

**GNSO
Special Trademark Issues : URS
17 November 2009 at 16:30 UTC**

Note: The following is the output of transcribing from an audio recording of the Special Trademark Issues meeting on URS held on 17 November 2009 at 16:30 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-sti-urs-20091117.mp3>

On page:
<http://gns0.icann.org/calendar/index.html#nov>
(transcripts and recordings are found on the calendar page)

Participants on the Call:

David Maher - Chair
Jeff Neuman
Jeff Eckhaus - Registrar
Mark Partridge - IPC
Paul McGrady - IPC
Zahid Jamil- CBUC
Wendy Seltzer -NCSG
Robin Gross- NCSG
Kathy Kleiman - NCSG
Konstantinos Komaitis - NCSG
Alan Greenberg - At Large
Olivier Crépin-Leblond - At Large alternate
Maimouna Diop – GAC Observer

ICANN Staff:

Liz Gasster
Kurt Pritz
Margie Milam
Amy Stathos
Gisella Gruber-White

Apologies:

Jon Nevett- Registrar

Gisella Gruber-White: Thank you. David would you like a quick role call?

David Maher: Yes, please.

Gisella Gruber-White: Good morning, good afternoon, good evening to everyone. On today's STI URS Call we have Wendy Selzer, David Maher, Alan Greenberg, Mark Partridge, Zahid Jamil, Konstantinos Komaitis, Kathy Kleiman, Robin Gross, Maye Diop, who is unfortunately on mute because she's calling in from Egypt, so she will not be able to actively participate on the call because her line is creating a huge echo.

From staff we have Liz Gasster, Amy Stathos, Margie Milam and myself Gisella Gruber-White. And we have Jeff Neuman who will be joining us 15 minutes late. And if I could please remind everyone to state their names when speaking from transcript purposes. Thank you.

David Maher: This is David. We have posted the URS (Straw Man) proposal dated November 9. Although this is I think a later version, isn't it? Does anyone know?

Margie Milam: This is Margie. It's the version that John Nevett had sent out on the, I think the 11th.

David Maher: Okay, thanks. Unless anyone thinks otherwise, I think we should start, just go through this list. The first issue is whether or not the URS is mandatory for all new gTLDs. Where as ICANN has said it should be a best practice. Does anyone want to comment on this?

Do we have consensus about it being...

Kathy Kleiman: David this is Kathy.

David Maher: Yes.

Kathy Kleiman: I haven't gotten around to raising my hand officially. There we go. We're definitely moving in the direction of fairness and due process. And given that

that was the goal and assuming that goal is achieved, fairness, due process, appropriate appeals and CSG with mandatory.

David Maher: Okay, thank you. That's good progress. Elements of the complaint. The same as in the UDRP text. Again, any comments on that? Kathy?

Kathy Kleiman: Yes, I just sent out a notice. Sorry to send it out so late. Konstantinos although is on the call with us has the flu. We have taken to heart the STI's request to go and look at the elements of the UDRP and come up with something a little more defined for clear cut abuse. And we've taking that to heart but we couldn't get that out to you today. We'll have that out within 24 hours.

David Maher: Okay, thanks. (Anyone) else, in that case...

Alan Greenberg: Yes David, its Alan one comment.

David Maher: Go ahead.

Alan Greenberg: In listening to the call, the MP3 of the call for last week where I wasn't on, it strikes me that one of the things that I think Kathy was asking for is some examples of what is deemed to be clear cut.

Kathy Kleiman: Yes.

Alan Greenberg: And some how the conversation last week got derailed, but I think I mean the one that has been mentioned is a clear use of what seems to be a trademark pointing to a (monitorization) page. But is there are other examples that the BC or the IPC can come up with just as examples of what they think are clear cut cases, it may be easier to put words around it to describe them.

David Maher: Okay. Kathy do you have your hand up?

Kathy Kleiman: I'm sorry, I forgot to lower it. But I think Alan makes a good point and having more specific examples would be great.

David Maher: Okay. Moving along. The format of the complaint is...

Margie Milam: David, its Margie. Can you repeat that? Sorry we were trying to take notes and (point).

David Maher: You want Alan to repeat?

Margie Milam: Yes, whatever the last point was, so I can make sure I've got it covered in the notes.

Alan Greenberg: The point was in trying to get words to describe what a clear and obvious complaint is like to try to put words around it. A number of examples might be useful. We've had one which is a clear use of a trademark pointing to a (monitorzation) page.

If there are other ones that the BC and IPC can use as examples, not to restrict it but to use as examples, it might be helpful for the rest of us trying to put words around to describe what these, you know capture what this really is.

There are cases which are apparently are obvious, but I haven't seen a lot of actual examples and that just might help someone trying to describe them.

David Maher: Okay.

Margie Milam: Okay, thank you.

David Maher: Okay, then the next heading is the format of the complaint, simple and as (formulaic) as possible with limits on length of complaint and answer. Any comments on that?

Alan Greenberg: It's Alan. My only caveat on that was yes but it shouldn't so short as to not allow someone to give a moderate explanation. I'm not talking about pages but, you know a few lines in any case. Not just pick boxes and room for four words.

David Maher: Okay.

Alan Greenberg: Do we want to describe the staff comments at the same time as we're going through this?

Kathy Kleiman: Good idea.

Amy Stathos: This is (Amy). David if I may?

David Maher: Yes, go ahead.

Amy Stathos:v Yes. What Alan just said is similar to what staff had indicated. That it shouldn't be a check box. That there should be some part, a limited ability to put indications of your evidence etcetera in there without it being a check box. And it should be some kind of a balance there.

David Maher: Okay. I see two hands up. Kathy and Alan. Kathy you have a comment?

Kathy Kleiman: I'm sorry I forgot to take it down. I will go back and do that.

David Maher: Alan?

Alan Greenberg: Okay. If we are now adding in our comments on the staff one, I in fact answered no. That the staff says it is not a check box. And I would say it is not solely a check box. Think check boxes are good ways of identifying a number of the answers and the IRT in fact had check boxes and I believed

places to add some description after that. So I think the combination may be the appropriate one.

David Maher: Okay. I think we can move along then to the (unintelligible). The standard for evaluation, no genuine issue of material fact similar to Rule 56 of the US Federal Rules of Civil Procedure and we seem to have a consensus I believe that notices by email, fax and hard copy. Any comments on this?

Okay. So move along then. Notice of content or the contents rather of the notice. It should be clear to the registrant staff to evaluate options, the implement including language issues in an efficient manner without requiring changes to Whols, let's see the next - on passing initial examination an initial, well no that's a different topic, I'm sorry.

