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**ICANN Transcription**

**Review of all Rights Protection Mechanisms (RPMs) Sub Team for Trademark Claims  
Data Review**

**Wednesday 27 February 2019 at 1700 UTC**

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<https://audio.icann.org/gnso/gnso-rpm-review-trademark-claims-27feb19-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p3wq4od18s0/?proto=true>

Attendance is on the wiki page: <https://community.icann.org/x/958WBg>

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MICHELLE DESMYTER: I'd like to welcome everyone. Good morning, good afternoon, and good evening. Welcome to the RPM Sub Team for Trademark Data Review call on the 27<sup>th</sup> of February, 2019, at 17:00 UTC.

In the interest of time today, there will be no role call. Attendance will be taken via the Adobe Connect room. If you happen to be only on the audio bridge, would you please let yourself be known now?

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Thank you. Hearing no names, I would like to remind everyone to please state your name before speaking for transcription purposes, and please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this, I'll hand the meeting back over to Julie Hedlund. Please begin.

JULIE HEDLUND:

Thank you very much, Michelle. This is Julie Hedlund from staff. Just to quickly run through the agenda, the first item will be statements of interest. Item 2: to review the previously collected data source documents against the claims charter questions 1 through 5. There are several items there, 2.1 and 2.2, but we'll just note that, for efficiency, we'll take each of those data sources against each question, rather than repeating the questions for each of those items.

So, for instance, we'll look at charter Question 1 and whether or not the source at Agenda Item 2.1 helps to answer that question or the source at 2.2 helps to answer that question and thereby going through each of the questions against each of the data sources to avoid duplication.

Then the third agenda item is to review the additional data sources against also the claims charter questions 1 through 5.

Kathy is asking, "2.1 and 2.2?" These are actually the sub-headers or sub-items underneath Agenda Item 2, so if you look at the agenda in the top pod, 2.1 is the ICANN org maintain list of

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registry operators, etc., [dot]-that source data. 2.2 is the Data Sub Team meeting with Jon Nevitt and that data. Thank you.

Then, Any Other Business. In Any Other Business, we'll remind people what are the upcoming meetings and that there is no meeting next week of the sub team, as you may have seen in an e-mail that went out earlier today. We'll also walk very briefly through the schedule for ICANN64 for the sub team meeting and working group meeting.

Thank you, and, Kathy, I see you have your hand up.

KATHY KLEIMANN:

Yeah. I have a question. Hi, everyone. It has to do with number 3 on the agenda: review the following additional data sources against the claims charter questions 1 to 5. Because I'm [on] both Sunrise and Trademark Claims, I notice that documents on the sunrise list of additional data may be of great relevance to what we're doing. It just so happens that the person – I think; I'm going to speculate because we can't get into someone else's head – who was filling in the questions was only on the Sunrise Sub Team and didn't realize the relevance of some of the additional data to the trademark claims.

So I just wanted to see, when we're talking about additional data in the additional data question, whether we can refer also to data submitted that appears on the sunrise list. Thanks.

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JULIE HEDLUND: Thank you, Kathy. Before I go to George Kirikos, I'd like to call my colleague, Ariel Liang, to help answer your question, Kathy. Ariel?

ARIEL LIANG: Thanks, Julie. This is Ariel from staff. Of the two documents with [additionally submitted] data, one is for trademark claims. The other is for sunrise. The way staff is separating the submitted data is based on what the submitter said in terms of what charter questions their data is relevant to. If you recall, in the Google form, we did ask them to indicate what charter question, whether it's sunrise or claims, their data is relevant [to]. Then they provided that information.

So for the convenience and efficiency of the review, we separated this data into two Google Docs based on that information. So it's purely based on what is written by the working group members.

KATHY KLEIMAN: Right, but, Ariel, may I follow up? Zak Muscovitch, who is – is he on this as well? I don't know – oh, there he is. There's a great article that says, "Is the Trademark Clearinghouse causing new gTLDs to lose six times the number of registrations?" from a blog, The Domains, from 2015. Very relevant to what we're talking about, even though Zak only pointed out the summarized question.

So as long as we're looking at additional data, may I posit that, if we have the time – and even if we don't; it's something we can do online when the tables reopen, which I assume we will – this additional data may serve both sub teams? Thanks.

