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**ICANN Transcription**  
**Review of all Rights Protection Mechanisms (RPMs)**  
**Wednesday, 04 September 2019 at 17:00 UTC**

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the Review of All Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group taking place on the 4<sup>th</sup> of September, 2019.

In the interest of time, there'll be no roll call, as we have quite a few participants. Attendance will be taken by the Zoom room. If you're only on the audio bridge, could you please identify yourselves now?

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

With this, I'll turn it back over to our Co-Chair, Phil Corwin. Please begin.

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PHIL CORWIN: Welcome, all. Michael, I guess you want to make a brief statement about Question 10. We're not starting discussion of that now, but if you had a brief statement relating to that, please go ahead.

MICHAEL GRAHAM: Phil, thank you. This will make the agenda a bit easier to deal with, I think. In considering Question 10 and the discussion that we had in a meeting last week, that question was discussed in length in the sub-team, and it did not gain consensus at that time, despite being in conversations. So I would like to go ahead and remove/withdraw the proposal at this time. It's something that, obviously, if there were empirical data that could be discussed, which was lacking in those discussions, perhaps might arise again later. But I think, in light of the discussion in the sub-team, it should be withdrawn, and I request that we do so. Thanks.

PHIL CORWIN: Okay, Michael. We will note that. Your proposal, which I believe was the only one Question 10, is now withdrawn. In that case, we won't be discussing it. I was anticipating some lengthy and spirited debate on that one, so you've just helped us to add a great deal on our timeline, I believe. Thank you for bringing that to our attention.

If anyone was on the last call, on the last call we reviewed all the open TMCH charter questions and did some review of the key elements of the different proposals that were out there on them. Today we're going to start our substantive discussion of those proposals and see whether any of them or any combination of

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them or modifications can gain sufficient support, the wide support we generally require to put a proposal in the initial report.

The first question is Question 7 and ... whoops. What just happened in the meeting room?

JULIE HEDLUND: Hi, Phil. That's Julie Hedlund. I'm actually pulling up the document that shows the ... one moment. Should, I hope, see the document that we had also showed last week that is the open charter questions that show Question 7 so you can see what Question 7 is. I hope you're seeing that ... whoops.

PHIL CORWIN: I was.

JULIE HEDLUND: I was, too.

PHIL CORWIN: I was just [inaudible].

JULIE HEDLUND: [inaudible] ...huh. Okay, sorry. The Zoom room is not being my [friend].

PHIL CORWIN: We'll get this tech perfected one of these days, right?

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JULIE HEDLUND:                    There. Can you see that now?

PHIL CORWIN:                    Yeah.

JULIE HELDUND:                Good.

PHIL CORWIN:                    Thank you for that. So we're going to start with Question 7, which is how are design marks currently handled by the Trademark Clearinghouse provider. But the real question before us in the proposal is Deloitte complying with the provisions of the final Applicant Guidebook regarding design marks or marks acceptable for registration in the clearinghouse. It's not, what should we do about it? Should we let that continue or should we propose to restrict it? I guess we could bless it or restrict or anything we want.

The first proposal historically was one from Kathy Kleiman. All of us on the working group e-mail list in the last hour got a revised version of that drafted by Kathy in conjunction with Zak Muscovitch. We don't have that on display, but if you check your e-mail, that was attachment in the last hour.

Kathy's not able to speak well today. She has bronchitis and is very hoarse and can barely whisper, so Zak will be presenting this revised joint proposal on his own behalf and that of Kathy. Zak, of course, as always in the interest of time, we ask you to be

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complete but succinct. Given that we discussed the main elements of Kathy's proposal last week, I hope you would focus on the changes you've made to that proposal and the rationale for those changes to help get the discussion going. So take it away, Zak.

ZAK MUSCOVITCH:

Thank you, Phil. First, though, let me apologize for the late delivery of the revised proposal. That's unacceptable and you have my unequivocal apology on that.

Nevertheless, the substance of the proposal has only changed in one material respect. I'll go over that with you all. I will point that, in the last few minutes, I did send a tracked-changes version. When you do get a chance to review it, you'll see that a lot of the changes were non-substantive: a changing of some of the language, softening some of the language, sharpening some of the language, etc. In addition, there was an inclusion of some of the definitions of word marks that I went over last week from the, from the [WIPO to EU, IPO CPO], etc.

So those are really all the changes. The substance remains the same. It basically identifies what we perceive as non-compliance with the wording of the Applicant Guidebook, which restricts submissions to work marks and explains what the rationale for that restriction is and leaves open the possibility that this working group could come up with an alternative rule that is more permissive in terms of what's being permitted into the TMCH.

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Let me draw your attention to the main substantive change, which is now at the end of the proposal. I'll read it out to you. It says, "One potential alternative to the existing rules. One, if the applicant has a trademark registration in a national system with allows word marks and other marks – for example, design marks, figurative marks, mixed marks, etc. – they would need to present a word mark for registrations for the TMCH and Deloitte would need to make a list of such countries."

There's two other points to it, but the rationale behind the first point – I'll also ask Rebecca at the appropriate time to more fully flesh out the thinking behind this because this was one of her suggestions as well – is that, as a trademark practitioner, you often get a client that comes to you and says, "Look, I'd like to trademark a term like "cheap ticket and travel" or "digital nomads" (or, like I got a few weeks ago, someone will want to trademark "Jamaican marijuana")." So, when you have words that are descriptive or generic in connection with the goods and services, one of the recommendations that we typically give out to such applicants or prospective applicants, who are mainly smaller/medium-sized businesses and new entrants to the marketplace as opposed to large companies, which many of you and I represent a well, which have very distinctive [trade]marks.

So these companies want to apply for a trademark, so your advice to them obviously is, "Hey, these descriptive or generic terms. We can't apply for it with any reasonable chance of success. But we can hide them in logo." We'll put a picture of a plane. We'll put a picture of a sun. We'll put a smiley face. We'll put these words in

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there. Often what happens in some national registries, like the USPTO, there will be a disclaimer required of those terms.

But other registries, such as the example of Argentina, which [appointed out last weekend] and with the Canadian registry, which I'm familiar with as well, don't require disclaimers. The reason they don't require disclaimers is that the trademarks are granted for composite marks or design marks that include generic or descriptive words on the basis and understanding that no rights are really being given for those constituent words. It's the mark as a whole that's protected. So the thinking is that there's no disclaimer required. So it's those particular jurisdictions which the rules for the Applicant Guidebook must address as well.

So, when you give your advice to your client about whether to get a word or a graphical mark, you typically would tell them something like this. "A word mark is generally [conserved]. Well ...

