

Transcript
GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC)
names discussion group teleconference
18 April 2012 at 18:00 UTC

Note: The following is the output of transcribing from an audio recording of the GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference held on Wednesday 04 April 2012 at 1800 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. The audio is also available at:

<http://audio.icann.org/gns0/gns0-gac-ioc-20120418-en.mp3> On page:
<http://gns0.icann.org/calendar/#apr>

Attendees

Jeff Neuman - Registry SG group leader
Lanre Ajayi - Nominating Committee Appointee
Thomas Rickert - Nominating Committee Appointee
James Bikoff- IPC
David Heasley - IPC
J.Scott Evans - IPC
Chuck Gomes - RySG
Stephane Hankins - International Committee of the Red Cross
Steve DelBianco – CBUC
Kiran Malancharuvil – IPC
Mary Wong – NCUC
Avri Doria – NCSG
Alan Greenberg - ALAC
Debra Hughes - NCSG

ICANN Staff
Brian Peck
Margie Milam
Nathalie Peregrine

Apologies:
Osvaldo Novoa - ISPCP
Gregory Shatan – IPC
Konstantinos Komaitis - NCUC
Joy Liddicoat - NCUC

Nathalie Peregrine: Thank you very much (Tonya). Good morning. Good afternoon. Good evening. This is the IOC call on the 18th of April 2012. On the call today we have Jeff Neuman, Stephane Hankins, Chuck Gomes, Steve DelBianco, J. Scott Evans, Thomas Rickert, Jim Bikoff, David Heasley, Kiran Malancharuvil, Mary Wong, Lanre Ajayi, Debra Hughes. From staff, we have Margie Milam, Brian Peck, Liz Gasster, and myself, Nathalie Peregrine. We have apologies from Greg Shatan, Osvaldo Novoa, Konstantinos Komaitis, and Joy Liddicoat.

I'd like to remind you all to please state your name before speaking for transcription purposes. Thank you very much, and over to you.

Jeff Neuman: Thank you. Everyone welcome to the call. And I just - this is Jeff Neuman. I want to just give a little summary of where we are and what we hope to accomplish today, also go into a little bit of what the GNSO Council did at the last GNSO Council meeting and just discuss how that affects, if at all, our group.

So on the last call, we had started to do a little bit of a deep dive into the questions that were presented by the GAC proposal on the handling of Olympic and Red Cross names at the second level. In going through those questions, we actually - or I should say going through those questions and options, we actually came out with four key questions that were separate and apart from those that we all kind of decided were instrumental ones that we wanted additional feedback on from the Red Cross movement and the Olympic - International Olympic Committee.

They have come back and responded to those four questions. And so I think we'll spend the bulk of time talking about those and asking the representatives from the Olympic Committee and the Red Cross any questions we have about the answers that they've given us.

Take a step back, we have a council meeting on the 12th which was about a week ago, I guess, or last Thursday. And at that council meeting, a motion was proposed and passed which basically establishes a - I guess it's sort of the initiation of the PDP. But it asks for an issue report which I sent around a motion just a little bit ago, so everyone should've gotten that by now.

At this point, that motion which just asks for an issue report on the - it's basically to cover the following issues -- the definition of the type organizations that should receive special protection at the top and second level if any, policies required to protect such organizations at the top and second level. This was really in response not only to the work that we're doing, but also in response to letters that the org had gotten from the IGOs as to whether they merited special protection.

Obviously, the work that we are doing specifically with the Olympic Committee and the Red Cross, some of that may be useful for this PDP. But if you kind of follow the timeframes through, you know, we think that there'll be probably a primary issue report out on this PDP by Prague, after taking into consideration public comment period, and then a final issue report, we're probably not talking about the (intelligible) of a PDP on that subject until Toronto.

So all of that is a long way of saying that that work is going on. At some point, this group may more stay to that group. But at this point in time, the plan is just to keep going down the path that we're going to see if we can come to some sort of agreement on how to handle the Olympic and Red Cross needs at the second level. And you know, if that PDP does get started while we're doing our work, we'll figure out what the relationship is. But at this point, I don't believe that there's going to be any real - nothing is superseding the work that we're doing at this point, I guess is the long way of saying what I tried to say.

Any questions on that GNSO Council motion, Avri?

Avri Doria: Yes and thank you. I guess I have trouble understanding that. Now that the GNSO Council has requested an issues report on the entire subject, including the second level for those that may or may not merit special exception, I don't understand why this group would continue working. It just makes no sense to me. It seems that it would be superseded by the issues report.

Jeff Neuman: I think ultimately, Avri, that's probably - not probably. That's a call for the GNSO Council. We have not - we as a working group have not been giving any instructions to stop what we're doing. And I think...

Avri Doria: This is actually a working group?

