
ICANN Transcription

IDNs EPDP

Thursday, 27 October 2022 at 13:30 UTC

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DEVAN REED: Good morning, good afternoon, and good evening. Welcome to the IDNs EPDP call, taking place on Thursday, the 27th of October, 2022, at 13:30 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room.

We do have apologies from Abdulkarim Oloyede.

All members and participants will be promoted to panelists for today's call. Members and participants, when using the chat, please select Everyone in order for everyone to see the chat and so it is captured in the recording. Observers will remain as an attendee and will have view-only chat access.

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Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now.

If you need assistance updating your statements of interest, please e-mail the GNSO Secretariat.

All documentation and information can be found on the IDNs EPDP wiki space. Recordings will be posted shortly after the end of the call.

Please remember to state your name before speaking for the transcript. As a reminder, those who take part in the ICANN multistakeholder process are to comply with the expected standards of behavior.

Thank you, and back over to your Chair, Donna Austin, to begin.

DONNA AUSTIN:

Thank you, Devan, and welcome, everybody, to our IDN EPDP call for today. We'll be revisiting a couple questions but starting a new discussion, time permitting, for A6.

So we discussed a few times on this call about the idea of bifurcating our work into two parts and submitting a revised project plan to the council. So I spoke to council about that last Thursday. I don't think there's any objections to what we're proposing. I think there is some concern about the timeframe, particularly because Part 2 looks like it may go into 2025. But the other concern is the potential impact of our work on [tolling] any work on SubPro. So that's just a question that was raised.

The plan is that we will submit the revised project—whatever it is—plan to council with the revised dates in it. So that will happen to the November council meeting.

We note that there are some daylight—thanks, Ariel; project change request—saving changes coming. Or some daylight saving changes have already occurred. What we're proposing for this group is that we keep the time at 13:30 UTC on Thursdays. So absent any objections from folks, that's what our plan is. So we'll continue our work on a Thursday.

Just some other things to flag as well. So we will have a couple of meetings that we will cancel because of upcoming holidays. So the 24th of November is U.S. Thanksgiving, and I expect that we will lose a lot of people during that time. So we'll cancel that call. And then with the one on the 29th of December, as most know, ICANN closes down between Christmas and New Year's, so it doesn't make sense to have a meeting on the 29th. Next Thursday is the Contracted Parties Summit, and I know there will be a number of us, including me, that are attending that summit. So absent any objections, I'd like to cancel that meeting for next week. Everyone can take a break. And then the other which is open for discussion is the 22nd of December. We have a call scheduled, but given it's pretty close to the holiday period, I think it might be best to cancel that one as well. So we'll put the 22nd of November out to the list for objection, but I think, with the others, we'll go ahead and cancel that. So the most immediate one is next Thursday. So we won't have a call for next Thursday.

Nigel is also saying that the 29th of November is the U.N. IGF. People may not be available. So maybe ... But that's a Tuesday.

Okay. I was wondering about the timing of that. I know it's a Tuesday, but the IGF usually runs for a couple of days, I think, Nigel. Doesn't it?

Okay. So we'll put out to the list thoughts from folks on December 1st, which is ... It seems it will clash with the IGF and the 22nd of December.

Any other dates that we need to be cognizant of that folks want to identify? I think the council has a strategic planning session mid-December, but I'm assuming we're okay for that one, so long as we're not losing staff. That would be sad.

Ariel?

ARIEL LIANG: Thanks, Donna. So I just wanted to quickly note that December 15 is ... Oh, oops. I think that there's a council meeting that may collide with our meeting—oh, actually, never mind. Sorry. Please disregard my comment. I thought it was going to collide with our meeting, but I don't think that will be an issue, actually. It's a different timeslot, even if it's on the same day. So sorry about that.

DONNA AUSTIN: No problem, Ariel.

Okay. So with that, we will ... I should mention, too—and I don't know whether I mentioned this to this group or not—that I am relocating permanently back to Australia at the end of the year, so

we may revisit the timing of our calls, come January. But that's not something we need to worry about now.

So with that, Ariel, I'll hand it over to you.

ARIEL LIANG: Alright. Sounds good. Thanks, Donna. So we are hoping to close the discussion of the pop-up items before we start on a new topic. So the first one is B4, which is related to the time and sequence of the existing and future registry operators applying for variant labels. So in the previous meetings, we have concluded that D1B, which is a related question, is the process by which existing registry operators apply for variants ... So the conclusion from the team is that they should do it through the next round.