JULIE HEDLUND: Thank you, Kathy. George, I do see your hand up, but I just wanted to make a note that, while the documents will open after this call, they'll be open only briefly, open only until COB today, Eastern Standard Time. The reason for that is that will need to complete the summary tables – that is, the summary reports – of all of the analysis of not only additional data but all of the data, but including the additional data. And those summary reports will need to go to the sub team co-chairs to review by this Friday so that they can then go to the sub teams to review.

So there really want to be time for much additional analysis or discussion. So while we recognize that there may be some things that people will want to add to the forms following today's call, there will just be a brief time to be able to do so.

Just wanted to make that note. George Kirikos, over to you.

GEORGE KIRIKOS: If we're going to reopen the process for submitting data, then I'd obviously want the opportunity to see those 40 or 50 additional documents that I posted to the RPM PDP mailing list that didn't have enough time to get into the Google form.

JULIE HEDLUND: Thank you, George. Really, just noting again that the idea of opening the documents, if people had some comments during today's call that they thought were relevant, then they could add those comments after the call.

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So we're not in actuality reopening the process to another round of new data. I hope I haven't been unclear there. But we are actually trying to capture things that people might be saying today and might wish to add based on today's meeting discussion.

Thank you, all. At this point, I'd like to things over to Martin to get started on Agenda Item 2. Thank you.

MARTIN SILVA:

Thank you very much, Julie. I hope you're all doing okay. If something's wrong, just let me know.

We're going to review now the first list, 2.1 on the agenda, and 2.2. It's: the ICANN org maintain list of registry operators and relevant dates of sunrise, trademark claims, and other [inaudible]. That [inaudible] at ICANN61. The idea is to go through [inaudible] questions [inaudible] we had and see what we have there regarding those two sources.

If I say anything wrong, correct me. In Charter Question 1, we don't have the input for these data sources. I think we have – do we have anything? I cannot see any [green] things. Staff can correct me if I'm wrong. We only have the [inaudible] final report. I think that's from last week. It's not new comments.

It should work? I think this is from George. George, this is new comments from the [inaudible] survey? Let us know. If it's just the [inaudible] on the last week, [inaudible], then we should move to Charter Question 2, unless someone else has any other opinion.

Yeah, I imagine. Thank you, George, for clarification.

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Then let's go to Charter Question, where we did have some input – [inaudible] this time. Let's see ... yes. We also have a strong input from the previous week. For this week, we have – George, do you have a comment here from the ICANN61 [inaudible] meeting? Would you like to say a comment, or [inaudible]?

George, you have the floor.

GEORGE KIRIKOS:

It speaks for itself. It's just there was some background data from Berry Cobb that mentioned that some TLDs had longer claim periods. But in itself it didn't say what the effects of those longer claims periods were. So that's not that useful. It just showed that there was some differences in the length of the periods. Whether that has any effect or not, we'd have to dig deeper. Thank you.

MARTIN SILVA:

Okay. Thank you very much, George. Does anyone have anything to add on Charter Question 2?

Okay. There's none. Let's go see Charter Question 3. [inaudible] again? I'm not sure from last week if there was [something] put in, but no comments on any sources we're reviewing now.

If no one has anything to add to Charter Question 3, we can move to Charter Question 4. Again, we have comments from the previous week and nothing for this week. Please do step in at any moment if you have something to add or any question.

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And we have the last one, which is Charter Question 5. Here we also have a small comment from George. George, do you care to comment on this? The opportunity [inaudible] the input in the [inaudible]. George?

GEORGE KIRIKOS: Sure. It's basically the same comment as Document Number 2, just pointing out the background data from Berry Cobb, that some new TLDs had slightly different trademark claims periods. What the effects of those are we don't know. Thanks. Bye.

MARTIN SILVA: Thank you very much, George, for the clarification of the comment. If no one has anything to add to these charter questions, homework: remember this is for people to collect the data. Then we have to move to [Item 3 on] the agenda. That was very quick.

Just to be sure [inaudible], when – George, where are past Question 4. [inaudible].

GEORGE KIRIKOS: Hi. I thought the comments – we were already on Q5. For Q3, I didn't have anything new. My previous comments were related to Charter Question 5. I thought we were—

UNIDENTIFIED FEMALE: [inaudible].

UNIDENTIFIED MALE: [inaudible].

MARTIN SILVA: Hello? Can you hear me?

JULIE HEDLUND: Can you hear us, Martin?

MARTIN SILVA: Yes, perfectly.

JULIE HEDLUND: Okay. We can hear you.