Jeff Neuman: This group is a drafting team, I think. At this point in time, there's been no instructions from the Council to stop our work. Again, it could be merged into that. You know, if there are any issues, I would suggest that that be brought up directly with the Council as opposed to dealing with it at this level. I just wanted to point it out that it's out there to let everyone know and to just, you know, pass on some news. But my recommendation is that this gets handled at that level. Mary and then Alan?

Mary Wong: Thanks, Jeff. And I'm not quite sure what hat I'm wearing on this call. But I'm glad you mentioned that in response to Avri's question, because since this is not a formal working group of the GNSO and doesn't have a formal charter as far as I can recall, my initial question was what you said. That in terms of what happens now with this group, would it be up to the Council to discuss it and then possibly give further instructions or clarifications to this group? This was one question/comment?

The other comment that I had was to follow up on your briefing notes, which is that in addition to the GNSO Council's motion on the issue report for the PDP, there were the Board resolutions. And of that, I'm speaking not just of the decision not to further change the guidebook at this time, but also I

believe there was one that the Board - or at least the New gTLD Program Committee of the Board, if I'm getting that right, asked the staff for a briefing paper of some sort on additional protections included at the second level.

So, would this be something we also bring back to the Council? Is this something that might affect the discussions or the work of this group? And what do we do about it? Do we wait for further clarification? Or should we as a group on this call be proactive and ask whether the Board or the Council for clarification sooner rather than later instead of going on and on maybe to find that maybe there're certain things we shouldn't have done?

Jeff Neuman: Thanks, Mary. I mean, again, my gut reaction to all of that is that that's a Council-level issue or that all those are Council-level issues. It would be - I do think that the Board - you know, the New Program Committee, whatever they call that, I do believe that they owe some sort of explanation to the Council as far as what they expect the Council's role and the community's role in responding to that is.

But at this point, I think we're having some good discussions, and I don't want to - until we get instructions from the GNSO Council, otherwise, I think the work of this group should just continue. Again, that's my own theory. Others may disagree. And if enough people disagree, then I guess we can stop. But that's kind of why I'm throwing it out there and that's why I put this topic on as the first one to talk about.

Mary Wong: Just (unintelligible) real quick.

Jeff Neuman: Sure.

Mary Wong: This is Mary again.

Jeff Neuman: Sure.

Mary Wong: And I don't necessarily disagree with that. I would just hate to see a lot of time spent by this group, a lot of good work had come of it, to sort of - well, on one hand coming to a standstill, but on the other hand a lot more time and effort spent on something only to be yanked back either by the Board or the Council. That was my primary concern.

Jeff Neuman: Yes, I think that's - Mary, I think that's great. I think - I know I will - or maybe Mary you want to send a note, probably better for you to do it, send a note to the Council today, you know, asking for that clarification. I mean, I can do it, I guess, as chair of this drafting team. But we should put it on the Council's agenda for as soon as possible.

J. Scott Evans: This is J. Scott. I mean, I sort of am a little frustrated here by the whole process. I mean, we spent a considerable amount of time making a recommendation to the top level, and they, in total ignoring their own bylaw Section 9, they provided no reasoning why they ignored our recommendation, and they're supposed to. That hasn't been done.

Now we have this confusion about what we're supposed to do and who's supposed to do it. And this kind of confusion, lack of clarity, whatever you want to call it, is what when good work gets done causes it, as Costa Rica is an example, to all be swept under the rug and waste a lot of time. So, I think it is imperative for the GNSO or the Board or someone to clearly tell us with regard to these issues what we are supposed to be doing, because I for one have a lot of things other than this to do.

Jeff Neuman: Thanks, J. Scott. And I don't think there's anyone on this call that doesn't want or think we should have more clarity as to what our role is going forward.

Let me - I do want to address the April 12, the other motion in a second, because I've actually asked the ICANN staff now. On the last call that we had, we were about the resolution and were told that the resolution did not

adopt - or that the Board did not adopt the GNSO Council resolution on the top level, but we were also told that the rationale would be provided that night when the resolution was posted. What it says now is that the rationale will be provided in the minutes.

For those of you that follow ICANN Board minutes, sometimes they'll come out with a preliminary report first, but minutes don't usually get published for at least a month or two after the meetings actually happen. So, I'd ask the policy staff that supports us, Brian and Margie, to go back to ICANN Legal to see if we can at least get a rationale for their decision earlier than when they publish the minutes. I think they owe that actually to the community. They - I think they owe that to the GNSO Council. And I don't think they should have to wait until the minutes are published. This would be fairly unique (unintelligible) if they have to actually wait until the minutes are posted.

That said, I do want to get to Alan and then Kiran. So let me go to Alan.

Alan Greenberg: Yes, thank you. Regarding Avri's original question, I think the question is backwards, and I stated this in the GNSO. I think the question is, should the PDP be launched while we're still doing our work. I don't think we have any choice put to do our work. A PDP for which an issue report is requested now will not be complete by the time the first GTLD is launched. There's just no way that something, especially on such a substantive issue, could be complete and have its recommendations on the table prior to the first registry agreement being signed.