So that the clarity of notice, I think that's pretty clear. Alan, go ahead.

Alan Greenberg: Yes. I understand the desire not to change Whols, but at the same time I'm trying to understand how one could implement this without a change somewhere. If essentially we're saying that within some reasonable list of languages we should be able to send the notice in the language of the registrants choice, if its not in Whols and if I remember the correct use of the Whols, it needs to be somewhere in a registrar database which would have to be somehow queryable. Otherwise how do we know what language the registrant wants to use?

So I'm not looking to make this more complex, but we do have a problem that I don't think that's recorded anywhere at this point.

David Maher: I think your right. (Wendy) do you want to talk about that?

(Wendy Selzer): I'm sorry. I was just trying to call the attention of the person Whols taking the notes in the bottom frame. That as I noted in the Chat window. I just want to

make sure the standard for evaluation consensus got into the summarized notes.

Liz Gasster: This is Liz, I'm taking the notes. That wasn't actually discussed (this time). Is that right, there is consensus on the...

(Wendy Selzer): It was discussed in with mode of notice, nobody objected to either of those.

David Maher: I think we have a consensus there.

Alan Greenberg: I thought I saw some comments on that somewhere, maybe from Jeff Neuman. He's not on the call yet.

Jeff Neuman: Yes, I'm on.

Alan Greenberg: Okay.

Jeff Neuman: What was the comment on what?

David Maher: The question of the standards for evaluation, no genuine issue of material fact similar to Rule 56.

Jeff Neuman: Yes, and then (Wendy) had responded to that. And (Wendy) talked about an issue of, no issue of, no contestable issue and then my comment on top of that was just to make sure it's not just an allegation that there's a contestable issue but there's some credible evidence to support the contestable issue.

(Wendy Selzer): (Wendy) here. And that's my understanding of the summary judgment standard, that it's not simply to make an allegation but to point to some evidence of the fact that back your allegation. And with that it should get bumped over to a fuller proceedings in the UDRP.

Amy Stathos: This is (Amy). May I get in the queue David?

David Maher: Sure, go ahead.

Amy Stathos: So one question on that. You know obviously speaking from a United States vision here, if you have evidence can be a declaration signed under penalty of perjury. Is that what you guys are envisioning? Jeff, (Wendy)?

Because a declaration is evidence. It's a statement but it's under the penalty of perjury.

(Wendy Selzer): (Wendy) here. That would serve my purposes.

Jeff Neuman: Yes, I'm a little - I'm not as convinced as (Wendy) is on that one. I think I'm not sure if a statement, I don't know what penalty of perjury means to people in other jurisdictions around the world and I don't know how enforceable that is. So would think that it would have to be something external that they would have to point to, something other than the statement by the registrant that there's got to be some kind of credible other evidence in my opinion just because I don't know how you judge penalty of perjury in other countries.

Amy Stathos: Yes, Jeff too, that was the question as well because I don't know what enforceability it would have as well here in this circumstance.

David Maher: Okay. Mark.

Mark Partridge: I was going to say that on this point about how much evidence is needed. The standard in the US says it needs to be more than a scintilla. I want to throw that word in. But it also has to be genuine in material and in the US on a summery judgment it could be a declaration but the declaration has to be (probative). So it can't be solely (conclusory).

The finder of fact makes a judgment about the (probative) value of the declaration. And I would suggest that, that same standard would be appropriate here.

David Maher: Kathy.

Kathy Kleiman: I agree that going a little further than just the statement and the perjury is important. And using the Federal Rules as a guideline I think we're doing exactly what the IRT urges us to do which is to go beyond, to make the standard higher. So I support the new genuine issue of material fact based on the presentation of evidence by the complainant.

David Maher: Okay. Any other comments on that?

Liz Gasster: David this is Liz. Do we have consensus on that standard?

David Maher: Well I think we do. I think there's going to be some (dually) perhaps in expressing it but I don't sense that there's any real disagreement on this. Zahid?

Zahid Jamil: Thank you. Let me know if there's any trouble hearing me because I'm using Skype phone from Egypt. What Mark just suggested is good language and although this is the US law and on (precedence) that make US law etcetera maybe it's necessary to also give explanation (or put in) language if there are just because (of the different providers) of (panel) lists, they would stick to those concepts. If we could put this language (unintelligible) in the draft.

David Maher: Okay. Any other comments? So I think we can go back to the notice content. Alan raised a very interesting question of how you do a notice when you don't know the language spoken by the registrant without some new procedure in the registration process I really see some difficulty there. Kathy go ahead.

Kathy Kleiman: Yes. I want to respond to that because I think ALAC has been and Alan and (Olivia) have been great in pursuing the issue of language and that's going to be critical. One thing that may give us a sense of the registrant's choice of language is what script that they've registered their domain name with.

Once we start dealing with the IDM and gTLD in various scripts that's going to give us a real good indication. So if they've registered in ASCII perhaps by default we can go with English. But if they've registered in French or if they registered in Chinese then I think we have the registrant's choice.

And let me suggest that I'm not sure the translation, I'm looking at staff comments and I understand (do I give time and expense). But if we're talking about a notice and so to do the translation, I mean the vast majority of the notice is going to be exactly the same, a URS complaint has been filed against you and really what your doing is inserting the domain name and the dates.

So if we pre translate it, it doesn't seem to me that there's that much expense in pre translating a set of notices into Chinese and Spanish and a number of ten basic languages for example. And that will be what goes out based on the registrant's choice of language.

David Maher: Of course we have the problem of Arabic script, it could be Farsi, it could be Arabic, it could be Urdu. Anyway, Margie?

Margie Milam: Yes I wanted to comment because John wasn't able to be on the call and I think his point here was he really didn't want to have something that changed Whols and other words that you didn't have add an additional field or do some sort of change like (staff). Perhaps there's a way to look at it if they're using an English language registrar for example, you know then it probably appropriate to have it be English.

I mean in other words it could be an implementation detail to figure out how to identify the appropriate language in a way other than tagging it through Whols and requiring some sort of Whols changes.

David Maher: Alan.

Alan Greenberg: Living in a place where French and English is spoken but not everyone, (Roman) characters does not define the language. I can give more graphic examples but leave it at that. You cannot assume that if you use Roman characters, English is an acceptable language for this. That's number one.

Number two, I haven't thought about it at all but maybe there's an opportunity to add some characters to some existing Whols field to indicate the language that is not explicitly a language field, but if all registrars and the registry supports that character string at the end or at the beginning of some field, it might be sufficient like that.