UNIDENTIFIED SPEAKER: [inaudible]

ZAK MUSCOVITCH: Sorry. I'll carry on. So you typically tell what word mark is put forth—

PHIL CORWIN: Let me just say, could everybody please check that their phones are muted while Zak is speaking?

Thank you. Go ahead, Zak.

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ZAK MUSCOVITCH:

Sure. So this is one more reason why a word mark is preferable to advise an applicant to get: they're more powerful, provide a broader scope of protection generally and, in this particular case of the Trademark Clearinghouse, they will get you inclusion. So, if a national registry allows both word marks and other marks, really the word mark is the one that should go in. But, if there are some national registries that don't have any distinction between word and design marks and that the constituent descriptive or generic terms within what's called the design mark are protected independently of the design, then, under the second part of the proposal, the applicant to the Trademark Clearinghouse can provide the Trademark Clearinghouse with some evidence to demonstrate that, under that national jurisdiction, there is protection for the constituent words.

Just in conclusion, what the proposal is trying to address is A) identification of the non-compliance with the current rules and B) what should be done about it. What should be done about it is, in my view, a more complex issue. What this proposal does is provide one possible solution to it, which is really emphasizing [accordance] of having a work mark for applicants.

Once again, Rebecca may have more to add on this particular aspect. When, Phil, you decide it's okay, I'd love to hear more from Rebecca in that regard. Thank you.

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PHIL CORWIN:

Zak, thank you for that presentation. Let me just say two things. One, what's on the screen now constitutes the proposal that will be the focus of discussion. This is your and Kathy's revised proposal. I'm going to invite discussion of it in just a moment from anyone who wants to speak for it, against it, or suggest further modification of it, noting also that we have another proposal on this question from Greg Shatan that we expect to get to today.

Let me just ask, Zak, based on your presentation, it would be your view that a significant percentage of entities that are able to secure a design marks do not have rights in the pure word mark for the same words that are in the design. So I just want to make sure we're not having an extended debate over something that doesn't have a lot of meeting. If an individual or company has registration of both a word mark and a design mark with the same words, this proposal wouldn't make much difference. But what I'm hearing from you is that there's some significant percentage of entities which have the design mark but not the corresponding word mark. Under the Applicant Guidebook current rules, you would be of the view that those folks shouldn't be able to register that design mark in the clearinghouse without a corresponding word mark.

Is that correct?

ZAK MUSCOVITCH:

Yes, Phil, in the sense that, by and large, larger companies in particular will tend to have their word mark and they may have various logos registered as well. This proposal targets the

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situation where a trademark register only has a design mark and no word mark for the constituent words.

PHIL CORWIN: Right. Yeah, I get that. And it would be your contention that's a significant number out there in the real world.

ZAK MUSCOVITCH: I don't know if it's a substantial number because, generally speaking, most companies would have both. So this proposal targets the discrete subclass of situations where an applicant is attempting to leverage a design mark in order to protect words. I don't think that's a majority of cases. I think it's probably a relatively a small subset but an important subset of cases.

PHIL CORWIN: Okay. I will note in the chat that Lori Schulman of INTI has noted her belief that small and medium enterprises tend to register text and stylization together for monetary savings purposes rather than go after both and get the work mark as well if they have the right to that.

We do have a hand up from Rebecca Tushnet, so I'm going to invite Rebecca to speak to the proposal. Then, of course, other members of the working group can speak to it as well. When we're finished discussing this proposal, we'll go on and hear Greg Shatan's proposal in response to Question 7.

Rebecca, go ahead, please.

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REBECCA TUSHNET: Thank you. The core thing here is that the key to the agreed-upon rules, including as reflected in the Applicant Guidebook, is the core principle that ICANN shouldn't be used to expand trademark rights beyond what's granted in national lights. We know from Deloitte's answers that that's what they've done.

I'll just give you a brief reminder. We sent them a bunch of examples and asked them what they would do. In every case, they answered, "We would put the text portion of the mark in the TMCH." So, for "parent," registered as words in stylized form where there's a court decision confirming that they actually only own the words in stylized form – they don't own the word "parent" – Deloitte would put that in. Fruit of the Loom is registered as design plus words. It's also worth noting that Fruit of the Loom does have a word mark registration, which would be perfectly acceptable for the TMCH. Deloitte said they could submit the words plus design and they would put the words in. "Cars" registered as design plus word they put in. "Music" registered as design plus words for, among other things, music production services [and] "Music" was disclaimed, Deloitte would put that in. The letter "A" registered as a word in stylized form Deloitte would put in. "Own Your Power" registered as words in stylized form – but there's a court decision confirming that there's no rights in the words as such – Deloitte would put in. "Dealhunter" registered as an EU trademark, as a figurative mark, Deloitte would put in.

So the principles behind the RPMs are just being violated by Deloitte. We could ratify that but we should, at the very least, address it. I think the point of the rules was, as I said, not to

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expand trademark rights beyond what's granted in national rights. If you don't have a work mark, we don't know in advance of further proceedings whether you have rights over the non-stylized version. You may, but you certainly don't have a registered right, which is the basis for the RPMs or a court decision confirming your rights. We should definitely recognize those, too.

So that's the basis for the proposal. I think it's what makes sense. I also think that there really can be no question that Deloitte is currently out of compliance. Thank you.

PHIL CORWIN:

Thank you, Rebecca. Before I call on Greg – I see his hand up and Mary Wong – I just want to make a couple of comments. One, yeah, I agree personally. There's the view of the working group that Deloitte's current practice is not in conformity with the Applicant Guidebook. We could address that by saying there's nothing wrong with what we're doing and we recommend a change in the guidebook in the next round to reflect that, or we could push back on what they're doing.

I note that there are comments from Lori Schulman, Griffin Barnett, and Michael Graham. I'm not trying to speak for them, just noting their comments. They're free to raise their hands and speak directly. The common theme seems to be that requiring small businesses to go for two registrations, not just one, would hurt them because they're commonly counseled to go for the combined text and design or stylized text mark, as a matter of economics, and that this proposal would increase their cost or restrict their protections.

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Paul Tattersfield has raised the question twice of why such an entity doesn't just register an equivalent Benelux word mark or something similar to get the registration benefits under the current clearinghouse rules.

Mary from staff, I don't want to preempt Greg, but did you have something to inform the group to inform the conversation before I call on Greg to comment on the proposal? Mary?