So, assuming there will be some sort of protections put in by the time the first registry agreement is live if not signed, I don't think we have any choice by to keep on working, you know. So, that's just a given. We can't stop. Otherwise, we're, by definition, saying the GNSO is not going to answer the Board request, and the whole issue is going to be swept under the rug for the first bunch of gTLDs.

With regard to the Board action, I'm not particularly surprised. I don't think that what we were recommending was going to have a sufficient impact on the real world to warrant the Board taking action at that late date. So, I'm not particularly surprised with the result. We'll wait and see what their rationale is and whether they say, "That's it," or there were something else that I'm missing. Thank you. Did I stun everyone?

Jeff Neuman: No. Sorry. I was talking on mute. That was my fault. Sorry. Jim, next?

James Bikoff: Yes. I was just going to say that we sent the letter to John Jeffrey on the 13th asking for the rationale, but we haven't gotten any response yet.

Jeff Neuman: Thanks, Jim. My think - my guess is that they'll probably respond to everyone at the same time. But yes, you know, in the end, whatever the rationale is, they did what they did, and there's nothing we can do or should do or the Council did that's going to change that. So, they did what they felt they needed to do. That doesn't really do the work we do at the second level, or maybe it does, and then maybe there's something in the rationale of the Board resolution that says we don't ever want any new protections. I doubt that's the case, but still, we should be privy to that - to whatever they decided and why they decided what they did.

So, I think the - Mary, in looking at the chat, Mary's going to send a note to the Council to seek direction as to what their expectations are. But until otherwise, until other notice, I think - I don't think any of this work is going to be wasted. I think at a minimum certainly some of the work that we're doing can be used for the issue report that's being drafted and certainly can be used to establish a record for future work that's done. So, while I know ultimately not the ideal solution, I don't think any and I hope that none of the work that we're doing now is wasted. I hope it's got some utility whether it's in the immediate future or in the - you know, after a PDP.

Now let me go to Steve and then Alan, and then I do want to talk to some of the substance. Alan? Or sorry, Steve?

Steve DelBianco: Thanks, Jeff. Steve DelBianco here with NetChoice in the BC. The question of whether the Board's reaction to our top level resolution should govern the work of this working group is I think off the mark. Let's not concern ourselves with what they did or didn't do with our top level recommendations. The task before us is second level. And at the second level, we do have a clear request by the Board's committee, and that committee is authorized the same way the Board is. The Board's committee is asking for an issue report and for GNSO to consider whether we need new protections in second level.

I think that Mary, you, and Jeff and Chuck are correct to say that this working group doesn't respond to Board resolutions. The working group responds to the Council's charters and instructions, and that's all good. So, we should await Council's decision on how to react to that Board resolution.

But I want to close by saying that the work that Jeff had teed up for today in answering those four questions with respect to Red Cross and Olympics. Those are answers about protection adequacy and threats at the second level, especially questions 1 and 2. And if the Red Cross and Olympics have provided us with substantive answers about the adequacy and risks at the second level in this round, we ought to continue our work of compiling that data because that is exactly the data that would answer the Board's resolution asking for issues report at the second level and it would assist Council in responding to the Board's motion on what, if anything, should be done at the second level in this round.

So, I see us focusing more on second level, picking up on the work we have in front of us today, and not concerning ourselves with the top level at this point. Thank you.

Jeff Neuman: Thanks, Steve. And one of the things that just - you know, you triggered with your comments as well is that, you know, technically we're not - we're - as you said, we're not respond - we don't respond to the Board. What we are responding to right now is still the GAC original proposal September 14, 2011 on their proposal on handling the Olympic and Red Cross names. Until the Council says otherwise, that's still what we're responding to.

Steve DelBianco: And Jeff, to clarify that, that you just referred to is 99% about second level and 1% about top level. And therefore, we're just following the request of the GAC at this point.

Jeff Neuman: Correct. Thanks, Steve. While I don't know about percentages, but yes, the point is that the majority, most of it is in relation to second level. Let me go to Alan and then Thomas. You know, and I really do want to, you know, the Olympic Committee and Red Cross did some good hard work on what we asked them to, and I really want to give them time to kind of walk us through what they've done. So, Alan, then Thomas.

Alan Greenberg: Yes, very quickly. One of the reasons I object to the PDP being started was that I think the vast majority of people on this group were also going to be interested in working on the PDP. And therefore, there's going to be a big strain on the people. But the corollary of that is the concepts that we push forward with are likely to be carried over to the other group. Thank you.

Jeff Neuman: Thanks, Alan. And then, Thomas?