I don't think we can get away without doing something.

David Maher: Mark.

Mark Partridge: I wonder at this point if a simple approach is to have it be in the language of the application.

Alan Greenberg: We still have to record that somewhere.

Jeff Neuman: Yes, this is Jeff. Sorry, I don't understand how to implement the language of the application? I mean you have to understand that when the registrars submit data to registries there's no, the registry doesn't know what language that's in, it just looks to see whether the characters are acceptable in the domain name string. There's no recognition of language, it's merely data that's populating our databases. So it's not something the registry could do.

That said, its EPP which means we can add extra fields which means that there could be a blank form or something that a registrar could fill in or registrant could fill in that can be communicated from a registrar to the registry that indicates the language. Meaning one of the benefits of EPP as an extensible, meaning you can increase the number of fields with relative ease.

But there is no recognition that could recognize or any kind of software at the registry level that could recognize what language that the application is in. It's not a concept the registry understands.

David Maher: Okay. Margie.

Margie Milam: Yes, I had a suggestion. Just to see if this possibly a simpler way to look at it. As part of your evidence your attaching copies of Websites and that's in English language or some other language is that an inappropriate mechanism to use for the language? Because obviously if it's in a foreign language, Arabic or whatever, your going to have to translate it any event to be able to your complaint.

On the other hand if it's English, the operators of that Website obviously it's comfortable with English.

David Maher: Okay. Alan.

Alan Greenberg: I think this an implementation issue. If we all agree that it is mandatory that language be a major focus of this, a way needs to be found. I don't think we need to engineer it here.

David Maher: Yes. I don't think we can.

Alan Greenberg: But I would like to not see no changes to Whols in our (Strong Man) because it may well imply as Jeff said, a change to Whols, a new field. It may imply a

formatting of an existing Whols field. And as Jeff points out, its not the registry that can do this, it has to be at the registration time with the registrar. But I don't think we need to engineer it as long as we have unanimous consensus that it is something that is mandatory if we're trying to work and build a world wide system.

David Maher: (Amy).

Amy Stathos: Yes, thanks David. Yes I completely agree with what Alan said and just for pieces of information the with respect to the language for example as the UDRP indicates that it is language that's the same as the registration agreement unless otherwise agreed or unless the panelist determines otherwise.

David Maher: Okay and (Wendy).

(Wendy Selzer): I agree with Alan that this sounds like implementation if we can agree that its critical that the registrants get notice in a language that they can understand and then try to figure out down the line how that will work.

David Maher: Okay. Since we're ready to move along then the next question is the effect of funneling the complaint. The (Strong Man) upon passing the initial examination there's an initial freeze, no transfers allowed, no Whols changes. But the domain name will still resolve.

And other features would function such as email. Any comments on that?

Alan Greenberg: It's Alan. I have a comment, it's not quite on that. But in the IRT there's a comment that the Website is not allowed to be changed which I don't think is something that we can technically enforce. So should we choose to end up padding the words anymore, we should make sure that whatever we put is something that's enforceable.

David Maher: Okay. I don't see any other hands up, so let's move along. Kathy.

Kathy Kleiman: Just that this write up makes sense as I understood the consensus of the group.

David Maher: Yes.

Kathy Kleiman: I think that makes sense, its frozen, it can't go anyplace else, that the domain name is frozen but its still in use from a registered point of view that's critical. That nothing be taken down until there's an evaluation.

David Maher: Yes. Okay, then the time to answer the (Strong Man) provides for 20 days with no fee required for the answer as opposed to the initial staff. Mark go ahead.

Mark Partridge: From the ICP's point of view we're concerned about this additional time. I think Alan had a suggestion that might be a compromise that would work or building on a suggestion. And that might be that you have up to 20 days to answer. If you don't answer within 14 days the site is replaced with a notice and then that a claim has been filed against you and you have time to answer it and if you do answer, the site goes back up.

That I think could be a compromise that could meet the concerns about trying to get something that deals very quickly with the problems where nobody is even going to bother to answer.

David Maher: Okay. Any other comment on that?

Robin Gross: This is Robin.

David Maher: Go ahead.

Robin Gross: (Unintelligible) too? Yes the NCSG would have a big problem with the idea that a way of obtaining knowledge that you've got a complaint against you is by having the Website removed all together. Its, I mean that's sort of the harm that we're trying to prevent against in the first place is having Websites removed that don't belong - that should actually be removed.

And so just, you know to remove the Website and say well, now you know you got a problem you better deal with it seems to me to be causing the problem and not addressing legitimate harm.

David Maher: Okay. Konstantinos?

Konstantinos Komaitis: Okay. I just think that we are still talking about these people that are not going to respond at all. And to me this sounds like, you know the presumption of guilt that we apply (discriminately). And this is something I feel in CSG. As the registrant will not leave somewhere off the beating path, they're not online all of the time, cannot really come to grips with.

Fourteen days, I understand the necessity for the 14 days but at the same time we need to give as much time as possible in the mechanism (parts to promote speed) for the registrant to respond. So I don't see that six days is that much of a different to be honest with you.

David Maher: Kathy.

Kathy Kleiman: Thank you. You've heard from the other member of NCSGL the second what they said and also that when we get to the appeals later on, I thought ICANN staff had some really interesting and insightful comments on this, on revisiting the fault. So but I think sticking with 20 days is a minimum of where we need to be and then speeding up the review, speeding up other things so this becomes a really rapid review process.

David Maher: Okay. Alan.

Alan Greenberg: Yes, I can certainly live with that. I was just trying to provide additional options. I will say on rereading the IRT report, I found what looked like a conflict and I'm not sure if it's just poor wording in that if you read all the way to the end it says that the Website is taken down and replaced by a pointer to another page after a finding against or for the complainant. But it also talks about in the default answer that if a registrant finds his domain has been taken down, they may file default answer which implied that it was taken down at the 14 days.

I'm not quite sure what the IRT implied or intended there, but some clarification offline might be useful.

David Maher: Mark.

Mark Partridge: I'll just real quickly clarify that. The intent of that clause in the IRT report was to recognize that a default case might go to decision and result in the site being taken down. But the only way in the IRT report that a site was taken down was after a decision.

Alan Greenberg: Okay, thank you.

David Maher: Okay. There are no other - (Wendy) did you have a comment?