MARY WONG:

Thanks, Phil. My connection is a bit unstable, so please just interrupt if you stop hearing me. From the staff and Phil and everyone, we just wanted to make a few general points and reminders. First, from the ICANN org perspective – I'm not speaking for Deloitte; I'm speaking for ICANN org – there was never an intent to expand whatever went into the clearinghouse beyond the scope of what is protected under applicable law, whether that be national trademark law or regional registrations.

Secondly, the other general principle behind the Applicant Guidebook was to have consistent and, if possible, uniform standards given the variations in trademark protection across numerous jurisdictions.

As a result, what seems to have happened is that, with respect to the word mark issue, there was probably not a lot of clarity around exactly what the scope of a word mark is. What we found, including in the 2015 review that we did, where we sought community input on various aspects of the RPMs and which also formed one of the bases for the issue report for this PDP, is there

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was a variance of opinion as to what is and what ought to be within the scope of word marks.

Specifically – here I’m noting the proposal here from Kathy, Zak, and Rebecca, particularly the alternate to – there is variance across multiple jurisdictions with respect to what they might consider word marks, particularly when it comes to stylized word marks or marks that have text plus a design. It was impossible at the time to really come up with a single definition that captured all these variances. So, fortunately/unfortunately, that is now a problem that this working group is faced with.

Regardless of the view as to whether or not Deloitte got it right, the point is that we want to make it clear for the next round exactly what is or is not within scope, bearing in mind the need to not differentiate or prejudice certain types of marks from specific jurisdictions.

So that’s the org contribution at this point to this discussion. We’re happy to elaborate or to conduct further research as need be. Thank you.

PHIL CORWIN:

Thank you, Mary. Just noting that, of course, this is the working group that has the ability to provide that clarity, regardless of what we think of Deloitte’s current practice. The real question is, what should the rule be? Probably anything between word mark only and any kind of design mark, any kind of mid-point, is going to let some things be registered that couldn’t be registered in every jurisdiction and excludes something that could be registered in

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some jurisdiction. So we're not going to make everybody happy here unless we let everything in, which wouldn't make anyone happy, either.

I'm going to call on Greg. Greg, is your hand up to comment on Zak's proposal? Or there's been a number of comments in the chat suggesting that you should present your proposal now. How did you wish to proceed?

GREG SHATAN: My hand was up to comment on Zak's proposal.

PHIL CORWIN: Okay. Well, go ahead. I see Rebecca's hand up to comment again. Then we can move on to your proposal once we exhaust the comments on this one. So go ahead and comment. Thank you.

GREG SHATAN: Thanks. I can't support this proposal. I find it quite disturbing actually. I think it would end up throwing out a huge percentage of legitimately registered marks where the words are protected out of the TMCH.

I think that, to the extent that there's any violation in this particular realm by Deloitte, we're talking about edge cases. I think, as was indicated, what the meaning of the term text mark or word mark was is open to debate. It was clearly words that could have been

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more restrictive, such as text-only mark or typed characters or something along those lines, [which] were not chosen.

So I think there's a misassumption as to what was intended here. So I think that many of the marks that are being discussed here are in fact appropriate and intentional, maybe virtually all of them. I think there are a few carefully chosen edge cases, such as "parents," designed to shock the conscience. But of course, that's why they're chosen. They're not just chosen at random.

So I think that the idea that we would have to change worldwide trademark practice in order to fall in line with this is a very strong indicator that the proposal is wrong-headed from the start. It certainly would take away trademark rights, the ability to exercise trademark rights, that in fact exist, just as much as avoiding the expansion of rights beyond anything that exists in law is a no-fly zone for this work. Thank you.

PHIL CORWIN:

Thanks very much, Greg. It's clear you think this proposal goes too far and would be too restrictive. Rebecca wants to speak again to this, and then Kathy will attempt to speak. Hopefully she'll be able to get some words out. Rebecca, go ahead.

REBECCA TUSHNET:

Thank you. I find the concerns for worldwide trademark practice overblown, in part because we actually don't have evidence before us that having a design mark is important to SMEs in the TMCH space. Of course, we don't know much about what's actually in the TMCH, but certainly what we do know is that

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Deloitte will accept a bunch of junk, even on terms agreed to by many of the trademark constituencies here.

We also know that it's not about exercising existing trademark rights. That's just not for the TMCH is for. In fact, it is limited to a very clear subset of trademark rights: ones that are registered or have a court decision confirming them or are protected by statute or treaty, of course. There may be plenty of other valid trademark rights out there. Indeed, there certainly are, but we made the decision – and I think wisely – that you needed some sort of national confirmation of the right before it would be inserted into the TMCH. Without a word mark, when Deloitte is stripping out elements of the national registration and deciding to give separation protection to that, that's just a violation of that core principle. Thank you.

PHIL CORWIN: Thank you, Rebecca. And now Kathy, please go ahead.

KATHY KLEIMAN: I'm going to give this a shot, Phil. Can you hear me?

PHIL CORWIN: Yeah, we can hear you.

KATHY KLEIMAN: Okay. This is Kathy Kleiman with bronchitis, so be glad you're not in the same room with me. I agree with Phil that we've got a disconnect here between what Deloitte is accepting and what the

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rules are in the Applicant Guidebook. I agree with Mary that the intent was never to expand trademark rights beyond national law. That goes back to the very beginning. It's the basis for all the work we've done for more than a decade.

I just wanted to cite something that I hope will be useful to Greg. This is in the STI report that goes back, of course, before. It's one of the underlying supports, the foundations, of the Applicant Guidebook. It says specifically (4.1), "The TC database (the Trademark Clearinghouse database) should be required to include nationally or multi-nationally registered "text mark"/trademark from all jurisdiction, including countries where there is no substantive review." It goes on to explain in parentheses, "The trademarks to be included in the TC are text marks because design marks provide protection for letters and words only within the context of their design or logo, and the STI was under a mandate not to expand existing trademark rights." So that's part of our interpretation of the Applicant Guidebook.

So now the question is, how can we provide the proper protection for text marks, for word marks, but not expand beyond national law? Because, of course, a URL, a domain name, does not have color, does not have designs. How do we perhaps provide some more protection but not as wide? Deloitte put the letter A in out of a major calligraphy example that was provided to them by our working group. That's probably way overblown. So how do we fix the problem? Thanks.

CLAUDIO DIGANGI: Phil, could I respond briefly to Kathy's point there? It's Claudio.

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JULIE HEDLUND: Phil, if you're speaking, we can't hear you. There was a request from Claudio to be heard.

PHIL CORWIN: I'm sorry. I apologize. I was one mute. I was asking whether, Rebecca, that's an old hand or a new one. But then I'm going to let Claudio speak first, as he hasn't spoken yet.