Thomas Rickert: Thanks, Jeff. I'd like to echo what Steve had said. Mainly that we have a pure mandate to deal with the second level. And to put this into perspective, let's assume that we don't get results on the second level in time before the first registry agreements are signed. Then I think the rest of the world that is very closely monitoring this process will ask us, "Why didn't you initiate the PDP earlier on to make sure that the results of the work can be binding as a consensus policy?"

So, I think that, you know, although I really would like to avoid redundant work, and I think what we're doing is not redundant. I think we have to do these two things in parallel and to ensure the results of both action lines can be effective. Thank you.

Jeff Neuman: Thank you, Thomas. And then, Chuck?

Chuck Gomes: Thanks, Jeff. And by the way, I'm going to lead right into what you want to do next. So. But I want to comment on several things said about the PDP and the timing of the PDP. If a PDP results in a consensus policy, then that could be implemented for new gTLDs even if some gTLDs have been delegated already.

So, we shouldn't just look at the initiation - the delegation of the first new gTLDs. If a consensus policy results, regardless of the timing, and we can debate about how long it'll take, I've always been overly optimistic, as Avri knows and usually have been wrong. But the - but keep in mind, if a consensus policy results, it's implementable on new gTLDs regardless of whether some have been delegated or not.

Now, Jeff, leading into where you want to go, I want to thank the - both the Red Cross group and the IOC group for the submissions that they have made in advance of this meeting. And I appreciate that.

But before we listen to them, I'd like to know whether we have any answer from staff regarding the question of whether the IOC and the Red Cross/Rec Crescent groups can use the rights protection mechanisms in the new gTLD guidebook. That's a real fundamental question for us if we can continue and for the issues report as well as for the PDP if one is initiated.

Jeff Neuman: Yes, thank you, Chuck. And I think - I'm not sure - I'll sort of just ask in a second. I think the Olympic Committee kind of addressed that in their

response by listing their trademarks at the end. So the only thing that the existing rights protection mechanisms may require are actually having the trademarks. And I know there're still two languages of the U.N. languages that the Olympic Committee is going to follow up on. But assuming that they do have trademarks in those languages, then at least from the perspective of the Olympic Committee, there's no - there's nothing that would prevent them from using the rights protection mechanisms. I'm not sure that the Red Cross answered that question. But let me - Margie or Brian, do you guys have an answer on that?

Brain Peck: Sure. Thanks, Jeff. And Chuck, thank you as well. When you posed the question a couple weeks ago, we actually had a meeting with - we had a regular weekly meeting with Legal right after, and we - that was first on our list. We've been working with them and trying to get them to provide an answer by today's meeting. They're just about ready to provide an answer. They're circulating their final kind of drafting thinking internally. So unfortunately, we don't have something right now, but we hope to get something finalized in the next couple days or so. You know, we could probably circulate that or, you know, find out a way to communicate that to the group.

Jeff Neuman: Yes. Thank you, Brian. And that'll be great to see. Chuck? Chuck, did you have something new or is that left over?

Chuck Gomes: I'm sorry. I was on mute. Yes. I appreciate the list of trademarks, because that is helpful. But I think we all understand that both organizations can use existing mechanisms if they had trademarks. The question - one of the questions we talked about at our last meeting was really, can they use any of the existing mechanisms without a trademark just based on international law and so forth? I know that that was a question in my mind.

Jeff Neuman: Okay. Debbie, do you have a response to that? Debbie, you may be on mute.

Debra Hughes: I'm sorry. I'm so sorry. Good afternoon, good evening, everybody. A couple quick things. I just send around an e-mail that I know you all haven't had a chance to take a look at to supplement our earlier submission, and we can talk about that later. So, that's the first thing I wanted to let the group know.

The second thing is we - as we indicated before, our organization's very large and we are in the process of trying to accumulate statistics and information that's going to be helpful to this group. And so, I'm going to ask for your indulgence -- this drafting team's indulgence -- for a couple more weeks or maybe a week to try to get additional information that would answer all of these questions, most importantly the trademark question that is being raised right now, so that we can have adequate time to serve and determine the extent of trademark protection.

As we indicated in Costa Rica and before, the unique nature of the Red Cross movement and our emblem protection is not based on trademark law. We happen to have trademarks in the United States for a variety of reasons, but that's not necessary or even sought in other jurisdictions. So, I would humbly ask if this drafting team would allow the movement to provide this information at a later date. We have people working on it as we speak.

So, I did want to address that, and it's a very real concern, obviously, for the Red Cross movement. And it's the reason we need this type of protection, because the rights protections mechanism that are provided would only address Red Cross as I know right now. And we are still in the process of determining what types of registrations we could offer up for the other designations, but wanted to make sure we continue to underscore that issue.