MARTIN SILVA: Okay. Am I wrong? Or we already finished Question 5?

JULIE HEDLUND: I apologize. I thought we were on Question 4.

MARTIN SILVA: Question 4 is pretty much empty, as far as I see.

JULIE HEDLUND: Right. I think—

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MARTIN SILVA: It's Question 5 where I asked George to explain this.

GEORGE KIRIKOS: Okay. I had posted a new input for Question 2, which was the Berry Cobb background data. Then I had nothing for Question 3. I had nothing new for Question 4. And I thought Martin went through those. But the slides were behind you, like you had already passed them.

So then staff posted Charter Question 4, which I think we already covered.

MARTIN SILVA: Okay. [They] understood the comment. Okay. I didn't get the context of your comment in the chat.

Okay. So let's go to Item 3 on the agenda. I'm sorry for the confusion. We're going to review the additional sources that [Mark] identified. When staff said that [thing] was going to open [for a little more] after the call, it was only for comments, not for additional sources.

Now we have that on the screen. I don't think we would be [married to the time if, with everything, it was written.] I think the only one that made comments to this document is George. So just like before, George, if you want to make it [inaudible]. If you want to explain to us what you found, what you think, go ahead. If not, we can still have the [recent point of view].

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Kathy, if you found anything useful in the sunrise document, please point it to us. Kathy, you have your hand up.

KATHY KLEIMAN: Sorry. Are we going to be going through this one by one, like Question 1, Question 2, Question 3, Question 4? I note that Michael Karanicolas, who posted some of these, is not on the sub teams. So, if we're going to speak to his data, we should probably – and it's been posted. I posted some, and Rebecca posted some. So the question is, what's the right order? Are we going question by question? Start with Question 1?

MARTIN SILVA: Thank you, Kathy. As long the comments are [inaudible] he's referring to, we don't need a specific order to go through. We're not going to read aloud everything that was [sent].

KATHY KLEIMAN: Okay.

MARTIN SILVA: That's [inaudible]. If you have anything specific to comment on your data sources or, like George, [inaudible] written, please go ahead.

KATHY KLEIMAN: Yes, I do. Can I go ahead?

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MARTIN SILVA: Yes.

KATHY KLEIMAN: Actually, the article I was referring to, which I thought was Zak and the sunrise, appears to have been posted by Michael to [ART]. So, if we're looking at 1B, which is Claims Charter Question 1, it's: is the trademark service having its intended effect? And B is, is the trademark claims survey having any unintended consequences?

What we see here in the additional data, particularly this first one by Michael Karanicolas, is – no, I apologize. The second one that he posted, which is something in The Domains called, “How Common Words Like Pizza, Money, and Shopping Ended Up In The Trademark Clearinghouse for New gTLDs,” Michael tells us in that first column. He types out a long list of dictionary words protected in the TMCH. I forwarded them to you. Let's just start with the first two lines: active, adventure, auto, balance, bank, best, bed, bicycling, and bliss.

So these aren't globally famous marks by any means, so, with the idea “Is the trademark service having its intended effect?” if it were things like Verizon, I think it'd be one thing. But these common, ordinary dictionary words I think means it's not having its intended effect, that we are unintendedly turning away good faith registrants.

That's not my conclusion. That's the author's. The reporter says, “Unfortunately, the actions of both the well-meaning” – I think he

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means Trademark Clearinghouse registrants – “ and the gamers” – those who are registering to game – “will affect the everyday Joe looking to register a domain name.” So I think this is really important for Question 1B.

Question for staff is, how are we including this in the chart that everyone will be looking at or that will be compiled by staff?  
Thanks.

MARTIN SILVA: [Thanks. That’s] a question for staff. Julie, I see your hand up.

JULIE HEDLUND: Hi. Yes. Well, first of all, Kathy, thank you for the question but also thank you for the comment. If you do something that you wish to add, noting how this particular data is useful in answering one of the charter questions, the document will be open briefly, as we said earlier, after this call if you wanted to enter in that comment. Any comments that go into this document will then be summarized in the summary table. And also any of the discussions here.

But ideally, what people are saying here on this call hopefully is also something they have captured in the Google Doc. So we would urge you then, if you something to add, to add it when we reopen the document.

I’ll stop there and turn things back to Martin. Thank you.

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MARTIN SILVA: Thank you very much. George, you have your hand up. The floor is yours.