CLAUDIO DIGANGI: Than you, Phil.

PHIL CORWIN: Claudio, go ahead, and then we'll hear from Greg again. We'll see if there's any more comment on this.

CLAUDIO DIGANGI: All right. Can you hear me?

PHIL CORWIN: Yes, we can.

CLAUDIO DIGANGI: All right, great. Quick point. It was just that Kathy was reading from the STR report. The proposal itself that was submitted today cites language in the STR report. I think it's conflating what was included in the actual Applicant Guidebook, the final version of the

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guidebook, because ultimately what happened is the STR report was adopted by the Board and then it was put out in the guidebook for public comment and went through many iterations and changes. So a lot of things that were in the STR report were subsequently changed, including on this particular issue because the STI recommended the use of the term “text marks” and the guidebook states “word marks.” So what the STI recommended was not actually carried over into the guidebook. So I think that point needs to be clarified. I’m not arguing about the expansion of rights in that particular issue but just more into the particulars of the recommendations that came from the STI.

Also, another point I mentioned into the chat is that design marks are a form of word marks when they contain words that are the dominant element of the mark. Zak touched upon the issue of when the word is generic and how different national trademark registries treat those situations in terms of whether they require a disclaimer or not require a disclaimer. If they’re disclaimed, then there’s no issue because those words are disclaimed and then therefore they’re not eligible for inclusion.

So we might possibly want to take a look at those situations. I think Zak mentioned Argentina. I’m not sure if there’s any other examples that he’s aware of in jurisdictions that do not disclaimers in those cases. We might want to come up with a way of potentially addressing that because I think that’s the heart of the concern that Rebecca and Zak and Kathy are expressing here.

Just as a final point, I think Deloitte is following what’s in the guidebook. There’s nothing that says design marks are not allowed in the clearinghouse. Again, they are a form of a word

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mark. So I think Deloitte is looking at it from that perspective. If there is something in the guidebook that – I think Greg touched upon this – disallowed the inclusion of design marks, then, yes, clearly they would not be following the rules. But that's not what this situation is here. Thank you.

PHIL CORWIN:

Thank you, Claudio. I'll say two things briefly and then call on Greg. The first is that, as Council leadership clarified in their recent letter to the working group Co-Chairs, our baseline and default starting point are the provisions of the final Applicant Guidebook.

I'm getting a lot of background noise. Could someone please mute, please?

Thank you. That doesn't mean a member of the working group can't reference the STI and argue that the STI position was better than whatever wound up in the guidebook. We're free to go back to that if there's wide support for doing so. But our starting point is the Applicant Guidebook.

Claudio, you seemed to indicate that you thought that Deloitte's practice was not non-conforming with the guidebook. Other members think that is it non-conforming. So I think we have to determine that as a working group. I would say we have a greater burden, if it is, to provide some clarity. But even if there's a view that it's consistent, I think Mary is right that some further clarity emerging from this working group would be desirable for the second round.

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With that, I'm going to be quiet and all on Greg for further comments.

GREG SHATAN:

Thanks. I was also looking yesterday at the section of the STI report that Kathy mentioned, and I think it's interesting that they refer to design marks that provide protections for letters and words only within the context of their design or logo. That is a small subset of what is being treated as "design marks" in this proposal. If we want to identify the subset of design marks that only provide protection within the context of the design and logo and provide absolutely zero protection for the words themselves, that's an interesting 190-country survey that we could undertake. Clearly, disclaimers in some countries offer a solution to that issue if other countries don't have them.

But to take the idea that any design mark needs to be thrown out because there are certain design marks that, in certain countries, provide protection for letters and words only within the context of that design or logo is a massive overreach. Or, if the position of the proponents is that any mark with any design somehow provides protection only within the context of their design or logo, I think that's incorrect as a matter of law. It just seems like trying to get rid of as many trademarks as possible.

So I think we need to consider the fact that most "design marks," or at least those that are being classified as design marks, do in fact provide protection for letters and words beyond the context of the design or logo and govern ourselves accordingly. Thanks.

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TERRI AGNEW: Phil, it's Terri. If you're speaking, we're no longer hearing you.

PHIL CORWIN: I made the same mistake again. I put myself on mute to not interfere with the speakers and then I forget to take off. So I want to thank Greg. Greg, your hand is still up. Once it's down – we have no other hands up – I'm going to invite at this point any further remarks on the Kleiman/Muscovitch proposal. We've had a good, lovely discussion verbally. There's been a lot of further discussion going on in the chatroom, which I recommend everyone to read after the call because I think there's a lot of content there. I'm not going to try to summarize it right now.

With that, I don't see any other hands up—

BRIAN BECKHAM: Phil?

PHIL CORWIN: Yes? Who's that?

BRIAN BECKHAM: Sorry. This is Brian Beckham. I'm on audio only.

PHIL CORWIN: Yeah, Brian? Did you have a comment?

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**BRIAN BECKHAM:** Yeah, just briefly. This was really with a view to our work here, which is it seems from the call – I’m not seeing the chat because I’m on the phone only – that there’s not agreement on this proposal. So I just wonder how we go forward: if we invite Zak and Kathy to attempt to further refine this, or do we consider the level of consensus and see where that leads us. Thanks.

**PHIL CORWIN:** Good question, Brian. I’m not sure I have an off-the-top-of-my head answer, and I’m just one of the Co-Chairs. Anyway, let’s see how far we get with Greg’s proposal and discussion of that, noting that we’re halfway through our allotted time for today’s call. Then we can decide how we’re going to proceed with two very different proposals responding to – or I would significantly difficulty proposals – Question 7 and what the best way for the working group to proceed with going forward on that is, remembering Mary’s admonition that we have some responsibility to provide clarity for the second round, no matter what our views on these proposals and that, collectively as a working group, some clarification in the guidebook for round two would be desirable.

With that, I’m going to call on Greg to present his proposal.

**GREG SHATAN:** Thanks. You can see the proposal in front of you, or at least the beginning of it. I would propose that our recommendation be that an applicant to the TMCH has to include a sworn statement in their application, that the trademark registration doesn’t include a

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disclaimer as to any portion of the mark and, if it does, that the text mark is not disclaimed in its entirety and that the text portion that is being sought to be registered in the clearinghouse is not disclaimed. If it is disclaimed in its entirety, then of course it could not be registered in the TMCH.