That's why it was so very important for us to get these protections, because our names are more than trademarks. They happen to be trademarks. But they are protected by treaty and used for other important reasons. And strategically, we haven't needed to file trademark registrations around the world based on the type of work we do. And so, that's what I wanted to just

share with this group and was wondering if it would be okay if we could supplement what we've provided as soon - just as soon as Stephane, Christophe and I are able to get this research done and provide it to the team.

Jeff Neuman: Yes, thanks, Debbie. And unless anyone objects, I think it's certainly reasonable to ask for some more time. I think, you know, we've asked you to do a lot already over a few weeks' period. So, I certainly see why - there are no reason why not to allow you to get us more information in the coming weeks.

With that said, I was wondering if I could ask - since Jim's paper is up on the screen now for those of you that are (unintelligible). I was wondering if, Jim, you could kind of walk us through the questions and the answers? I mean, obviously, we can all read it, but if you, just at a high level, could just go through it.

And I know the attachments, I got the attachments separately when you sent it to me. I'm not sure. Did everyone in the group get the attachment as well? I know it was a real large file.

Alan Greenberg: I got them.

Man: (Unintelligible).

Alan Greenberg: Alan got them.

Jeff Neuman: Okay, you got them.

Alan Greenberg: Don't know about anyone else.

Jeff Neuman: Let me ask by just taking a poll. Did anyone not get the attachments? I think it was like nine megabytes of attachments. Okay. I know I found that helpful in

looking through that this morning. So, Jim, maybe you can kind of walk us through your paper, and then I'll ask Stephane to do the same.

Alan Greenberg: Yes. It's Alan. A quick question, Jim. Is this the same - is the version you sent around today the same as the one you sent last night or are there differences in it?

James Bikoff: No, exactly the same.

Alan Greenberg: Thank you.

James Bikoff: Okay. Well, the first question deals with the significance of the problem. And we - what we did was we have a monitoring service that we use so we get a monthly report. Actually, I'm sorry, we get a weekly report, but we compile it by month so that the two - we took two representative months from last year. And just to give you an idea of what type of registrations we're seeing at the second level. These are mostly .com, .net, and .org. We're not even going into the ccTLDs, but there are many, many more in those.

And so, these show, like, hundreds - at least hundreds a month, of which I will - and Alan raised this - there are a few that are not illegitimate, such as a hotel on a street in Los Angeles and perhaps some other uses that are either grandfathered or geographic. So that it's not - not all of these thousands are illegitimate, but most of them are.

And so, these are given to you for - just to show the amounts that have to be contended with, with the existing TLDs, which are only 22. And most of them appear in .com, net and org, but we also have some in .biz and .info and so on. And many of these are for pornographic and gambling. Many of these are parked and for sale, and we're constantly dealing with those and phishing and fraudulent schemes to take advantage of the movement on a continuing basis. So, I think that's the first part of it. So, I think it's very significant, and I think this is illustrative of that - the exhibit.

The existing rights protection mechanisms, well, I think that is partly a follow-up to the first question, and it relates to the amounts that we see not only in the reports but also on the auction sites and in other things that are brought to our attention. And to just illustrate the volume, we've attached a complaint that was filed about 10 years ago which went against 1800 unauthorized domain names. And we proceeded in that case, and 99% of them were canceled.

But again, that's only temporary because people go back and register again. Their investment is very minor. Our investment, the client's investment, is very large in order to monitor and to take steps against all these things through UDRPs, cease and desist letters, ACPA actions, and so on.

So, what we're seeing is that if it's this bad now, under - if you had 500 to 1000 and some people were saying you had 1000 to 1500, it's just going to be impossible to curtail infringement without having, you know, a huge number of people working on a fulltime basis just on this task. And that will take away from a lot of the purposes of the committee, which are not only sports but also the other humanitarian efforts that are made by the committee. So that's the second question.

And also, again, I refer to the fact that since the Internet is international and these are available in every country, they violate national legislation protecting the marks in many of the countries that were on the chart that we gave you. And in many cases, also, those protections extend to domain names.

So, the third question - well, the third question, I think was one that was mentioned a few times the last call and maybe even the previous call. And that is, since the protection is so limited, what effect would that have? You know, whether it'd be worth it to do anything because it's so limited. But we

think that even if it's only 500 new top-level domains, this is going to prevent registration of as many as 2000 infringing domains.

So, I think that while this is not - you know, I'd like to see greater protection against not only identical matches of Olympic and Olympiad but also against confusing similar one, we think this protection will be helpful and will certainly avoid at least some of the work that will have to be done.

The last question is on the languages, and we've provided registrations in, I believe, four of the six languages. The other two are going to take us a little more time to see whether those exist. But like the Red Cross statement, in many countries we have not pursued registration, because we have protection under national legislation. And so, we're going to find out about those other two areas, but we do have them in the four languages already. I can answer any questions. I'm happy to.