GEORGE KIRIKOS: Yeah. [I thought] the homework for this week was, at least for this segment, that people were supposed to read the link and the data that was submitted by the individual member and then either agree or disagree with it.

So I'm the only one that actually filled out the third column. Do people have no comment either way, that they don't agree with it, or they actually disagree with it? There's no good reason for that third column to be blank for everybody. If they did the homework, they would have either agreed or they would have disagreed. To have no comment isn't really an option.

As for the order of these, are we going to go through this document by document? Because Kathy said she wanted to go through it question by question. That seems to be different than the way this document is organized.

I obviously have my written comments, which speak for themselves. On the second document, on Page 2, I point out that different charter question than the ones that Michael identified could also be in play, like Question 4B, regarding [inaudible] matches, and even Question 2C.

So I assume, when staff is going to be reorganizing them, they're going to take those into account so that they compile it into the appropriate questions. Thank you.

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MARTIN SILVA: George, yes. If people find it more useful to go through each one of them, at least [inaudible], [each one knows whether they want to] comment now or later, we can do that.

I have Greg and, after Greg, Kathy. If you don't have any specific comment, I will read each title so we can point out specifically, "Okay. Now we're going to comment on this [inaudible]."

Go ahead, Greg.

GREG SHATAN: Thank you. I just wanted to follow up on the discussion of this. [I know] from Domain Name Wire ... first I would note that Domain Name Wire blog is definitely written with a point of view. So I don't know if I'd use the term "a reporter." Of, if we use it, we need to understand that there's definitely a point of view. And this is an opinion piece that is here. As you read through it, that's quite clear.

Nonetheless, I would note that the author said that, after spending a week analyzing the terms, reviewing the [inaudible] rules, and talking to people on many sides of the domain name ecosystem, "I've come to the conclusion. For the most part, the common words were applied for by well-meaning companies that are trying to protect their brand. A handful were registered by people trying to game the system."

So it seems the issue of "dictionary words" and common words being trademarked is a fact. So the insinuation that, by looking at

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this, these shouldn't be in the TMCH or shouldn't be trademarks doesn't hold water. Thanks.

MARTIN SILVA: Thank you, Greg, for your input. We have Kathy Klemain next. Kathy?

KATHY KLEIMAN: Thanks, Greg. Okay. So this article, according to Michael, also impacts Question 4 of the claims. Sorry. I know we're jumping around here. I'm not quite sure how to do that.

So is the exact match requirement serving the intended purposes? The sense that Michael shares is that there is evidence – so one of the questions is – sorry, let me clear ... Claims Charter Question 4: Is the exact match requirement for trademark claims serving the intended purposes of the trademark claims RPM? A) What is the evidence of harm into the existing system?

So Michael posits that, in the first two articles that he posted about these very, very common words that are in the Trademark Clearinghouse, they do create harm under the existing system. He says, "I would call this clear evidence of abuse, as it expands the applicability of trademark protection in the domain name space [beyond] what is permitted under any domestic legal framework." He talks about the dictionary words. He says "Christ" and "luxury" are in here as well, which is [inaudible].

So, anyway, I just wanted to point out the relevance of some of these articles to multiple questions. I entered a transcript – it's on

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Page 5, so it's farther down in this table, which people have control over – of our discussion in Copenhagen, which was fascinating, and had two members of the U.S. Trademark Office there, raising questions and concerns among other things about the protection of marks, which could be trademarks or not trademarks protected by statute treaty and where that came from in the rules and also huge implications because geographical implications are not considered trademarks by many, including by the World Intellectual Property Organization – European geographical indications.

So this transcript, the Copenhagen meeting, has the U.S. Trademark Office, coming to us, coming to the microphone, to the working group and sharing their concerns about marks that, in the United States, are viewed as generic but appear to be in the Trademark Clearinghouse when we're talking about words like "champagne" and "burgundy." So if you have a future.california, then the Trademark Clearinghouse might – but we can't see it – have "burgundy" and "champagne" for the Europeans, but not the way it's used by the Californians.

So just wanted to point out of the relevance of that article to all of the trademark claims questions that we're evaluating. Thank you.

MARTIN SILVA:

Thank you very much, Kathy. [inaudible]?

We can't hear you if you are talking. Meanwhile, I see also Mary Wong has her hand up. Mary, if you want to go, [inaudible] Philip?