We seem to have skipped to the next page but now we're on GIs, which I don't think was part of my proposal, unless I'm wrong ... Okay, there we are ... Where are we? Oh, here. Okay. So where there are text marks that are not exclusively letters, words, numerals, special characters, the recorded name of the trademark [inaudible] there is a recorded name will be deemed to be an [identical] match to the reported name as long as the name includes letters, words, numerals, etc. – characters, and the characters included in the trademark record that was submitted to the TMCH.

So I think that, if we need to, if there's any doubt, there's an idea that there would be some team of specialists with knowledge of trademark law who could conduct research on how the trademark is used and provide some additional insight or evidence into how the mark is used.

But the basic point here is that there should be some recognition of the edge case situation here, where there is truly no protection for the words. I think Zak used the word "sneak into" or hide the word mark in a design. I don't think I've ever advised a client that that's what they were doing if they registered for a design mark. But I don't practice in Canada, so Canadian law may be different on this subject.

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In any case—

ZAK MUSCOVITCH            Excuse me, Greg?

GREG SHATAN:              Yeah?

ZAK MUSCOVITCH:        Please. Me and you get along very well. We don't need to say things like that. Thank you.

GREG SHATAN:              Okay. I don't think that anybody is hiding if they're registering in a design mark. So, sorry, Zak. I apologize. Got a little overheated here.

In any case, the point is that, in terms of this proposal, [we're] looking to try to be a little bit more surgical to eliminate those attempts to register things in the TMCH for which there really is truly no basis for the claim that the words are protected but not to cut away huge swarths of marks where the registrant, the attorneys, the law, and the general view would be that the words are protected.

Now, it may be certainly that a text-only registration is a stronger protection for a word than a stylized for or color form or a form in a logo, but we're not here to talk about strength. And that gets awfully subjective in any case and goes into a lot of things other

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than the marks themselves. So they're way beyond the scope of what we're doing.

I'm still feeling bad what I said about that. Anyway, I'm sorry about that again. In any case—

ZAK MUSCOVITCH: All is forgiven, Greg.

GREG SHATAN: Aww. Thank you. But in any case, I think what we need to do here is look to try and solve the problem in front of us and not to change the entire landscape of trademark protection and rights in a way that I don't believe reflects the law as it stands in the vast majority of jurisdictions. Thanks.

PHIL CORWIN: Thank you, Greg. I'm going to start out with Co-Chair privilege and ask a question. In your view, is what Deloitte is doing now consistent with the text of the final guidebook? Or are they acting beyond the word mark requirement that's in the guidebook?

GREG SHATAN: Well, I [haven't] looked at each instance. I think that a number of the things that were asked about were in fact edge cases designed to elicit a certain response. But, by and large, I think the extent that they're registering – Fruit of the Loom was an example that was given. I have no problem seeing the Fruit of the Loom mark in its stylized form being considered a protectable mark. So,

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by and large, I think they're doing what they're supposed to be doing. If there's anything we need to do, it's just a tweak.

PHIL CORWIN:

Okay. And your tweak is this sworn statement, then some clarity about text marks that [don't] consist of letters, words, etc., and then some clarity here that the clearinghouse should not accept were marks where all textual elements are disclaimed and then, going on, a new grounds for challenge to assess whether the underlying registration was obtained in bad faith as a pretext of chain of sunrise registration, which I'll note, to get a sunrise registration, you have to show use as well as registration. So that's the sum of your proposal.

I see Zak, who has forgiven all, has his hand up and wants to speak to your proposal. Go ahead, Zak.

ZAK MUSCOVITCH:

Thank you. I have a question, Greg. I just wanted to receive some clarification on the rationale. I understand, if a mark has a disclaimer of all the words in their entirety, that it doesn't go in. But if a mark has a disclaimer of two of three words or one of the two words, etc., what is the rationale for those words going in? Thank you.

GREG SHATAN:

Thanks, Zak. I think it's probably better to view them as an example. While I don't have a set of examples, I'm thinking in that case more of situations where words are often disclaimed, such

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as “inc,” or the name of the product is disclaimed but it’s a part of the mark as a whole. There are marks where the bits and pieces have been disclaimed but the mark as a whole still stands as a mark. That would be equally true if it were a text-only registration. So it’s just often a lot of secondary material that’s part of the mark that may be disclaimed so that nobody can claim rights in those words standing alone. I mean, that’s what a disclaimer really goes to: whether you can claim rights in the disclaimed material.

In any case, I would think that this is, to some extent, belt and suspenders because whatever’s being submitted to the trademark office probably would have the disclaimer on its face. But this essentially puts an additional burden on the registrant to hope that they can’t somehow scooch by with a mark that has a full disclaimer in it. Thanks.

JULIE HEDLUND:

Phil, if you’re speaking, you’re on mute. I’ll note John McElwaine has his hand up.

PHIL CORWIN:

Yeah. Thank you for your presentation, Greg. I’m going to call on John in a moment. I just want to observe that there continues to be a very lively – I think substantive – discussion in the chat room with basically some folks thinking that Greg’s proposal doesn’t go far enough to address what they think are abuses and others believing that it gets the balance right. Professor Tushnet is expressing concern that it gives the clearinghouse some subjective judgements it shouldn’t have. Just noting that. Again, I

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recommend everyone to read this chat discussion later on if you're not reading it now.

I'm going to call on John McElwaine then, Professor Tushnet. Go ahead, John.

JOHN MCELWAINE:

Thanks. I wanted to say that I think that Zak and others have pointed out that there is a potential problem here in that a generic word could get included into the Trademark Clearinghouse via a trademark registration that has design elements to it. I don't think anybody would argue that fact.

I don't believe that that Deloitte is in breach of the agreement. I think that they have put together rules that adequately address the issue of what a text mark or a word mark was intended to be from the STI. But again, there is a small subset where a generic word could be protected by virtue of the trademark registration.

The only way that I can see that that can be dealt with is via a self-certification process like what Greg has suggested. There is no uniform definition of standard character mark, of word mark, that we're going to be able to just magically look up on a database to know whether a particular word is protected as a trademark.

I would point out that even one of the most robust databases that there is – the USPTO – has an anomaly in it where, if you have applied for a standard character mark registration prior to the electronic applications being accepted, it is marked as a non-standard character mark. So even, I would say, one of the most robust databases doesn't have accurate information. We're going

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to have to rely upon self-certification for this issue to be solved.  
That's it. Thanks.

PHIL CORWIN: Thank you, John. This time I remembered to take myself off mute.  
Rebecca, go ahead.