(Wendy Selzer): Just a quick question before we get too deep into the weed of this removing a Website and I know it's mostly an implementation question. But I don't understand how it is (implementable) given that there's no special marking in the DNS for Website, there's no equivalent to (DMX) record. So how do you disable a Website without disabling the other functions that a registrant may have used a domain name for?

David Maher: Jeff or anyone from the IRT that could speak to that?

Jeff Neuman: Yes I think the IRT, that was a problem in the IRT report. Its not one that we, some of us didn't notice it until after the report was out. It should have said that, (Wendy) is right, that if you disabled - if you take the name servers out or you point it to other name servers you will not be able to use this Website or email or any functionality. So there is no way to do one without the other.

Is that the question or did you want me to answer another question?

David Maher: The notice that would go up then would be one of a standard...

Jeff Neuman: Well all the registry would do, would be to point to a new server. What we envisioned was that the name servers will be operated by the URS provider so we would point to the URS provider who would then put up a page with whatever standard notice you all think is appropriate with a strict prohibition on the US provider doing anything else with the traffic other then posting that site.

Otherwise you couldn't use the information against the traffic for any other purpose other then for putting up the notice.

David Maher: Okay. So it would be up to the URS provider to do that. (Wendy)?

Jeff Neuman: Well that would be a condition of them being the URS provider. It would have to be conditioned agree to by the US provider presumably the ICANN agreeing that it would only do certain things once the name servers were pointed to it.

David Maher: Okay. (Wendy)?

(Wendy Selzer): I just want to point out that I think this raises additional issues like the ones that (ESAC) has noted with wild card redirection. That redirecting a domain name, redirect all of its traffic gives the potential for interception or bouncing or of email and interference with all sorts of systems that may not have

nothing to do with the visible contents of a Web page. So I would urge us to back away from this part of the proposal.

David Maher: Alan.

Alan Greenberg: I guess I take the opposite point of view that one can imagine a URS filed not because of a Website but because of the use of a domain for fishing or something like that. And I would think its imperative to disable. The details to be worked out how, whether it's bouncing or whatever, but to disable email and other functionality as well.

We're taking the domain name down which implies all of its functions.

David Maher: Yes, that's my understanding also. Jeff.

Jeff Neuman: Yes, two things. Yes, when you repoint the name servers you are taking down the ability of the registrant to use email or any other function. Second thing to (Wendy), (Wendy) this type of (NS) redirection is completely different then a wild card redirection and does not raise any of the concerns expressed by the (ESAC) in any of its findings. So we can go from a technical, we can have that technical discussion but all those concerns expressed by the (ESAC) actually do not apply here at all because these are actually registered names.

And frankly redirection happens all of the time in the real world on a number of different levels. (unintelligible) you see it all of the time for fishing and farming, we want to cooperate with law enforcement or we want to collect data on an infected site, we often redirect to collect those statistics for actual beneficial purposes.

That does not mean we should have the ability to collect that information and use it in some sort of commercial manner like you would in unregistered

name. But let's just be careful on what we say about the (ESAC) study because it actually had nothing to do with this type of redirection.

(Wendy Selzer): All right I'm happy to take this conversation offline. I don't think, we're so far apart but I think there are some concerns beyond what we've identified.

David Maher: Okay. I think we can move along then. The next topic is the commencement of the evaluation. The (Strong Man) proposal evaluation commences immediately upon the expiration of 20 days and to be completed on an expedited basis. Examination, that's it. Immediately upon expiration of 20 days. Jeff did you want to speak to that?

Jeff Neuman: No sorry, I forgot to take my hand down, sorry.

David Maher: Okay. Mark.

Mark Partridge: I just wanted to comment that I think this very short window for the panelist to decide is actually a workable approach. We've got a couple of models for it, one actually is an ICANN model itself which some people on the call may have been on the nominating committee before, I'm new to it.

But there's a tool that the nominating committee uses where the information is posted on a site online and when it's ready the members of the committee can look at it that day and indicate and do a rating. Similarly the American Arbitration Association where I'm a member has an online facility where this stuff gets posted and the arbitrator or the mediator would get a notice that it's available online and you can look at it that day and presumably make a decision that day. So I think this is a practical solution to getting a quick decision.

David Maher: Okay, thank you. I think we can move along then to the number of panelists and the (Strong Man) proposal, examination to be done by one panelist with a legal background, not on expedited basis. Margie?

Margie Milam: Yes, I just have a question on a prior point. So where did we end up on that point? The expiration of the 20 days and the commencement of evaluation (unintelligible) expedited basis? I just want to make sure we've got the notes.

David Maher: Yes I think we got a consensus that the (Strong Man) proposal is workable.

Liz Gasster: And I just noticed that, its Liz, that it sounded like the staff had a concern that the (three day) might make things difficult. And then if (Kurt) is on...

Kurt Pritz This is (Kurt Saw). And after whenever David says I can get in.

David Maher: Go ahead (Kurt).

Kurt Pritz Were you done Liz?

Liz Gasster: Yes, I mean otherwise I captured it as support or I can put consensus for a short turn around and quick decision. But before I did that I wanted to give you a chance to...

Kurt Pritz So we don't disagree with Mark that it's workable. We think that (unintelligible) think that, you know the finding the panel provider will be balancing a, you know in order to ensure quality will be balancing several issues and so a deviation form three days might be a more highly valued task if there are other considerations involved. So the staff covenant is just that we'll pursue the three days resolve to (vigor) and, you know in a transparent way do some balancing to determine whoever the provider is in the end of things.

David Maher: Okay. Mark.

Mark Partridge: Yes. On this particular clause from the IP's point of view, IPC's point of view the trying to get a decision down within three days, we think its practical and we support that idea. We continue to be concerned about the 20 days.

David Maher: Okay. Alan.

Alan Greenberg: Yes I was just going to say that if in deed three days is impractical because it takes a day and a half to simply nail down who the evaluator is, who the examiner is. Then I would presume there is not going to be much discussion if it has to be four days instead of three. We're talking about a short measurable number of days and not two weeks or something like that.

David Maher: Kathy.

Kathy Kleiman: Yes I just wanted to say that compared to where the UDRP with the evaluations of what 25 days sometime, this is going to be rapidly reviewed. But the closer to three business days the better. But just also thinking of December, August and language, there may be times that it may be four.

David Maher: Okay. That brings us back to the number of panelists. One panelist with legal background on an expedited basis. Any comment on that? Kathy?

Kathy Kleiman: Not a comment on the number, a comment on the name. And its something I circulated in email I think earlier today which is I'd like to suggest we change the name from panelist and panel to examiner. The reason why is I think we're going to wind up kind of talking about URS and UDRP and to change the name called an examiner, in fact that's the function, this is a fast examination.