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MARY WONG:

Yeah, if you don't mind. [Also, I untangled] his audio. So staff just wanted to comment on these points very generally. It's kind of a structural problem when setting up the weight on this things. It seems quite clear that, in this particular case, in terms of the campaign to answer some of these claims questions – particularly, “Is this claim service having any unintended consequences?” – there is or there may be a link to what [happens] with the Trademark Clearinghouse.

Unfortunately, for this sub team, what we were supposed to look at is whether the day answers that specific claims question. So it's a bit difficult now to deal with the linkage. So this could be something that is reported back to the full working group. We noted that both sub teams are due to report to the full working group during the first session at ICANN64.

How this sub team decides to handle that piece is really up to you, whether or not you get agreement on how to handle it. You could, for example, note for the working group that the data itself might show X but there may be a link to a later discussion that we're coming back to because a lot of what Michael and Kathy are specifically talking about has to do with the scope of the TMCH.

It's hard to go further than that, perhaps, given that we're looking at the claims service. But we do suggest noting it and perhaps having some kind of report or language that includes that so that the working group will know this and take that into account.

Another reason why we suggest this, quite aside from the specific remit of this team, is that, with the Analysis Group data from the first report, there were a lot of caveats around things like the

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abandonment rate. So, when moving into the realm of conclusion based on data, that's always been a problem. It seems like this is one of the things that this sub team is faced with.

So our suggestion is to note it, report it, and then possibly the working group could consider that in a broader way when they talk about the Trademark Clearinghouse. Thank you.

MARTIN SILVA:

Thank you, Mary. [inaudible], can you try now?

PHILIP CORWIN:

Yeah. Thank you. Apparently I had stepped away and my microphone didn't unmute when I stepped back in a little while ago. Again, Phil for the record, speaking in a personal capacity.

Two things I wanted to say. One, in regard to the threshold question – is the claim service having any unintended consequences, such as deterring good-faith domain name applications? – I believe we have pretty broad consensus that the answer to that is probably, but we don't know to what extent. Based on the data we have, we don't know if the non-completion rate for registrations that generate claims notices is due to deterrence of domain registrations that were intended to be used in good faith, to extent to which it deterred registrations where there was bad intent and intent to cybersquat. We don't know how many of those uncompleted registrations were done simply to try to find out if certain terms were in the clearinghouse database and [were] recorded.

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So we just don't know from the data we have. We've discussed this before.

In regards to certain terms, certain generic words being in the database, while I know there's dispute regarding whether Deloitte has been too expansive in terms of allowing geographic indicators to be recorded and words disclaimed but included in design marks, we don't know if the words "Christ" or "luxury" or other things were in that [category]. They're not geographic indicators, but we don't know if they came from design mar, or [if] CANN is dealing with a global trademark registration with different national rules for getting a registration, with different levels of examination. So it's kind of a lowest common denominator.

That raises a policy issues. Should the criteria for getting in be tightened? We haven't seen a recommendation on that. I don't know of any evidence we've seen in regard to trademarks that Deloitte has not been doing the proper jobs, the trademarks are getting into the clearinghouse database which don't meet the threshold criteria for recordation.

Finally, on the four big question, should the matching criteria for notices be expanded? Given the incompleteness of the data, I'm not sure that the data answers that either way. There may be members of the working group or the sub team who want to raise specific proposals for expansion. We can address those when and if they're raised. But we're basically dealing with a set of data which doesn't answer these questions in any conclusive manner in my personal opinion. Thank you very much.

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MARTIN SILVA: Thank you, Philip. We have Kathy next in the queue.

KATHY KLEIMAN: Sorry. Coming off mute. Okay. So, I agree with Mary that we have an opportunity to report back to the full working group on data that is discussed here that might be useful for later discussions.

But I do want to note that there's a reason we did things in this order. We did talk about having three sub teams at one point: Trademark Claims, Sunrise, and Structure of the Trademark Clearinghouse. It was suggested by members of the working group that we wait on the Structure of the Clearinghouse to see what the sub teams report back as they look at the two mechanisms: the trademark claims, and the sunrise.

So that's exactly what's happening. We're finding that there are structural issues. I would disagree with Phil – sorry, Phil – that the rules were pretty clear when they were adopted by the GNSO Council of what should go into the Trademark Clearinghouse. One doesn't think you have to submit the rule itself as part of the additional data because it was the STI rule that was adopted by the Council and by the Board.