Jeff Neuman: Yes, thanks, Jim. And a lot of the people are getting in the queue. And I see Chuck's already in there. You know, these - everyone on the team, these are the four questions that we'd asked Jim to go back with. Let me know if you think there's more detail or let Jim know there's more detail in any of the questions or, you know, ask any questions that you have, because this - and I want to thank Jim, because this is the information we had asked the Olympic Committee to collect. So, let me go to Chuck. Chuck, you may be on mute.

Chuck Gomes: I am. Thanks. In reading the documents, I did notice the reference to checking for confusing similarity at the second level. I'd like to point out that I don't think there's anything existing either in new gTLDs or otherwise in that regard right now at the second level. That's a top level procedure as far as I'm aware. And I just point that out so that we're all on the same page there.

The - and so, the second then with regard to what's proposed, I wonder if there is an easy solution to all this. I mean, Jim pointed out, and this is just me thinking because I haven't tested this with the registries yet, at least not

fully, assuming that there is a - there is unique status with these two organizations and the fact that there is international treaty and national laws that make them somewhat unique and possibly a few other organizations in the world -- we don't know yet -- then - and recognizing that at least in looking at the list and as acknowledged by Jim of registrations that there are some that are valid, a modified reserve name list like they're asking for where there was an opportunity for an applicant to get a letter of non-objection from the relevant organization would be a relatively simple way, I think, to deal with this issue. But I know it's not as simple as I'm saying. So anyway, I just put that out there.

Jeff Neuman: Okay. Thanks, Chuck. And I think Jim wants to response. So, Jim.

James Bikoff: No. I was going to say I think Chuck's idea is a good one, and we're certainly amenable to a system such as that which would either - I think the system we came up with in the top level was sort of similar. And we would favor consideration of a system like that with a non-objection letter or a determination that somebody's application is legitimate and doesn't violate the rights of the party. So I mean, I'm just saying that I think Chuck's idea is very good.

Jeff Neuman: Okay. Thanks, Jim. Anybody else with any other questions for the Olympic Committee? Okay. And future questions may come up. So let me - it's actually interesting that people are looking at the chat. There's a discussion going on between (unintelligible) and J. Scott which will be captured for posterity. But, you know, just on what the existing protections are. Let me turn it over to Stephane. Do you want to present on behalf of the Red Cross movement or will that be Debbie?

Stephane Hankins: Well, maybe I can say a few words. Debbie, please join in and compliment if you will, please. What we - as you will see, we extended a little bit our responses and merged with, you know, prior communication that we had sent during the Costa Rica event our public comment.

To begin with, you know, responding to some questions with regard to the actual legal justification (unintelligible) for the protective regime which is due to the designations Red Cross, Red Crescent, Red Crystal and related names which are covered in the 28 denominations covered in the original moratorium. Again, we do highlight that the protection of the denominations stems from public international law treaties, you know, these university ratified treaties.

And that, you know, the global public interest that they - that their protection represents is very - is linked to the function - the protection function of emblems of protection of medical services of armed forces, which is really the core of the issue. It's only as - again, as I've mentioned this several times, it's only as a second moment, if you like, that, you know, these are emblems of identification of the respective components of the Red Cross/Red Crescent movement.

So, you know, it - this also relates to what Debbie was highlight or reminding of earlier, which is these denominations' protection is - does not stem from, you know, the fact that they're registered under domestic copyright laws. It really stems from international law and domestic implementing legislation adopted at the domestic level. So, that's - that covers, I think, to some extent the four initial questions, you know, before we come to the actual questions which were put to us a couple of weeks ago.

On the issue of, you know, being able to document, you know, the actual risk of abuse that the denominations face on the Internet and, you know, the actual prejudice this represents for the movement - for the International Red Cross movement and it's components besides, you know, the actual risk to the reputation of the organization if, you know, all kinds of organizations suddenly use the name, but also, you know, the potential material and financial prejudice that it represents, you know, in necessitating, you know,

large resources from the respective organizations, you know, to monitor instances of misuse.

And as indicated in the paper, even to register a certain number of denominations, as in mentioned in the document, the ICRC maintains ownership of I think over 250 denominations under the existing gTLD. And, you know, as indicated obviously, you know, the multiplication of first-level domain names, you know, considerable increases, you know, the potential risk this would represent.

As indicated by Debbie, we are in the process of, you know, collecting and putting together some more concrete data and illustrations of cases of abuse and misuse. There is work ongoing. And as Debbie was saying, the American Red Cross is collecting such illustrations. And we've asked other national Red Cross/Red Crescent societies, the British Red Cross, the French Red Cross and others, to also provide us with, you know, the data so that we can have also examples of misuse also of the denominations in other languages than English.