And now we're trying to close off B4, which is the other side of the coin.

And then there is a specific discussion question that we haven't concluded, which is on a string here. Based on the observations, is there a compelling reason to allow applications for variant gTLDs of existing gTLDs between application rounds? So basically, it's asking whether variant gTLDs can be applied between application rounds. And then we're asking whether there's a compelling reason to do that. So this is the question we're hoping to close off in today's meeting.

And then I just want to quickly refresh folks' memory of the strawman process that we worked through and the observations that we noted in previous meetings. And that also applied to the analysis of this question.

So the first observation is regarding which elements of the New gTLD Program will be impacted by variant implementation. So based on the strawman process, it looks like almost the same stage and stats in the program are applicable to an application of a variant label, just like a regular gTLD application.

And then, in terms of what elements may need to be modified to accommodate variant gTLDs, based on the strawman process, we saw that around half of the elements in the New gTLD Program will require specific modifications to accommodate variant label applications.

And then, in terms of analyzing the level of efforts of evaluating variants applications, this is an observation that's more relevant to the D1B question about existing gTLD registry operators applying for variants. There's only 44 that are eligible for applying for variants. Even though they do have interest in getting the variants, but it seems to be very expensive and practical to develop a standalone round just to accommodate those registries.

So these are the observations we had in the strawman process.

And then here's some additional observation that's related to the conclusion of the D1B deliberation. The first point is that what the group agreed on is that the most expedient and cost-effective path forward for existing registry operators to get variants is through the next round. So it's not to create a standalone round but let them the process in the next round. That will be the most expedient and cost-effective.

And then, in addition to that, there's also preliminary agreement from the group that the applications for IDN variant labels can take advantage of the priority in processing order. So that's a recommendation from SubPro. So when we develop the draft recommendation language, we'll reference the details in that SubPro recommendation so variant label application can get priority in terms of processing order. So that's another observation we had.

And then the third observation is that definitely, when setting up the mechanism for evaluating variant label applications for the first time, it will incur cost to set up the mechanism to do that. But to keep running the system in the future, the cost cannot be eliminated. There'll still be additional costs for running the system. So, for example, if you are evaluating variants, all these panels are set up to do that job. And for future applications for variants, we still need to use that panels. And then there'll be costs to keep the panels running, for example. So there will be a continued cost for running a system that is set up for evaluating variant labels.

And then keep all these observations in mind. We're asking the team to analyze this question. Is there a compelling reason to allow applications for variant gTLDs between application rounds? Or we should just let those applications go through the application rounds and not accommodate them for standalone rounds just for variants? So that's the question for the group to discuss. But please keep the observations in mind when trying to answer this question.

So that's all for the staff info for this question.

DONNA AUSTIN:

Thanks, Ariel. And I think the other thing to keep in mind, too, is that, for the 2012 round, there wasn't an option for IDN gTLD applicants to apply for a variant. So moving forward, that will not be the case. So there's also a question of, is there really a need for the ability to apply for a variant in between rounds? Because that ability will exist from the time forward that we have that the recommendations from this work go forward.

Edmon?

EDMON CHUNG:

Edmon here, speaking personally. First of all, I apologize. I missed some of the meetings in recent times. And this discussion has gone on for a bit, and I'm catching up.

But quickly in response, building on what Donna mentioned, the biggest issue with the previous 2012 round is that the applicants actually indicated their interest, of course, at that time. It is known that the variant IDN TLDs might not be implemented yet, but the applicants did indicate the interest to have certain IDN variant TLDs.

And I think the important issue right now is that, for example, Chinese IDN users are hurt every day. Every single day, there are a chunk of people who are trying to access certain Chinese IDN domains and TLDs that are not being able to. And that is precisely why the IDN variants framework was created many years ago when the Chinese realized the issue. And so rectifying it is really pertinent. And every day that goes by, there's further hurt to IDN

usage and, really, the end user and the dilution of trust in the DNS system right now. So I think that's something that we need to think about.

The other point about cost and processes is I think the cost of certain processes, like, for example, geographical TLDs, dealing with brand TLDs, and so on, are also processes that will need to be considered for costs at the same concept. So just by saying that there are additional costs does not directly mean that it has an implication directly on application fees and so on. So I want to make sure that that is there as well.

