not up here on the working plan. I think - am I correct that there were two days for addressing these questions in the full group?

Kristine Dorrain: Well, yes. So what I saw in the most recent work plan that (Mary) just sent to you and I as the co-chairs - oh, looks like Amr is putting that up there. There was four total days for claims review, although two of them were to be shared with the protected marks list discussion.

So that does not give us a lot of time for discussing, particularly if a proposal such as the one (Kurt) made, makes it through, which would be to essentially make the sunrise voluntary and put everything on claims. In which case we -

I think that we - there would be a significant amount of study as to claims, if we're going to put all our eggs in the claims basket. (Kathy), go ahead.

(Kathy): Just thinking of other data sources, I wasn't sure - I was hoping Rebecca might come online to talk a little bit more about the your risk claims data for exact matches. Maybe there was something earlier on the list before I got here, but that sounds interesting.

Of course we have the analysis group, which has done, you know, a lot of work on trademark claims, work that is subject to different interpretations I know, but they're the only ones out there who really looked at it. And we know from some of the outreach that there's anecdotal data from registries and registrars and maybe registrant.

So it may be worth a quick round of questions. Maybe the groups won't get back. Maybe they will, but kind of inviting the anecdotal data, which we don't always get but they're the ones - we've heard some registry stories. And so that was - you know, now is the time to put them together. Thanks.

Kristine Dorrain: Okay, thanks. I'm going to call Rebecca in one minute. Is there - I know that Amr you're taking amazing notes. We've got some suggestions so far for the inter-survey for the analysis report for possibly a consumer survey as suggested by Rebecca.

(Mary) is suggesting that perhaps there's a way to get ICANN to fund it. Rebecca thinks that there may be some, I don't know, grant or some other options that could be available. So those four suggestions so far for ways to get data. I think we'd have to do a little bit of work to suggest, you know, digging a little bit to what types of data we would be targeting and who we would be targeting them from.

But Rebecca, please go ahead, and I'm also interested, if you don't mind in clarifying what you mean by URS claims data. That would be very helpful. Thanks.

Rebecca Tushnet: Okay. So Rebecca Tushnet for the record. And so on the list, there's been some discussion if - we want to know if the TMCH is working. We might want to see, you know, how many people end up bringing URS proceeding for exact matches and whether there are people who are using the TMC H, but, you know, when the notice period expired, somebody registered it and they ended up bringing a claim, right?

So this requires a lot of data, some of which we don't necessarily have, especially since we don't know what's in the TMCH. So the fact that somebody brings an exact match claim, doesn't actually tell us whether it was because of the expiration of the claims notice or because they weren't in the TMCH to begin with.

So that kind of information, looking to see how many URS proceedings out of say the total, are about exact matches? We could get even more insights by comparing that to what's going on in the UDRP and I know there are at least older empirical analyses of that.

And then trying to figure out whether these are things that would have at least gotten a notice had the notice period continued, would be the kind of information that might help.

Kristine Dorrain: Yes. I think - and I'm not sure if you're aware of my history, but I was a director at NAF for 10 years. So the - I will tell you that there has been a great deal of interest in somebody taking the time and effort to do a full analytical survey of all UDRP and now URS decisions.

So to the extent that anybody anywhere wants to fund that, I think there would be a lot of interest in that. I know that the URS, just from my legacy

knowledge, it's been over a year since I was with NAF, generally speaking because one of the fastest ways to get through the URS process is to submit your SMD files, which proves that you have the mark in the trademark clearinghouse and is an exact match to that mark.

I do know that you're going to find a very high proportion of URS cases being exact matches to trademark clearinghouse claims, because essentially that's one of the main reasons you use the URS. The other thing is that URS is a very cursory decision, so there's almost no panel discussion.

So you're not going to see a lot of - you're not going to get a lot of information, unless you just kind of review the raw data yourself. You know, domain name appears to match a trademark. But yes, I don't think that we - I'm not trying to shoot down the idea that we do a bunch of URS data, or UDRP data, but I know that's a giant, giant project.

But I think we'd all love it if we could get it. (Mary) asks a question in the chat. Does the sub team want to ask the working group if the initial analysis of the existing identified sources should be done by the sub team? Let's ask that next - I see Rebecca's hand so she may be reacting to what I just said. Go ahead, Rebecca.

Rebecca Tushnet:Hi. Rebecca Tushnet. So I absolutely agree with you about the size of the project. I might try and tease by looking at the data on the early years of the UDRP, comparing them to the early years of the URS just because we do have some of the empirical data for the early years.

But I guess - I mean if we're not going to do that, what are we here for? I mean how will we have any idea how to answer these questions? I mean maybe the answer is we're not willing to do the work to answer them, but I guess then we should write a report saying, you know, we decided not to answer them because I guess I feel like we're all, and me included, arguing a lot from our priors and we just don't have the data.

Kristine Dorrain: Yes. I mean and I'm not even saying we shouldn't do that. I'm actually thinking of (Mary's) suggestion that says, you know, it's a possibility that the co-chairs of the working group could, you know, put in a request to ICANN for a Big Data Project.