To call them the examiner will let us know immediately what proceeding we're in. So I just wanted to request a global change if everyone agrees or a definite purpose to examiner.

Man: Wasn't that term used in the IRT?

Kathy Kleiman: All the better if it was.

Man: I think that, yes I'm pretty sure it was.

David Maher: I don't see any objection to that. It seems to me like a good idea. Okay. Then let's move along to the assignment question. This is the one where Kathy and Mark did some work offline and I read it very quickly. It seems they were pretty close to consensus on that. Kathy do you want to explain it?

Kathy Kleiman: Actually can I recommend Mark explain it?

David Maher: All right, Mark.

Mark Partridge: Okay, sure. The idea was to create a process that would randomize panelists or examiners, excuse me, within a provider. And the purpose to leaving it within a provider is to encourage efficiency and competition between providers, give the examiners the freedom to choose which providers they would work with.

Some providers may not be efficient and may not pay or whatever and people shouldn't be required but the examiners themselves would be accredited primarily based on experience and training. Perhaps there would be a training program set up for people to complete for this, this is a similar kind of thing to the kind of accreditation that other ADR services do.

And that an accredited panelist, excuse me, examiner could but would not be required to serve on any or all of the panels. And so the random assignment of accredited panelists is the mechanism to avoid, well to achieve the fairness goal that Kathy has been speaking about.

David Maher: Okay. Alan.

Alan Greenberg: Yes, I have a couple of questions and some problems with what is proposed. First of all for background I'd like to know how it is different then what is done within the UDRP? But specifically there's a statement made saying that an examiner does not need to be, have to work for all providers because they may not pay.

But I would think conversely a provider may choose not to work with a given examiner because they have a track record of not delivering on time or track record of reversals or something like that. And the other issue is I don't like the word random because a random process is a mathematically defined one and is probably not applicable.

You have to pick from people based on their availability, based on work load. Remember if these are all five minute judgments you may have in fact have ten at any given time on your docket. And I think we need to make sure that we're assigning them in a practical way so we really do get the answers out. So I'd like to see quasi random or something with some specifications of what we really mean by it.

David Maher: Okay. Konstantinos.

Konstantinos Komaitis: Yes, Alan. The way that (UGSC) works is the complainant always initiated the complaint before one of the (centers) and (unintelligible) panelists. That of course was (led) and that is the biggest concern (in OLF) behind (phone shopping) and how providers and panelists are assigned to decide the cases and to how bias or unbiased they are for that (standard). Randomization will ensure that this problem is eliminated to its possible extent.

The fact that complainant will not have any say as to who is going to decide the case is very important since we ensure the independence of the (adjudicator) to (its) certain possible extent.

Alan Greenberg: I'm not arguing with that particular part. I was questioning should a provider be required to work with all examiners who choose to regardless of their track record or anything else?

David Maher: Mark.

Mark Partridge: I just wanted to point a correction to Konstantinos maybe went over a point real quickly that's not exactly right. That is in the UDRP when a complainant files a complaint and asks for a single provider they pick the provider but they do not pick the panelist.

The only time a party gets to pick a panelist is if they request a three panel decision and in that case both the complainant and the respondent get to pick the panelists and the third one is appointed by the provider.

Konstantinos Komaitis: Yes this Konstantinos. I am sorry Mark you are absolutely correct. The point I was trying to make I guess was that once a complainant chooses the provider there is a (unintelligible) that basically the provider will go forth. So the panelist is in favor of the (unintelligible). So I guess (mark) you are correct, I apologize for that.

David Maher: Okay. And Kathy.

Kathy Kleiman: Alan, it sounds like in general your agreeing with the approach that we're trying to present and outcome oriented that a forum shopping, shopping just to get the outcome that you want. If it helps you to have the word rotation instead of random that would be fine. There is a mathematical sense of the word randomize that cant actually produce the same person at the top all of the time but can produce the same answer depending on the (algorithm). I don't think that's what we're going for.

The idea is to rotate through all of the panelists.

Alan Greenberg: (At large) certainly supports the concept of attempting to minimize or eliminate forum shopping. I was just worried about the wording used. Well first of all I was worried that a provider should have an ability to reject an examiner based on cause. And second of all, the use of random I thought was inappropriate. If you look at random numbers occasionally you'll find 17 sevens in a row and you may find a long string where there is never a zero. Random works in funny ways.

David Maher: I think we can move along.

Alan Greenberg: Yes.

David Maher: We don't want to beat this one to death. So Mark.

Mark Partridge: That's fine. We can move on.

David Maher: Okay. The next issue is the evaluation on the merits. Unless we've drawn by the complainants that the panelists will evaluate the claim on the merits in every case regardless if the registrant defaults or answers. The examiner will evaluate the claim on the merits. Is there any discussion of that? I do think we have agreement or a consensus. Good.

Moving along then to the remedy if successful on the merits. The domain names suspended for the balance of the registration period and does not resolved to the original Website. Who reflects the domain name is on hold and cannot be transferred and as another question, option for the complainant to pay to extend the registration period for additional year at the commercial rate. Comment on that? No? Jeff.

Jeff Neuman: Yes just a question or clarification on the wording. The Whols will reflect the domain name is on hold but the Whols will not reflect that it can't be transferred. It's a true statement that if it's on hold it can't be transferred but

I'm just saying that the wording there, the Whols is not going to reflect that it can't be transferred.

David Maher: Okay, thank you. Zahid.

Zahid Jamil: Thank you. Yes, my question is what happens after the year? I mean does it go back into the pool and then can be snapped up again? And just a general question. Are we solving a problem here? Just wondered if (unintelligible) discussion back and get some responses.

David Maher: Okay. Jeffery Eckhaus.

Jeffery Eckhaus: Yes, I think my response to that is it's up to the person who has the name. If they want to renew the name again for another year then it's their prerogative. If they want to let it drop then that's up to them. I don't think there's anything any discussion, I don't think anybody would want to say, okay this name is being taken out of circulation , so they would become the registrant so they would get to choose at that time.

I guess is the thought, I don't know if that's where we've been going but I thought that was the thought of it.

David Maher: Okay. Mark.

Mark Partridge: I was going to say that the option to extend it for another year at least another year, is useful from the point of view that that gives the successful complainant an opportunity to pursue the name in court or pursue the name through a UDRP. It also gives the registrant an opportunity to appeal as well without the name falling into somebody else's hands during that period. So it's a good addition to the proposal.

David Maher: Okay. Kathy.