In terms of the objection process and so on, that may be required. In fact, the variants indicated previously could have been used for the objection process as well. There was no particular limitation to the objections process in the previous round for not objecting, but that doesn't mean that a new round of objection shouldn't be created for the activation of variants. But I just want to note that that was available previously as well.

So those are a few of the items. Hopefully, it's very useful.

DONNA AUSTIN: Thanks, Edmon.

Nigel?

NIGEL HICKSON: Thank you very much. And good afternoon. And sorry I'm in a noisy office. Obviously not speaking from an expertise point of

view but speaking from a political and policy point of view, I would endorse what Edmon has said. If it's not practical, then obviously there might be reasons against it. But the optics of saying that you couldn't apply for variants between rounds, when between rounds can be ten or fifteen years or whatever, seems to me to rather negate some of the advantages that we're trying to create and some of the multilingual aspects that we're going for. Thank you.

DONNA AUSTIN: Thanks, Nigel. Fair point.

So, Edmon, can I just ask you a question? The points you made are well-taken, but are you specifically raising those points on this specific question? Or were they also related to the possibility of having a standalone IDN round before the next round?

EDMON CHUNG: Quickly jumping in, I guess I'm not suggesting that we have a particular round. I think there needs to be a process put in place in some ways that these things could be added, just like updating a nameserver, of course—IANA has to do some work, and ICANN has to do some work—or changing the backend service provider, of course. There is certain work that needs to be done. But they can certainly be done in between rounds, if you will, and not necessarily trigger a whole round. Whether that is possible, I note some of the issues that were raised, but I think it's something that we need to think through.

DONNA AUSTIN: Okay. Thanks, Edmon.

Jeff?

JEFF NEUMAN: Now Sorry. Now my voice is going there. I think we need to think about the future if the SubPro recommendations are adopted by the Board. I think that's the assumption we sort of have to make, which is that there should be determinable periods between rounds but not lengthy periods or indeterminate based on the need to do a review. So, in the future, if you read the SubPro report, what the recommendations are is that you should have regular interviews, like you start accepting applications in, like, a January through March timeframe in one year, and then, either the next year or the year after that, there should be the start of the next round. So it should be fixed intervals that's known well in advance.

So based on that world, I don't think there's a need for there to be a process to apply for new variants in between rounds. Yes, if it turns out that ICANN doesn't adopt those recommendations and then has an indeterminate period, then that's something different. And we can all reflect on what today's world is, which I think Maxim posts very eloquently: ten years between rounds. Right? That's not what the recommendations are.

So we need to assume that, if the recommendations of SubPro are adopted, then there would be a much, much, much shorter time between rounds. And if someone—we're talking about the application for a variant, not the delegation or activation of a

variant—wants to apply but not activate it until later, that's fine. And that way, it's like changing a nameserver, Edmon, to use your example, or changing a backend provider. But I don't think there should be any reason for us to not force everything into rounds because of everything else that needs to be in place, including evaluators and including the comment periods and the objections and everything else that goes along with contention resolution, right? So a variant of an existing TLD in theory could be in contention with something that someone else wants to apply for down the road.

So I think, again, there's a lot of reasons not to do this in between rounds. Thanks.

DONNA AUSTIN: Thanks, Jeff.

Anyone else have—Maxim?

MAXIM ALZOBA: It seems we were speaking about the cost recovery basis for actions, including IDN variants. I don't see harm in having [it] between rounds. If, for example, there is a method to check who is going to apply if the round happens, all ICANN needs to do is just evaluate costs of the process based on the number of those who want to apply potentially. If they don't shrink after the announced sum, which has to be paid collectively by those who apply—for example, if a single applicant faced a \$20 million bill, and is ready to do so—then let it be just a process. Thanks.

DONNA AUSTIN:

Thanks, Maxim. So in considering the question, I know that we have a recommendation that is, in principle, a cost recovery model that we're talking about, but I just wonder if we can put the cost part of this aside.

So I think the challenge with this question is—and I take Jeff's point about that we should assume that there won't be big intervals between rounds, which we all hope is the case ... But I take Edmon's point—and I think Jerry made this point last week—about the disadvantage to Chinese language communities about not having variants available.