But here, these articles – and I had read these articles. These are fascinating articles that show us to what extent ordinary dictionary words – we had talked about it. And Analysis Group had given us the top ten, of which I think seven or eight were very common words. But as they go on and on and on, it's looking like hundreds of dictionary words are now in the Trademark Clearinghouse words, like “cloud” and “[hotel].”

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So, as we look at the detail in these articles – and let’s assume that these articles are opinion pieces but that the facts of these well-known reporters, like Andrew Allemann, who works very hard on his facts – so, [even while this is an opinion piece, he’s found that these words are registered, that something] he’s getting a trademark claims notice – I don’t know how he knows or someone else has gotten a trademark claims notice. But we are seeing new data here, and I think it sheds light on the scope and the impact of the mechanisms. It’s very important data. Thank you.

MARTIN SILVA: Thank you very much, Kathy. I see we have Rebecca Tushnet next in the queue. Rebecca?

REBECCA TUSHNET: Thank you. So I appreciate Mary explaining her reasoning better. I just want to note my strong disagreement. The content of what’s in the TMCH affects what the claims notice does in the world. So we have to talk about, given what we have, what the claims notice is doing.

Phil has heard me say this before, but I got to say it. I think it does make a difference in our evaluation if we know that a ton of the notices going out are going out for “cloud” and “hotel.” There is a theoretical chance that someone is going to cybersquat on the Swiss trademark owner of “Cloud [inaudible],” but that’s not where I’m going to place my money.

So the content affects both the incidents of claims notices going out to people who we could plausibly think of as likely being cyber-

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squatters versus the proportion going out to people for who actually, on inspection, that's probably not most likely to be doing. These are not notices going out for Verizon, or even for Apple, though there may be those, too. But we now know something, and that affects our evaluation of what the claims notices are likely to be doing in the world and the likelihood that they're having deterrent effects.

So we absolutely should be considering that. And it may be that there are responses to that that don't come in the claims notice. But those are the claims notices that are going out, and we need to deal with that. Thank you.

MARTIN SILVA:

Thank you very much, Rebecca. We only have approximately 15 minutes left. So, do remember, if you have any comments on this additional data, do it now because we only have 15 minutes, and today we are wrapping that up, just so we don't lose focus on the tasks we are going to finish today.

Greg, you have the floor.

GREG SHATAN:

At the risk of stating the obvious, many trademarks are words. Trademarks fall into categories that can roughly be described as suggestive, arbitrary, and fanciful – “fanciful” meaning the ones that are made up, “suggestive” and “arbitrary,” being the other ones. Or they can be descriptive but with secondary meaning.

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So it's kind of a dog-bites-man story to find that there are trademarks that consist of words that are in the Trademark Clearinghouse. It's kind of like I'm shocked – shocked! – that there's gambling in this establishment. So that, I think, is a fact, clearly, but whether it's a shocking fact? I disagree.

Nonetheless, I think we've all recognized that the Trademark Clearinghouse claims notice may be overly intimidating and causing people to back away from applications to register domain names they have no reason to do so.

So I think the issue is there. Of course, there's the Trademark Claims Notice Group. So, if in fact, there's a legitimate trademark for "cloud," then that's appropriate to be there. If somebody is registering for "cloud" and has no reason to be concerned about an existing registration that shows up in the claims notice, it should be clear enough that they should be able to go forward.

So we have a communication issue here more than anything else. I hope we can come to solving that. Thanks.

MARTIN SILVA:

Thank you very much, Greg. We have George Kirikos.

GEORGE KIRIKOS:

We're going off on a tangent, I guess. People are debating the issues rather than the article. What I want to add to that tangent, though, is that the issue of proportionality is very important. If, as Rebecca pointed out, the top ten notices were for terms like "Facebook," "Bloomberg," "Google," "Yahoo," "Verizon," or,

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“Exxon,” that would have been compelling evidence that the balance was proper, that it was deterring registration attempts that were more compelling in terms of possible cybersquatting. If there 500,000 registration attempts for the term “Google,” for example, then that would be a sign of the success of the program.

But when you have, in fact, that it’s deterring registration attempts for “hotel” or “one” or “cloud,” that tends to make one think that the proportionality just isn’t there. So that’s perhaps where [I’d] argue for looking at the entire reasoning for the policy to begin with.

But, anyhow, I hope people will look at the five or six documents that were submitted because we haven’t really had anybody’s name put on. For example, Kristine [already] submitted a document which rewrote the trademark claims notice, which was kind of interesting. But I don’t consider that a document. I consider that more of a proposal. So people might want to weigh on the various other documents that were submitted. Rebecca’s article on running the trademarks [inaudible] important as well. Thank you.