Kathy Kleiman: Just a question. If, I just wanted to double check, that if a name is registered for a period of ten years and this occurs, the URS occurs within the first few months, does that mean that the name is completely in accessible for the balance of the ten years?

Man: Yes.

Man: Yes.

David Maher: Okay. Margie.

Margie Milam: Yes I have a clarification on what Jeff said. I didn't think that the Whois record was going to change to reflect the complainant's name after successful complaint. But maybe I misunderstood the proposal. I thought we were trying to separate this procedure from the UDRP so there wouldn't be a transfer of the domain name.

Jeff Neuman: No I think my comment was only the Whois will reflect the name is on hold, that's it. There's no change of ownership. There's no name change. All I said was that the Whois, that the domain is on hold.

David Maher: Okay. Zahid.

Zahid Jamil: Thank you. So basically it's on a successful (unintelligible) complainant. (unintelligible) and after that on year (unintelligible) but is there any other way I can purchase that domain name or do I have to go to the UDRP court of I want to get that domain name and purchase it. Is there no way for me to purchase it through an auction or some other mechanism?

David Maher: Jeff Eckhaus.

Jeff Eckhaus: Yes, actually I want to just keep going on that thread is, so this is I guess we just need to flesh this out, is if the complainant decides, if he renews it for that

additional year then what is the status of the Whols, I mean of the ownership and the Whols during that one year, you know during that time of additional year? Is it, I don't know, I don't think we've discuss that on our point on what happens to that and is the registrar - is the hole lifted at that point? It's just be up to discuss. I guess the status of the domain in the additional year.

David Maher: Jeff Neuman.

Jeff Neuman: Yes, I mean there's a bunch of implementation issues we need to discuss but technically if the name is on hold, then it can't be renewed. So there's no mechanism to actually allow it to be renewed. You'd have to lift the whole status, everything would have to be done manually. I'm not sure how it's done.

It's completely different then a UDRP because the UDRP there's no hold that's put on the name, there's just a couple of statuses that are changed, but there's no hold. And so these are statuses that don't currently exist in the registry. I am not in favor, I'll say it right now, of having the ability to have the complainant extend their registration of a registrant for any period of time in the fact that I don't know how that's authenticated.

I don't know how that's done. It's certainly a manual process, that's not something that can be automated and (logged). It sounds like a good, from a policy perspective, I think that that's going to result in some pretty major changes to the system. From my standpoint, I just rather have the name transferred immediately. From a registry standpoint it's much easier for us to do. And I think we're creating a, we're trying to create a policy solutions that's got a very difficult technological implementation.

The other thing I would make a point of is that I would like to make sure that once the name is released that registrars would not be allowed to take those names and auction them off in a back office, that they would not be allowed to take those names under their own wing and not be allowed to write

contracts with their registrants - that if they were to lose a name in the URS that they would have the right to auction that off. I think that's pretty important and we need to make that a definitive point.

David Maher: Okay. Alan.

Alan Greenberg: I think what Jeff just said in his last point is that if a domain that has lost a URS expires it must be deleted as opposed to some other process. I don't have very strong feelings on whether it should be transferred immediately or we should tell the registries to write a whole pile of code to support what we're talking about right now.

But I think it's important that we address the issue of a URS filed right near the end of a domain's life, you know one could imagine it expires even during the process of the 14 days to 20 days notice, three days examination. And I think we definitely have to handle that case whether we need to handle a full, you know adding a year when there's already nine months left is a different issue. But we can't ignore the tail end case.

David Maher: (Wendy).

(Wendy Selzer): I wanted to raise the converse problem of we don't want to make this into a cheap way for one among many trademark claimants to get a relative, really generic word that has been registered as a trademark (by several) so that the first one who files a URS gets it and then gets to register the name without going through whatever process the registry and registrants would otherwise have chosen to allocate what might be a valuable generic word.

David Maher: Okay, thank you.

(Wendy Selzer): So that would be argument against the allowing someone to register after the URS has been implemented.

David Maher: Zahid.

Zahid Jamil: Yes I'm very (unintelligible) a successful registrant, you know should get a shot at (unintelligible) securing that somebody said you should at least (get transfer). I'm (unintelligible) what I don't understand is how are we fixing the problem of the domain names going back into the pool? All it seems to me is that in the (unintelligible) framework for doing this every one year, every two years again and again and again.

And I think the point there is (some users) could have several trademark holders who may have rights. But the (unintelligible) this could be a name which basically is associated with one trademark owner that they just have to keep doing this again and again. So how do we fix that problem?

David Maher: Jeffery Eckhaus.

Jeffery Eckhaus: Yes, I just wanted to comment on what Jeff Neuman said was that there is a hold now and it's something that the registrars do and it is manual. If the complainant, this is in the UDRP, wants to renew the name and it is a manual process. We have to lift off the hold, renew the domain and put it back on hold all within a very short period of time. But it is done right now and unfortunately it is done manually at the registrar level.

David Maher: Okay, thank you. Mark.

Mark Partridge: Jeff has already made the point that I was going to make.

David Maher: Jeff.

Jeff Eckhaus: Yes but I think in this case, Jeff Eckhaus, this is being done at the registry level. The registry hold is different then a registrar hold. I think there's different implications of it and what the URS is that a registry hold needs to be put on the names not a registrar hold.

The registry will make sure that it's taken out of the DNS and do all those things. But hey if we're happy making the registrar primarily responsible for all URS, then I'd be happy to withdraw my comment.

But I think we're talking about at the registry level. The registry has a hold now there's no way for a registrar to come in and renew the name to do anything with the name. So we'd have to figure out some kind of implementation on how that would actually be done. And I'm not sure how that would be done if it was a third party like a complainant that was able to renew the name.

David Maher: Kathy.

Kathy Kleiman: Question about procedures for expiration. Aren't there tools now when you now that the domain is expiring and it looks like its going to be dropped where potential registrants can sign up and say I want to pick that name up when it goes down? Are those tools good? Do they generally work?

David Maher: Well they're offered again by a registrar's or domain as an option. Jeff Eckhaus.

Jeff Eckhaus: Yes, Kathy I'll respond t that. Its works as long as, you know if you put your name in, if you put let's call it the name you want in and you need to put it in with all the different registrars that would go to auction, that we're going after that name once it drops or you could try to do it manually if its not a name that other interest would be in. But there's no centralized place that you say that I'm putting it here and that its going to be picked up by that entity. It could be many entities that picks up the name when it drops into the available pool.

Man: If it drops into the available pool.