But, Edmon, I wonder. We come into the next round, and there is that ability to apply for variants. And that would be the point at which existing IDN gTLD operators could apply for their variant. What's the likelihood that an applicant would not apply for all the variants that it requires to address the disadvantage that you were talking about, Edmon? So is there ... I'm going to go back on what I just said because I guess cost becomes an issue if you think you have an IDN gTLD and you need five allocatable variants to provide the user experience that you want. Is that likely, or are we talking about one or two variants? I guess I'm just trying to put some guardrails around this to understand the kind of problem that we might be dealing with. Edmon?

EDMON CHUNG:

Thank you. So I guess, in terms of numbers—and I'm more familiar with Chinese, of course—I think, for variants that need to

be in place and would hurt the users, I think we're talking about one and, at most, two. And so that's the extent of the kind of harm that we're talking about.

And in terms of what you ... I'm starting to understand or appreciate the use of "application" versus activation, but I guess if that is the way forward, as long as it is clear in the upcoming rounds, I think that should be fine.

But when we think back at the 2012 round, we would probably need to identify the ... Because in the 2012 round, there was a place to identify the IDN variants that are needed for the TLD. And in those cases, we probably need to think about those applied for in 2012. And if we can conceptually think about it that way, then as long as we have the activation process for the 2012 round ... And for the 2012 round, with the ones who did not identify the variants we can consider to not be "applied for" already and therefore might have to wait for the next round. And that would make the process consistent as well.

I don't know whether people are getting what I'm saying, but I think it's somewhat between what Jeff earlier said. And if we consider what was in the 2012 round as already applied for back then, then we need an activation process that could make it work for the 2012 round. And then, going forward, we can settle them in rounds in terms of application. I think that could be a workable solution as well.

DONNA AUSTIN:

So, Edmon, I appreciate you weren't on the call last week, but where we got to last week is an appreciation that probably the quickest way for 2012 IDN gTLD applicants to get to their variants would be through the next gTLD round because of the requirements or the development work that it's going to take to get a next round off the ground. We haven't discussed whether ... You're right that, in 2012, IDN applicants could provide their variants as part of the application. And I think, from what you're saying, they did go through the necessary objection processes—the variants themselves are identified—but I think the other thing we didn't have in place then was the root zone LGR. So I don't know that we've done an analysis of whether the variants that were identified in the application are consistent with the root zone LGR.

So I think, from a pragmatic perspective, where we landed last week is that probably the quickest path forward for 2012 IDN applicants is applying for the variants in the next round, notwithstanding that we don't know when that next round is. So I'm not sure that we want to undo that recommendation, but I'm interested if folks have any thoughts on that.

Edmon and then Maxim. And I'm really sorry but I'm having trouble keeping up with the chat. So if something is being said in chat and you want to raise it or speak to it, that would be great. Edmon?

EDMON CHUNG:

I guess, quickly, finding a middle ground on what you just said is what I was trying to do just a little bit earlier. If we can consider the

ones that have been identified as applied for and can be activated in before the next round, then I think we have a solution that might work for the previous round and the future rounds as well. So what we need to identify is perhaps how we consider an activation process for the ones that are already applied for.

DONNA AUSTIN:

So, Edmon, how do we ... I just think ... I'm struggling to understand how we could make that process work. So given that any recommendation we have in this process has to go through the council and then it has to go to the Board and then there's—I don't know—maybe an ODP and then there would be an implementation process, I would hope that we might be in a position to get this done so that it dovetails into the SubPro. But I just think, from a process perspective, what you're asking is a lot of work, and I'm not sure that, from a timing perspective, it would be that much quicker than going through a round. The other thing we discussed was getting an order of priority to existing IDN gTLD applicants, so that could be a faster path through evaluation. And maybe that's the middle ground you're looking for: if the existing IDNs from 2012 have some kind of priority through the next application process, maybe that will help as well.

So, Maxim, Sarmad, and Jeff.

MAXIM ALZOBA:

I think, if someone finds a clear reason why IDN variants shouldn't be allowed to use some kind of process between rounds, it would help us because, without it, if basically we don't have a reason

why not, I'm not sure why we're trying to identify if it's allowed instead of saying, "Yes, potentially it's allowed on a cost-based recovery." That's it. Thanks.

DONNA AUSTIN: Thanks, Maxim.

Sarmad?