The cases of misuse are very frequent. And it's often nongovernmental organizations with a humanitarian mandate or role. It's very often medical organizations also. And, you know, we - there is substantial amounts of resources that are dedicated to pursuing this. And I don't know whether Debbie wants to speak more to that point. But we're very much committed to document this further and to submit this to you in - as soon as possible. But again, you know, the specter of hundreds of new top-level domain names really, you know, is certainly - represents, you know, a very significant argument to the effect that there be, you know, mechanisms enshrined within the process and preventively and potentially in the form of an annex to the registry agreement which would reserve the denominations at the second level.

To the question why existing mechanisms enshrined in the system are deemed insufficient, this is also an issue which we're working on further. Again, you know, the fact that, you know, the protection stems from public international law. And I'm not entirely familiar with the rights protection mechanisms. But I think that certainly the costs and the resources involved in the initiation and the conduct of such proceedings represents - you know, or would represent a substantial investment in human and financial resources which, once again, could be prohibitive. And, you know, these are resources which are then taken out from, you know, the budgets for humanitarian activities. And then, you know, we also need to justify these to donors also. I wanted to mention that.

With regard to the third question which was put to us, I - we have in the documents submitted - I'm not sure we understood fully, you know, all the options or necessarily understood all the options. But, you know, certainly the notion of the schedule of second level reserved names in the new gTLD registry agreement, I think, you know, would really be the most effective way to manage this. Certainly, you know, and this in regards to the 28 denominations found in the original moratorium.

The notion that, you know, the reserved names, or modified forbidden names as I see in the document, you know, could be registered by the relevant components of the Red Cross/Red Crescent movement is also something that, you know, we are pleased to see and, you know, we'd certainly would like to maintain.

And to the comment, I'm not sure who was speaking, but I was - we were a little bit unclear when preparing, at least I was, you know, with regard to the applicability of the strength similarity review at second level. I understand from the earlier comment that this is not foreseen. But, you know, if it is conceivable, you know, that at least the registries be duly instructed or recommended to look not only at, you know, the strict names but also to, you know, what we would call and what the Geneva Conventions call, you know,

imitations or denominations liable to confusion, I think this is, you know, an important - a very important element.

And, you know, if that can be worked in, I think, you know, this would be extremely important to be able to deal with. But I - again, I'm not sure I was able to find, you know, the proper documents to document, you know, how the system is exactly envisaged to function for second level. I don't know, Debbie, whether you want to add some elements to what I have said.

Debra Hughes: Sure, I'm just take a couple of minutes just to try to supplement. And I'll step you all through a couple of the documents that I included before the call, which might help clarify some of the initial questions that were asked of this drafting team. Related to how significant or how real the problem is, what I attempted to do was to share with the group a variety of documents. And I'll just kind of explain why I included what I included so that when you're taking a look at it you can understand the rationale that I provided.

I included a document that has historical examples of domain names that are registered during times of disaster. And this is, of course, not, you know, a complete listing. This is a listing of domain names that we were able to quickly provide really wanting to give this team the opportunity to take a look at the issue. And they - the Excel spreadsheet that has those listed is in the first tab, and these are domain names that occurred on one given day related to the disaster in Haiti.

These domain names required time and attention to review them and to take action to decide whether or not to send a cease and desist letter, to potentially engage outside counsel. And again, just to remind this group, the Red Cross works on donations, so it's - what we're doing is we're taking donated dollars and allocating those donated dollars to deal with instances of fraud. So, just to give you a little bit of flavor for the potential financial impact when you're asking Red Cross/Red Crescent to take - or when Red Cross/Red Crescent has to take action against fraud, that's really at the core.

Its financial resources and human resources that we would prefer to have allocated towards delivering services for the movement rather than dealing with instances of fraud like this.

The second tab in this spreadsheet, called Red Cross Domain Names, is an example of a few UDRP filings that have been filed in the past. Obviously, UDRP filings require (unintelligible) to actually file the complaint and potentially outside counsel feels. So again, shared with this group to give a sense of what at least American Red Cross has done in the past to add historical backdrop.

The other document that I shared with the group is an attachment called 2002 4-18 Red Cross Domain Names Report. And this a report of a snapshot in time between January and March of this year are what we think are problematic domain names. We've done initial review of them. We haven't completely scrubbed them, but we are pretty confident that these are domain names that were registered without authorization and there could be some sort of unauthorized activity or potential for unauthorized activity on the domain name.

We've included domain names in this chart that are potentially pay-per-click domain and parked domains. We did not include in the chart any domain names that had no content. Obviously, wanting the chart to be representative and helpful for this group. You know, there's tons more domain names, obviously, that are registered that have the word Red Cross in them where there's no content or do not resolve. And part of what we have to do is to monitor those, right, to see if they ever become active.

And so, this chart was, hopefully, designed to just to stay focused for this group on domain names with active content that were problematic and not authorized. And so, that spreadsheet 2012 4-18 is a snapshot in time from January to March for domain names, and this is just for the term Red Cross. It doesn't include any analysis on any of the other designations.