I mean if we're looking across all of the RPMs and we're looking at this analysis of URS and UDRP decisions could impact our sunrise review, our claims review, our URS review and our UDRP review, maybe it's the type of giant project that ICANN would fund because it would have such an overarching effect.

Maybe that data would help the subsequent procedures group. Maybe the budget could be spread across multiple working groups. I don't know. I may be thinking big and crazy and going off my rocker here, but I'm not saying we shouldn't get it. I'm just saying I don't know that we're going to be able to get it just for this, but I think if you can come up with multiple reasons just needed, maybe ICANN would fund a big project like that.

(Kathy) or Rebecca, I'm sorry, was that an old hand or are you reacting?
Okay, her hand is down. (Kathy), go ahead.

(Kathy): Great. Fortunately or unfortunately, and you would know better than I would Kristine, I don't think there are many URS cases. I mean we're not talking about thousands. We're talking about hundreds, at least the last time ...

Kristine Dorrain: Yes. When I left NAF there were, you know, several hundreds.

(Kathy): So it - and didn't the analysis group look a little bit at trademark claims? So this issue of kind of what's coming to trademark claims and whether it's an exact match, I think we could actually fairly quickly do a run through URS and it might provide an insight to data that we don't have access to because the TMCH database is confidential, but once you file it with the - you know, once

you file your SMB file with URS, I assume that's all reflected, although I'm hearing that's not always reflected now into the decisions.

So, you know, the ones I've seen it was reflected. So the URS, a quick study of it that was properly framed, it might not be as extensive as we think. Once we get to the UDRP, I agree. That's enormous because so many years of data, but the URS, we're still here towards the very beginning.

And again, does anybody remember, did the analysis group do some review of URS, because they were looking at that, extending the trademark claims and whether it would make a difference. And I think for that, they also looked at the URS. I tell you what, for this group, I will go back and check that and extract any paragraphs if I'm remembering correctly and send them to the whole sub team. Does that make sense?

Kristine Dorrain: (Kathy), that would be fantastic. Thank you. And (Mary) says they did actually do it. So your work will not be in vain. Oh, and Michael's got a formal question for Rebecca. Do you have students who would want to count and categorize URS, UDRP decisions? You could gain the notoriety of Michael Geist.

Yes. Okay. So anyway some good suggestions, getting really into the data of, you know, what we're going to need. I'm not hearing a lot of enthusiasm for formally requesting that the co-chairs, you know, ask for specific funding. Oh, someone was able to have - someone disconnected. If we could isolate that.

So I think let's do a quick recap here before we go. We've made I think good progress in thinking about the types of data we're going to want to gather. I like - I want to go back really quick to (Mary's) question, which was, (Mary), I'm trying to find it again because said it was - here we go. Does the sub team want to ask the working group if the initial analysis of the existing identified sources should be done by the sub team?

And I - well, let me put this to the sub team. Do we want to do - do we have bandwidth to do the analysis? We were commissioned to rearrange the charter questions, reframe them so they were neutral, come up with a list of the research that might need to be done and kind of make sure that the work plan was on task.

We have two of our co-chairs on the call, so they can confirm or deny that that's correct. I think doing an initial analysis of existing identified sources would be very helpful to the overall working group when we get to our particular window. But we really - I mean did we all sign on for that amount of duration? Are we willing to do that amount of work?

Raise your - I mean I don't know, play a green check in the chat if you think that's worth a formal request to the working group chairs. Are we willing to dig in or are we here just sort of for the superficial planning? Because I'm not going to put a formal request into the chairs unless we have people that are willing to raise their hands.

Yes. (Kathy), we've got the language is one of the new questions. That will be circulated. (Mary) suggests we could ask for new recruits. Rebecca is willing to dig in. (Kathy)'s thinking. I think it's a fair question. Maybe we table that and let people think.

(Mary), could you add this question to the agenda for next week and maybe people can think about whether or not we want to actually make that formal request, because if people aren't sort of willing to kind of dig in and read the articles and the research and the things that has been compiled, then it probably doesn't make any sense to make that offer to the broader working group.

Michael is willing to dig in. Yes, (Mary), you're right. I don't want to get us out of scope, but also didn't want to let the momentum drop. No, I think

you're right. I think there's some value in kind of doing an initial dig and kind of collating the information if the broader working group agrees, and maybe will spark some more interest too.

All right, let's add that to the agenda for next week since we're about out of time anyway. We have to consider - we have to continue talking about the research and kind of put together a work plan next week. So please come thinking about that this week.

We've got some agenda items to circulate, some revised and reordered questions and yes, hopefully we can kind of come to a conclusion next week and decide, you know, whether or not we're going to want to propose that we dig into the next step.

Thanks everyone. I will - anybody have any last minute questions before we go? Anything that you don't feel was captured in the notes that we need to make sure that we get into the notes before we go? No? Everyone is saying goodbye. Thanks to everyone. Wonderful call. Have a fantastic weekend. Bye-bye.

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