REBECCA TUSHNET: Thank you. Just a few points. Just a mild correction. I don't think that Greg's proposal is too subjective. I just think it's too capacious. So my subjectivity response was directed to an argument in the chat about a hypothetical proposal that did allow for examination of whether the claim term was descriptive or generic for the claimed goods or services. I think that would be a possibility. I think it would be better than what we have now. I don't like it as much as a rule, but if we want to embrace Deloitte as a trademark examiner, then we can do that. I just think that, right now, we have the worst of all words, where they exercise their discretion to search for something that they can put in the TMCH.

I also want to respond to statements about the vagaries of the definition of word mark, which is that no one has identified the practical problem of that; that is, some national system that doesn't tell us in any way what it is that is protected in the registration. The proposal certainly does allow applicants to explain why they have a word mark according to their national systems. Equally, you could put the registration into evidence if you have a very old standard character registration. I don't see why that pose a problem.

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I have a couple other things to say, but I'll put them [down]. Thank you.

PHIL CORWIN: Thank you. For both you and anyone else who want to say more on this, of course we've got the chat room. We've got the working group e-mail list.

Any more verbal discussion on Greg's proposal right now? I don't see any hands up. Anyone just on the phone who wants to speak to it?

CLAUDIO DIGANGI: Yes, Phil. Just to express support. I think Greg's proposal is the best way of addressing the concerns. Thank you.

PHIL CORWIN: Okay. Just for my own clarification, let me ask a question here. Let me preface it by saying we've got 30 people on the call, which is good but it's still a minority, a subset, of the full working group, although many of you are most active members. Let me just survey the group and ask the question: how many believe that Deloitte is in substantial conformity with the requirements of the final Applicant Guidebook, and how many believe that it's in violation of the guidebook? If you believe it's in general conformity, where we don't have a big problem here, I would ask you to hit the yes/checkmark. If you believe they're violating the rules currently, hit the no/X mark. I just want to get a sense of the group on our starting point.

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CLAUDIO DIGANGI: Phil, where's the yes or no mark?

PHIL CORWIN: If you go to Participants, if you click on Participants, you should see yes and all those little buttons down at the bottom.

CLAUDIO DIGANGI: Oh, okay. Thank you.

PHIL CORWIN: Okay.

BRIAN BECKHAM: Phil, this is Brian.

PHIL CORWIN: Yeah?

BRIAN BECKHAM: Just an observation because, if I understand Greg's intervention, basically what I'm seeing is that the question depends on your understanding of the landscape here. In other words, if you take Greg's intervention into account, then personally I would say, yes, that they're above board. If you take a different interpretation, then you might view that differently.

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So I don't mean to complicate things, but I wonder if it might be worth parsing that out a little bit to ask two questions: if you believe it's in violation based on Zak's view versus based on the information that Greg shared. Thanks.

PHIL CORWIN:

Thank, Brian. Well, I just want to get a sense. I just did a count of the marks. I think we can take them down now. I counted ten yeses and seven nos. So the group is not evenly divided, but there's certainly some divergence with a slight majority of those indicating their view thinking that Deloitte is generally not in violation of the guidebook and maybe all we need here is a tweak and clarity, and a substantial minority believing that their current practice is in violation of the guidebook and we need to either bless it or stop it and certainly need to provide clarity.

So I just wanted to thank you for that. Again, we don't vote in the working group, but I wanted to get a sense of where people thought our starting point was.

I've seen a hand up, but it's down now. We're at three minutes past the hour. We have another 27 minutes here, but I'm not quite sure how to proceed. I invite input from my Co-Chairs. We've got substantial divergence within the working group as to whether there's a significant problem here with Deloitte's current practice. I had to note that the people thinking there wasn't a big problem or the ones that were generally backing Greg's more modest proposal and the ones thinking that there's a significant problem in Deloitte's practice generally backing Zak's proposal.

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So I'm not sure we can get wide support for either, but I'm in general agreement with Mary that there's enough confusion here and disagreement that it'd be great if we could provide some clarity.

Once again, I'm getting kind of outer-space background noise. I'd ask you to mute your phone if you're not speaking.

BRIAN BECKHAM: Sorry. You might be getting some background noise from me.

PHIL CORWIN: Okay.

BRIAN BECKHAM: I just wanted to answer your question about maybe where to go from here. Just an idea. I wonder because, from what I hear, it seems that Greg and Zak and Kathy are all trying to solve the same question. I wonder if it's not worth them getting together to see if they can't bring their proposals together.

PHIL CORWIN: I welcome Kathy's input. I'm inclined to, rather than force the question now, see if the two proponents of different proposals can narrow the differences and come back next week with something. Maybe they can't, but maybe they can because I think forcing the question right now will just result in not getting wide support for either proposal and something of a deadlock. We might be better going onto Question 8 and getting some discussion of that and

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letting those folks converse and see if we can come back next week with something that's maybe more satisfactory to both sides of the issue.

So, unless there's objection to deferring trying to solve this issue on this call, I would propose that we give Kathy and Zak and Greg some time and also time for everyone to review the very excellent chat discussion of these issues and see where there's common ground and maybe see if we can come together on something on the next call and use the remainder of this call to start the discussion on Question 8. That'd be my proposal.

Any strong objection to that? If not, we're going to get into Question 8 and we'll circle back to the Question 7 proposals on the next call.

Okay. Let's move onto Question 8. I note here that we have one, two, three, four proposals on them. The first is from Paul McGrady. He's not on the call, I don't believe, and he has asked that, if someone else supports his position, they speak in favor of his proposal. He doesn't feel comfortable doing that, now that he's in the role of Council liaison to this working group.

Question 8 – it's not on the screen right now ... Yeah, here we are. The general question is, how are geographic indications protected as designation of origin and protected appellations of origin currently handled by the Trademark Clearinghouse provider? In the Applicant Guidebook ... Let me see ... With pretty much the same standards as for the previous questions as for what's allowed in the guidebook, I think there's more commonality

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of viewpoint from the proponents of various proposals that Deloitte may have gone too far on what they're doing now.

So let me just start. Did anyone want to speak to and present Paul McGrady's proposal? If not, I'm just going to review it again. I'm not going to argue for it but just remind people of what's in it.

All right. I'm going to go ahead and do that. Paul wrote that GIs (Geographic Indications) is not always trademarks and the clearinghouse is a clearinghouse is a place for trademarks. So his proposal is that, unless geographic indicators are subject to the national trademark registration, in the future it shouldn't be in the Trademark Clearinghouse. For any that are currently in the clearinghouse, they should not be renewed upon expiration. If a GI is in there and also has a trademark registration, they should be subject to the same use requirements as traditional trademarks are for purposes of sunrise registration.