And then finally, the final chart that I include just for your information so that you can understand the impact of the fraud that occurs in the Internet to Red Cross is a domain - is a spreadsheet called Hurricane Disaster Fraud Domains 2009. And while these domain names do not - on every chart do not include the terms Red Cross, it's just to give you a flavor of the nature of fraud that happens for charitable organizations.

And the reason I share that with you is why so - the reason it's so important for the Red Cross to get protection for its name, is it frees up our movement to be able to allocate its resources to dealing with this type of fraud. And for - rather than me explaining that this type of fraud occurs, I just wanted to share with the group for informational purposes, this is all the other kind of stuff that the Red Cross movement has to pay attention to, and that obviously, we're not seeking any protection for that in this process.

But, I'm sharing it with you so you can get a sense for when we talk about allocation of resources and why this is important to Red Cross. It's important because it allows us not to have to spend time on the domains that have the Red Cross designations in it and focus more on these types of domain names where fraud is also prevalent. And so I hope that at least these materials are helpful as you continue to consider whether or not protection for Red Cross/Red Crescent is important. If there's additional information that we could provide, please let us know.

And as I just mentioned, we are in the process of determining the scope of any trademark registrations besides Red Cross that we can rely upon as we talk about the RPMs in the new gTLD program. We - I'm concerned about the URS. You know, the requirements for filing a complaint require the complainant to assert trademark rights. And obviously, for some of our designations, without knowing more, I'm not sure that we could offer up a trademark registration or what type of trademark-related rights that we could support for a URS.

And that's why we are concerned with relying on the URS as the - as a way to quickly deal with fraud in the new gTLD program. Obviously, there's always the UDRP which is much more costly, and we know that that's there. But again, based upon rights, trademark rights, and as we explained, the rights of the movement are not based in trademark rights. So, that's one of the reasons why the existing RPM doesn't quite fit for the movement.

The second RPM that I'll mention is the trademark clearing house and obviously by its name is problematic for the organization. To the extent that we might have difficulty offering up the evidence needed to put our names into the clearing house, that is another concern of the movement for being able to participate in existing RPMs in order to protect the movement.

So, I think these two examples are what we were trying to explain to the ICANN community about why we're requesting this special permission above and beyond the fact that we have this unique tapestry of protection. Thanks.

Jeff Neuman: Thanks, Debbie. Does anybody have any questions? I think you both, Stephane and Debbie, did a good job in answering the question and certainly understand the concerns. So, let me just throw it out to the group. Chuck, anyone with any questions? Okay. Not hearing any questions, I think this is actually a good logical place to end the call since we're running up against the hour anyway.

So, Debbie, if you have - and Stephane, if you have updates to the documents, you know, feel free to send them at any point. In the meantime, we're going to seek some clarification with the GNSO Council as to our existing role, also try to get some clarification as to the rationale behind the motion and, you know, continue the discussion in two weeks. So, the next call is scheduled for two weeks from today unless stated otherwise.

Stephane Hankins: Jeff?

Jeff Neuman: Yes.

Stephane Hankins: Could I just ask a question? This is Stephane Hankins. I just wanted to - could you just clarify maybe just, you know, where the moratorium now stands? Because I understand that was the decision of the Board, at least in what you sent us originally, the applicant guidebook is not going to be modified. The moratorium, from my understanding, was foreseen for the first round only.

So, what is exactly happening now? When the first round finishes, what will - what is now the sequence of next steps expected?

Jeff Neuman: From our perspective? At this point, this group will set up to respond to the GAC request for protection of the Olympic and Red Cross names at the top and second level. That request is still out there. The GNSO is still - you know, has not - should say has not revoked its request to us to ask for guidance on how to respond to the GAC for these protections at the second level. So, you know, our next steps, as we said, going into Costa Rica and afterwards is to provide the GNSO with advice that the GNSO could take or not take. But in essence, you know, we're continuing on that path.

There is some question as to, you know, the GNSO could provide advice to the Board, the number of different ways that they could do that. You know, so we're just continuing down the same path that we've been going down until or unless the GNSO tells us otherwise.

Stephane Hankins: Thank you. When does the first round end?

Jeff Neuman: Well, that's a good question.

Debra Hughes: Stephane, this is Debbie, I'll follow up with you.

Stephane Hankins: Okay.

Jeff Neuman: Yes. Yes, we'll...

Debra Hughes: So that we can respect the time on the call.

Jeff Neuman: Yes.

Stephane Hankins: Yes.

Jeff Neuman: Great. Okay, thanks, Debbie. Anybody else have any questions? Okay, great. We'll talk to everyone in two weeks from today, and hopefully, we'll have some more guidance going forward. Thank you everyone.

Man: Thank you.

Man: Thanks, Jeff.

Woman: Thanks.

Jeff Neuman: Bye crew.

Man: Bye.

Woman: Bye-bye.

END