Jeff Eckhaus: Oh no unless the prior registrant comes in and gets it via RGP then its going to drop into the pool once it goes into the five day pending delete period there's no getting it back, its going to drop into the available pool.

David Maher: Zahid.

Zahid Jamil: Sorry, here I'm thinking of a way (to get this). If I'm a respondent and I lost the UDRP, I just don't appear, I don't do anything. The Website goes down and if this is a valuable enough domain name and somebody (follows the ERP) (unintelligible) the (ERP). I suddenly find my (unintelligible) answer. So basically I'm getting a second (right). (unintelligible) case being argued again. I hope I made myself clear in what I'm trying to say.

David Maher: Okay. If there's nothing else on that we can move along to the effective filing answer after default. If a respondent fails to filing an answer within 20 days and the examiner rules in favor of the complainant the respondent can seek a (novel) review by filing an answer at any time if filed within 30 days of default there's no fee. If after 30 days there's a reasonable answer fee. In either case filing an answer causes the domain name to resolve. The Website will remain up. Any comments on this? Alan.

Alan Greenberg: Yes jut a clarification of if you said, if the default answer is filed after the review, then essentially the process starts over again factoring the review with a new examination. I assume if the answer comes in part way through somehow it restarts or it gets factored in depending exactly when it comes in.

We just have to address that gap is all I am saying.

David Maher: Okay.

Alan Greenberg: That is the period of time from the default until a decision is rendered.

David Maher: Right. Okay. No other hands raised on that. So let's move on...

Liz Gasster: Sorry I got a comment, sorry, that I should capture. It's Liz. And is there consensus then on this and also on, should I assume that there's not consensus on the proceeding discussion?

David Maher: I don't think we had a consensus on the proceeding discussion. But I think there is consensus here. There maybe some details to work out but I don't see an issue it's simply a question of clarity (in the way it's expressed).

I think we can move along then to the appeal question. After a decision in a contested case either party has a right to seek a (noble) appeal for reasonable fee, to cover the cost of the appeal. In all cases either party has the right to a (noble) review as it merits in the UDRP or report. Any discussion on this?

Kathy Kleiman: Kathy.

David Maher: Go ahead.

Kathy Kleiman: How would the registrants seek a (novel) appeal in the UDRP?

David Maher: Well I think that if the registrant could go to court but your right, there is no registrant process in the UDRP. From what I understand.

Man: Can someone explain why we're using the term UDRP here?

David Maher: The question here is what do you do when you've lost the case and whether you're the registrant or the complainant. If you lost, say if you're the complainant, do you think that you use the URS because it was cheap and fast but you've lost. So one of the things you then do is go to the UDRP. Or if you're a nation that recognizes the right let's say in the United States you can go to court and use the ACPA. Does that explain it?

Man: I don't think that's what the wording says, but I understand that a complainant who loses can go to a UDRP. I echo Kathy's question that I thought this was addressing how either party can appeal and with reference to the next box which is a three member panel.

David Maher: Well the language should be clarified but I think that the concept is fair enough. Margie.

Margie Milam: Yes I just wanted to clarify. So there's two cases covered. If it's a default, so there was a decision and then there was a default, you get the (novel) appeal by filing your answer after default. So that's where it kicks in. If it's contested, in other words it wasn't a default, someone answered and they lost the domain name then they can go ahead a (novel) appeal. So I think in both ways there is a (novel) its just different depending upon the path that you take.

David Maher: Right. Mark.

Mark Partridge: I think the point I was going to make has been covered is it's Kathy's point and you explained it David that the UDRP process doesn't have a way for registrant to file a case.

David Maher: No.

Mark Partridge: Only a disgruntled complainant in this situation could go through that and say okay I want a UDRP case to be heard.

David Maher: Yes. Alan.

Alan Greenberg: Yes if I take the description of appeal of decision and evaluation of appeal for the complainant to lose it seems like there are three paths. You can go to court, you can go to a UDRP or you can request an appeal under the US provision which is what they're talking about a three member panel.

David Maher: That's right.

Alan Greenberg: For the complainant, for the registrant they only have two of those options. Its go to court or file the appeal.

David Maher: That's correct.

Alan Greenberg: Okay.

David Maher: Okay. So the evaluation of the appeal then is the three member panel consisting of an expert in trademark law, (a fair use) and academic in the field. And the note is this would be much more expensive for the appellant then the original, the staff concept of the non (woodsman). Paul.

Paul Diaz: My primary concern is I don't know who these people are. I mean we can identify experts in trademark law fairly easily and I suppose we can also identify an academic who may be has a research agenda this year, if that includes trademark law and who is the domain (system), although academic (excusing) that go in and out of this area of interest.

But I don't know a fair use expert is. I have not been able to locate an association of fair use attorneys or anything like that. So my primary concern about this and sort of in advance picking people from various pools that not only are we defeating the wildly accepted idea of some rotation for panelist to ensure fairness but we're also creating a category of lawyers that I know exist.

Can someone speak to that?

David Maher: Kathy.

Kathy Kleiman: Paul is right, there is no associations that I know of, of free speech attorneys, of fair use attorneys. There is certainly associations of attorneys and others who work fair use, freedom of expression and those concepts which are completely concepts of non-commercial use and fair use. And we can provide you the names of those associations if you'd like.

But the idea here that you have, there are certainly attorney who are specializing in fair use free speech representing registrants and the idea is to have a balanced panel. And I think there are ways to come up with wording on that but, and maybe staff can work on it. But the concept of having kind of three diverse people makes sense to me.

David Maher: Jeff.

(Jeff): I'm a little concerned that we're basically dictating the composition of the panel. There could be no issue of fair use or even a non commercial academic issue in the entire case. It could be something that has nothing to do with those two and yet we're mandating that a specialist in fair use is on there.

I think the concept is to have a panel of three so that there are more people that can hear it and make an informed decision. But I think dictating the panel is a mistake and I just done necessarily, I don't see why those other two categories in academic or fair use may even be relevant in a dispute. It may or may not be.

Robin Gross: This is Robin can I get into the queue?

David Maher: Yes. First Mark I think is ahead of you.

Mark Partridge: Yes I guess I'm going to agree with Jeff. A three member panel would be appropriate, taken from the accredited examiners that we've contemplated here and not dictating to the provider or to the parties that these people will

come to the table with any particular point of view other than that they will be accredited to part of this process.

David Maher: Okay. Robin.