So it's pretty clear that Paul's view is that geographic indicators which aren't registered trademarks shouldn't be in the clearinghouse and should be phased out and held to the same standards if they have a trademark registration, as other trademarks for sunrise purposes.

Greg, I see your hand up, so I'll let you speak to that. Then we'll move onto the other proposals. Go ahead.

GREG SHATAN:

Thanks. I think, in contrast to the previous discussion we had, this is a case where Deloitte completely missed the mark and misunderstood the instructions they were given. Trademarks

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protected by statute trademark or treaty were not supposed to mean – first off, they’re supposed to be marks, and a GI not protected by a trademark is not a trademark. The statute or treaty protection was meant to go toward particular marks that were protected in legislation, like “big brothers” or “boy scouts” or Olympic marks or others, or at least the Olympic rings, etc., and not any law that seemed to protected words in some fashion.

So I fully support this. In this case, I think I’m completely not a fan boy of Deloitte. They just need to be firmly corrected. Thank you.

PHIL CORWIN:

Thank you, Greg. Now I see Claudio’s hand up, so, Claudio, go ahead.

CLAUDIO DIGANGI:

Thank you, Phil. I will be expressing a viewpoint that varies from what Greg just stated. I want to just promise my statement on the fact the clearinghouse is not the rights protection mechanisms. We have different policies created for protection. We have sunrise. We have claims, etc. We also have a limited registration period, where other forms of intellectual property can be protected. So the clearinghouse is just a database to support those RPMs.

The issue of whether GIs should be included in the clearinghouse is separate from whether it should be subject to any of the other RPMs. I think Deloitte actually did get it correct by including GIs in the clearinghouse for the purposes of the limited registration period. A registration period takes place after the sunrise period

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and it permits registries to protect other forms of IP before general availability. So the GIs would not be able to be registered during a sunrise period.

The provision that allows them in is – I see that this was Deloitte was relying on and it was not the provision that Greg cited, which was the statute or treaty provision. But when you go through that section of the guidebook, it's very specific, and 3.2.1 spells out nationally registered word marks from all jurisdictions. 3.2.2 is any word mark that has been validated through a court of law or other judicial proceedings. 3.2.3 is any word mark protected by statute or treaty.

Then, when you get down to 3.2.4, it doesn't include the term "word." It says other marks that constitute intellectual property. That's actually what a geographical indication is. So that would be the provision that would allow it in. We've seen that there are registries in Europe where GIs are protected and in fact in some cases have priority over trademarks. But since we have the sunrise period going first, trademarks will always have priority over the geographical indication.

But in those situations where the registry is based in Europe or is based in another part of the world where they recognize geographical indications, this allows them to be protected during a limited registration period. They're allowed in through Section 3.2.4 of the guidebook. Thank you.

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PHIL CORWIN: Thank you, Claudio. Can you explain to me – maybe I misunderstood. I agree with you that the clearinghouse is not the RPM. It's the gatekeeper that entitles one to rely on the RPMs of trademark claims notice and sunrise registration. But why would anyone register a mark in the clearinghouse other than to obtain protection of those RPMs?

CLAUDIO DIGANGI: For the purposes of the limited registration period. One of the examples that came up when I was on the IRT was we discussed a potential new gTLD, .book, and that, in certain jurisdictions, book titles are not protectable as trademarks. So the registry might want to be able to protect the names of book titles before it launches. So there is what's called the limited registration period, which takes place after the sunrise period, which allows the registry to do that. So the clearinghouse is just really, like you said, the administrative tool that would facilitate it from an administrative perspective or from a technical perspective.

So what we might want to consider, because I kind of get the gist of the concern of what Greg and, I think, what Paul was getting at here, is perhaps policy guidance to Deloitte to just clarify that that particular provision that allows GIs in is – those entries are not eligible for sunrise. They're eligible for the limited registration period that takes place after the sunrise period. So I think that's a way of getting at the issue.

Again, I've seen registries launch in Europe where they've wanted to protect the GIs and they can protect them. There's absolutely no way of preventing them from protecting them. It's just a matter

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of how well it's going to interface with the system that we've created here. Thank you.

PHIL CORWIN:

Thank you, Claudio. Claudio, let me ask you. You had a proposal here, Proposal #4, which really proposed to add to our consideration of GIs the policy review of sunrise and claims, which we've now completed, and withhold final consideration relating to GIs until we – hold on a second – conclude the policy review of the RPMs. So is your proposal still live or, now that we've completed sunrise and claims, is this the time to make a decision to make a decision about the ability to register geographic indicators in the Trademark Clearinghouse? Could you clarify your view regarding your proposal?

CLAUDIO DIGANGI:

Yeah. I think, like you've said, we've completed those reviews. Obviously the sunrise period is only for trademarks. So this goes to the point that I was just mentioning, which is that what we could do is issue policy guidance to Deloitte to just ensure that any records in the clearinghouse that go in under the provision that I cited – the other forms of intellectual property besides the work marks – are strictly the limited registration period that takes place after the sunrise period. I

So I think that would possibly be helpful to them if there's any implementation concern. I think the hard of Paul's proposal is simply that it might somehow be interfering with the sunrise period. So I think we just need to clarify that. If that's happening, I

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haven't heard of an examples. There is a process, of course, for a trademark owner who tried to register a domain during sunrise and they weren't able to, let's say, because a GI got in the way. There is a process already for that.

Just so it's clear to Deloitte, I'd be happy to draft up a sentence or two or just clarifies that those are other forms of intellectual property that are allowed in are strictly for the limited registration period that takes place after the sunrise period.

PHIL CORWIN:

Okay. Thank you. Rebecca, I see your hand up, so please go ahead.

REBECCA TUSHNET:

Just to make sure that I completely understand what's going on, under this proposal that we've just been hearing about, they would still be sending notices based on GIs? Is that correct? It's just they wouldn't be eligible for sunrise? Thank you.

PHIL CORWIN:

That's an excellent question, Rebecca. During the review, I think we ended up in the same place, that trademark claims are for trademarks. So that's something that I could also clarify. Again, I was going to say it's strictly limited to the limited registration period, but I could specify in the policy, not sunrise, not claims, etc.

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REBECCA TUSHNET: Sorry. Just to break in, just to follow up on that, I think, if you're going to go in that direction, especially if you're going to say "not sunrise" and your intent is also not claims, I would strongly encourage you to frame it that way. Thank you.