MARTIN SILIVA: Thank you, George. Susan, you’re next.

SUSAN PAYNE: Yes. Thanks. Hi. I’ll be really quick because I know this is sort of again talking about merit. But basically, we spent the call yet again talking about the merits rather than the specific documents.

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But I think one thing to bear in mind is, of course, that we're talking about the claims notice. The [inaudible] claims notice gets generated is a demonstration that the owner of whatever that trademark is who put it in the TMCH hasn't been using it to register during the sunrise or even afterwards extensively across all gTLDs that were available to them, irrespective of what they were.

So, in a way, my comment is partially going to Kathy's comment in the chat. If they had been doing that, there wouldn't have been any claims notices generated because the domains would already be gone.

So, actually, this is demonstrating that lots of these – yes, there are these dictionary terms that have been put in the Trademark Clearinghouse, the domains with the TLDs that relate to that term are still available for someone to register.

So, yeah, I think we come back around yet again to this conversation that we keep having, which is we think that we do have a perception amongst this group that the perhaps the wording of the claims notice is off-putting to some people, that either they don't understand it or they can't be bothered or they're scared off by it, and we're talking about, "Let's change the notice wording."

Well, let's change the notice wording. That's all.

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MARTIN SILVA: Thank you, Susan. Again, we have ten more minutes. We have input from Michael Karanicolas. [inaudible] mechanisms [inaudible]. We have a comment from George there.

If anyone wants to comment on any of these, [come through]. I welcome Michael Karanicolas. How can [inaudible]? Then we have Rebecca. [inaudible]. Are we running out of [inaudible]?

Somebody can stop me and we can comment this if you want. Kathy Kleiman, [inaudible] on [inaudible] indications. We have [inaudible] on the phone. And [inaudible] if any of you have any other comments on this. If not, we can go to Any Other Business. [inaudible] in case anyone wants to raise their hand or [inaudible].

JULIE HEDLUND: This is Julie Hedlund from staff. Martin, I maybe lost a little bit of what you were saying at the end there. But were you turning things over to staff then to just finish up with respect to what we can be looking forward to in Kobe?

MARTIN SILVA: If no one else has [any] comments, yes. You may. Actually, if you can, [inaudible]. Go ahead, Julie.

JULIE HEDLUND: Thank you very much. I don't see any other hands, and I just would like to, again, remind people that the Google Doc will be reopened. It will be open until COB, Eastern Standard Time, today. That is for you to enter comments as to whether or not you

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think – COB Eastern Standard time would be midnight today, actually. We're going to leave it open until midnight today. Thank you, Kathy.

And that would be: if you have comments where you think that the additional data sources is helpful in answering a charter question or not helpful in answering a charter question, then please add those comments. We're not actually opening it up for new additional data sources. As we mentioned before, we do not have time for that.

So, looking ahead, as you saw in the message earlier today, there are no sub teams call next week because some people will be traveling to Kobe.

Then, the next meetings will be in Kobe. They will be on Sunday and Monday, the 10<sup>th</sup> and 11<sup>th</sup> of March. The schedule has been sent to the list – also, the links to the various items on the schedule.

Noting for this sub team that, in addition to providing a presentation, a report, on the analysis of the data, at the first session, which is with the full working group, this sub team will also have Session 4 to begin the discussion [for] the development of the preliminary recommendation.

So please do look for that e-mail. That came out a little bit ago today. Let us know if you have any questions on it. You will be getting both the draft summary table of all the analysis, and that will reflect all the comments in the Google Docs. Also, you will be

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seeing some draft slides for the presentation. Both of those for you to review.

Thank you. Let me just pause there.

I don't see any other hands up. I don't have anything else to add to that, Martin. Let me turn things back over to you.

MARTIN SILVA:

[Thank you,] Julie. I also don't have much to add, unless someone else wants to [stand up] and comment. I know there's still some activity in the chat. We have just a very few minutes left on the call. So unless anything else to add, Julie, you can [ride it off].

JULIE HEDLUND:

Thank you very much, Martin, and thank you, everyone, for joining today. We do appreciate it. We look forward to seeing or hearing from you in Kobe. For those of you who are traveling, safe travels to all. Thank you.

This call is adjourned.

**[END OF TRANSCRIPTION]**