Robin Gross: Yes the idea is really to try to get a balance of perspectives on the part of the decision makers here. When we say we want someone with intellectual property rights expertise, what does that generally in the real world mean? (unintelligible) in those attorneys who have represented large intellectual property rights holders over the years. And that's the perspective that they hold in their mind when they adjudicate these claims.

Those ideas we need a balance, we need the other side of that table to be represented as well on the panel. And you know we say a group of fair use attorneys, well for example (ESS) is a group of fair use attorneys. There's a lot of academics that they work with that we could all come up with that have this kind of expertise such that it's not always on the side of the trademark holder, the particular expertise of the panelist.

That's the concern that we want to build into the process that there's more than just this one perspective that makes the decision. And so that's why when we say a group of fair use attorneys, well there actually really are in existence, these kinds of associations. I mean (EFF) is one example.

I think we can find that kind of a balance but we need to build it in.

David Maher: Okay. I think it might be helpful Robin if you and your colleagues can circulate to the list of names and groups that you think would fill that function. Paul.

Paul Diaz: Just a question about the difference between fair use attorney and an academic. In my experience with academics most of them do not have the large trademark holder in mind when they conduct their research agendas and draft their papers. And I'm wondering is any real thought been given to

the inclusion of an academic? And if so, what kind of criteria for the academic?

David Maher: Okay. Jeff.

(Jeff): Yes I think I understand where you're coming from Robin but I think at some point we have a commitment to act in a neutral manner and they are not acting in a neutral manner then that's a problem with the panelist or whatever we're calling them now.

The point is that, and I agree with Paul most academics that I know are more sympathized with, you can make the easy generalization that academics are more sympathetic towards fair use just like you can make the argument that most trademark lawyers represent large corporations. I think both stereotypes are completely wrong.

So I will try to get away from that. I guess the point that look anytime I go into an arbitration I would love to have, you know if I were to ever fight ICANN in an arbitration, I would love to have a registry on the panel. But you know what that just doesn't happen in the real world.

I think what we need to do is make sure that there's training that happens for the panelists, that we make sure that we get panelists that are able to act in a neutral and that's the check on the system. It's not ensuring that one person comes from this community, one comes from another because already you're biasing the determination.

David Maher: Mark.

Mark Partridge: I suggest we look to the larger ADR world as to how these things are resolved and this was adopted in the UDRP too which is that if the parties choose a three member panel, each picks one and then the provider picks the third. Then you have panel that has the necessary points of view and the

different sides and it is part of the accredited body of examiners without pre designating outlooks.

David Maher: Okay. (Wendy).

(Wendy Selzer): I think I like Mark's suggestion. And I think the challenge of just picking three from among the panelists accredited by a provider would be that we replicate the biases that they came in with, and we find that lots of these appeals are necessary because lots of panelists have some in with biases that are too far towards the complainant, or too far toward the respondent we need a way to correct for that. That's why I like the (ADR) style, let the parties make their choices or the outside experts better than I would just taking them from within.

David Maher: Yes. (Amy).

Amy Stathos: Yes I just wanted to reset because I'm still a little confused in terms of the availability of an appeal in terms of what this is talking about. I just got a little lost. Now does either party get to appeal or do we have consensus that appeal should be available or wasn't it the complainant if a complainant lost then they would have to go to the UDRP and or court if the court...

David Maher: No, no, no. No I think it's very clear that we're talking about a separate appeal process within this system. This is outside the UDRP or court. I don't think there's any question about that.

Amy Stathos: So complainants who have lost can also appeal their loss?

David Maher: Either loser, whoever the loser may be can appeal if they choose to. And there will be a separate appellate system that's what we're talking about now.

Amy Stathos: And then in terms of a fee, how will that be set by some appellate provider?

David Maher: Yes. Yes well that remains to be worked out but there will be some charge.

Amy Stathos: Okay. I'm just because there is no appeal in UDRP and I'm just trying to understand (unintelligible).

David Maher: That's why. This is a different process. This is not the UDRP. This is different.

Amy Stathos: Yes, I understand that but I'm just wondering what's the rationale for having it here?

David Maher: Well because the thought was that for a very fast process the expedited process there are an increased possibility of errors creeping in and I think we have a consensus that an appellate process within the URS makes sense. I think your raising a question that's already been decided.

(Amy Stathos: Okay, okay.

David Maher: That's one of the areas where we do have pretty good consensus. Kathy.

Kathy Kleiman: Some great ideas are being discussed here. Let me put them together in a slightly different way. Mark I really like that idea of each side choosing the panelists. I'm thinking here that we have a fast process going on, so what about - and that process of picking takes time as well. So what about the concept of a standing review panel where say IPC has picked one of the panelists and say where NCSG or NCSG and ALAC have picked another panelist as part of the standing review panel.

Your idea that they both have to be certified or at least gone through the certification training is absolutely right. They should have the background in what is the URS and what is its purposes.

For the third person, this is an idea I've been thinking about for a while, for academics, I mean our academics sort of specialized in here, we a can all

imagine (Michael Gise) coming into something like this. But also it seems to me that there's a place here for registries and registrars, for you guys. Because providing that you've gone through the certification training that there's a place for people who are closely watching the real world and what are the abuses that are taking place and coming into that real world view.

So let me throw that out. A standing panel, certified and with perhaps registries and registrars academics as a possibility for a third panelist.

David Maher: Great. Alan/

Alan Greenberg: Kathy addressed one of my concerns, if indeed there's a concept of an innocent registrant having the US filed against them, the concept of someone who is not indebted to this process picking a panelist where they don't know of any panelist is problematic.

So I think we need some sort of way of addressing that. We don't need to work out the mechanics today.

David Maher: Yes. Okay, we're not almost two minutes late pass of the hour. And that means in two minutes our next call begins. We still have topics that we have not reached, the (abusive) process and the review of the URS and the (UDRP). I think at this point though all we can do is wrap it up and we'll have to cover those in our next call. Which I'm assuming will be next week.

So I think in order to give everyone at least a very short break, so Margie go ahead.

Margie Milam: Yes, hi I still have to talk with Gisella. I think we might have to hang up and call back in. I don't know if we're allowed to stay on this call. Gisella are you on the call still?

Gisella Gruber-White: Yes Margie I'm on the call. If you all could please just dial in again and get the code STI. This will have two separate recording and transcripts then. Thank you.

David Maher: Well in that case, thank you all and I'll talk to you again in a couple of minutes.

Woman: Is it possible to take a break to call for like a 15 minute break?

David Maher: Well let's say five minutes.

Woman: Okay.

Man: Thank you David.

David Maher: Okay. Bye.

END