PHIL CORWIN: Sure. Thank you for that. Thanks to both of you. Greg, go ahead. Let me just note we have ten minutes left. I'm hoping we can at least note the other two proposals on this and then we can return to this subject next week for some decision making. But go ahead, Greg.

GREG SHATAN: I'll try to be brief. If GIs are being put in but they're not for claims and they're not for sunrise and they're not marks, they shouldn't be in the Trademark Clearinghouse. Deloitte has the ability specifically to create ancillary databases, particularly to be used by certain new gTLDs that may have their own unique registration phases and could use a database to service them. This may be a candidate for that.

Let's say somebody wanted to register .geographicalindications, although that's a terribly long thing, then you could create an ancillary database for geographic indications to be used in some sort of limited registration period of some sort. But that's a whole separate, essentially private, contract type of issue that really has nothing to do with the Trademark Clearinghouse that was created for the purposes it was created, which was not for GIs. There's a

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whole discussion to be had about GIs, but this is not the way to get them in, and this does not get them in. Thanks.

CLAUDIO DIGANGI: Can I briefly respond? I know we're wrapping up, Phil.

PHIL CORWIN: Yeah, briefly, Claudio, because I just want to touch on the other two proposals before we wrap.

CLAUDIO DIGANGI: Sure. I guess me and Greg are looking at things slightly differently as to what 3.2.4 means when it says "other marks that constitute intellectual property." If Greg has an idea of what that means, other than something like a GI – and by mark, mark is generally something that describes the goods or services. So that's how I'm interpreting. And there's reference to intellectual property more generally. I'm curious just as to what Greg's concern is with my solution. It seems the other approach is a lot more complicated, and I'm just curious what he think the substantive concern is with my approach. Thank you.

PHIL CORWIN: I'm going to ask Greg not to respond to that because I know what a complete he's likely to give. I'm just going to note here we've got a proposal from Jonathan Agmon, who's not on the call. He's from the APAC region. I haven't seen many posts by him in recent times on the list but basically it's similar to what Paul said: if a GI

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is not the subject a national trademark, he would allow GIs that are national GI registration to be in the Trademark Clearinghouse. So that's more of a minority position.

Kathy, you have a long proposal but it seems – save your voice but you can chime in – to say that, similar to Paul's, unless a GI also has a trademark registration, it shouldn't be in the clearinghouse? Is that a correct interpretation of your proposal, Kathy?

KATHY KLEIMAN:

Yes, Phil. It's largely a correct interpretation. I'm also seeking clarity for the exactly the types of ambiguous situations we've been talking about for the last few minutes. Thanks.

PHIL CORWIN:

Okay. So we've got Kathy and Paul McGrady and others – certainly Greg – taking a firm position that Deloitte has gone too far, that, unless geographical indication has a trademark registration, it shouldn't be in the clearinghouse. Greg has suggested – I think Kathy in the chat supported this – that there could be an ancillary database which a registry could use or not use for the purpose of post-sunrise/pre-general availability registrations, depending on its model. We've got Claudio's proposal.

We're at five minutes before the end of the call. I have a sense that there's a lot more consensus on this one than on the previous proposal, but I'd rather let everyone review the chat and come back to it fresh next week, noting that, on Question 10 with

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Michael Graham's withdraw of his proposal, there's no longer anything to discuss.

Let me asks staff. Once we dispose one way or the other of the proposals on Question 7 or 8 – I haven't seen any new proposals submitted by today's deadline – on the clearinghouse, what other work do we have left on the clearinghouse? If you could just refresh my memory, anyone on staff.

JULIE HEDLUND: Thank you. Actually, I see Mary has her hand up. She might speak to that as well and better than I can.

PHIL CORWIN: Sure. Mary, enlighten us.

MARY WONG: Hi, everyone. It's Mary again. I actually put my hand up for something else, so if you could come back to me later, Phil, that would be good.

But, Julie, I believe that there are a few more questions about the clearinghouse that we have in a separate document that we had labeled as deferred questions. By and large, these are questions that the working group had either agreed to defer to the end of the RPMs discussion, meaning having reviewed sunrise claims and these current two open questions or that had not attracted any specific proposals way back when we started talking about the TMCH. I can't recall how many. I want to say there's something

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like four or so. Some of them may require the working group to recollect what you did with sunrise and claims so that you are in a position to provide an overall sense of where to go with some of those questions.

So, as a rough estimate, Phil – Julie can correct me – I would say that the working group probably has a few weeks' worth of meetings, assuming you're talking about weekly 90-minute calls to get through the rest of it. We can go back and look at the timeline, but that's probably the extent of it for TMCH.

PHIL CORWIN:

Well, thank you. It sounds like the Co-Chairs on our next planning call with staff should look at those additional questions and figure out how we're going to deal with them and how much time we expect them to take. But what I'm hearing is that, if we can circle back to the proposals on 7 and 8 next week and make a decision or realize we can't make a decision, one way or the other we can dispose of those on the next call, get into the other questions, and probably wrap on the clearinghouse by the end of the month, which would give us then month of October if we decide to return to the individual proposals on URS and gauge what kind of support they have. We could still do that and meet our goal of initiating our discussion of the initial report at the ICANN meeting in Montreal, which is early November. So we're in pretty good shape so far as the timeline goes.

We're about at the end of the call. I think we've had a very good, substantive discussion today. Staff will be circulating the MP3 of this call and I think, very importantly, the chat. I think we've had

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excellent back-and-forth in the chat, which I plan to read after the call. I haven't had a chance to read and digest everything during the call.

I would encourage Greg and Kathy and Zak to speak to one another on the proposals on Question 7 and see if they can narrow the differences and maybe come back to us with something more in between that might get broader support next week because, based on the [sound as] we took from the working group, I think right now Greg's proposal may have somewhat more support within the working group than the Kathy/Zak proposal, but I'm not sure either one at this point could get the wide support required to be a recommendation put out for community comment in the initial report. I suspect, on GIs, we're closer to having something that has wide support.

With that, anyone have any final comments before we wrap up the call? Claudio, is that an old hand or a new one?

I suspect it's an old one.

CLAUDIO DIGANGI: It's old. It's an old one.

PHIL CORWIN: Okay. With that, I want to thank everyone. We made excellent progress today in exploring the proposals on two very important questions relating to the clearinghouse. I think we're well-positioned to take decisions on those proposals on the next call and then move onto the additional clearinghouse questions and

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finish our clearinghouse work by the end of September. So we're in good shape.

Thanks, everyone. I encourage everyone to read the chat and let that inform your views as we head for next week's call. Thank you very much, and goodbye.

**[END OF TRANSCRIPTION]**