SARMAD HUSSAIN: Thank you, Donna. So I just wanted to point out Section 1.3.3 of the AGB from the 2012 round, which talks about IDN variant TLDs. It's specifically on that. And basically, it says that declaring variant strings is informative only and will not only imply any right or claim to the declared variant strings. Of course, I think we were talking about that earlier as well: that these variants will probably, based on current discussions, go through root zone LGR calculations. It also suggests that, in that section from AGB, when a variant delegation process is established, applicants may be required to submit additional information such as implementation details of the variant TLD management mechanisms, mainly to participate in a subsequent evaluation process, which could contain additional fees and review steps and so on.

So I'm just pointing that out: that, from the AGB, the variant identification is really, I guess, at that time was informational and, I guess, left to this working group for how to address it. Thank you.

DONNA AUSTIN: Thanks, Sarmad. And a good reference point for us and something for us to remember is that we've looked at the process flow from 2012, but we haven't looked at the application questions around IDNs or requirements in AGB. So I think that's a good reference point for us.

Jeff?

JEFF NEUMAN: Thanks. And thanks, Sarmad, too. I think that's important: just trying to internalize all of that.

But correct me if I'm wrong. If someone did list variants for informational purposes, they weren't run through any kind of string similarity or contention resolution or anything like that. They were just in the application. And so that's something I think we need to think about. And I'm not sure that objections would have been taken on information contained within that section or that question that was asked in the guidebook since it was just informational. So I think we just need to consider all of that as well.

And then I think, on the cost, I just want to emphasize that, if IDN variants are allocated in rounds like with all the others, then I think the cost recovery becomes the cost recovery becomes the cost of every application all considered together to determine the cost of the entire program. If variants are applied for in between rounds and we allow that, then when we talk about a cost basis, we're really talking about the actual cost just for that application or those applications in between rounds. And I think that raises the cost to

something that's going to be probably much higher than an application in a round.

So I think that needs to be considered: that, politically, we may think it's a good idea to do this in between rounds, but then, once the cost is determined and people see that the price tag is much higher than they thought it would be because it's only measured against those few applications between rounds, I think that creates a whole other political policy issue.

DONNA AUSTIN: Thanks, Jeff. So I understand that costs are going to be a challenge, but I think, as Maxim said before, if somebody wants to pay \$20 million between rounds, that's their prerogative.

I think, in the discussion we had last week, we also acknowledged that, once the next round is set up from an operational perspective so the systems are in place and evaluators have been identified and whatever other resources are required, moving forward, if there was the ability to apply for variants in between rounds, then that cost shouldn't be as high because I think the big cost that is coming with the next round is the establishment of the program. So I'm not sure that I'm necessarily on the same page with you for cost.

Maxim, go ahead.

MAXIM ALZOBA: I think the following. If we're speaking about cost and then saying, "For your own protection and pleasure, we forbid you to do

anything," that doesn't sound right, yes? So if the applicants agree to pay the fees, which are way higher, let it be because what are we going to solve from prohibiting that? What particular reason is there to do so? If the cost is high and they are ready to pay, it's up to them. We shouldn't remove the choice from the hands of applicants. We shouldn't decide for them if there is no clear reason. By "clear," I mean justified.

DONNA AUSTIN:

Thanks, Maxim. So I think, going back to the question of "Is there a compelling reason to not allow for IDN variant applications in between rounds?" I think that's the question. And I think Edmon probably led off with what is a compelling reason. And also Jerry mentioned this last week. And that's the disadvantage to the language community about not having access to that variant of the IDN gTLD.

And I think Nigel also raised an interesting point as well, and that's around the policy because it's associated with disadvantaging those communities. I wonder whether, once there's that ability to apply for variants in the next round, actually anyone will ever want to apply for additional variants between rounds. But, again, that's an unknown for us. So we can't say with any certainty what the case would be.

So I think what we're looking for here is, is there a compelling reason to allow for applications in between rounds?

Maxim?

MAXIM ALZOBA: Maxim—

DONNA AUSTIN: Sorry, Maxim. If we decide the answer to that is “yes,” then we’ve got a bit of work to do to understand how that would work from an applicant perspective.

So, Maxim, go ahead. I’m sorry to cut you off.

MAXIM ALZOBA: I think we could use the following logic. If there is a need to provide ability to use variants in the next round, which we expect to happen in a few years, then the IDNs EPDP goes into the [gating] items list because, without finishing the IDNs EPDP before the next round, there will be no variants during that next round. So I think the reason to allow it between the rounds is to give some chance to variants to happen after this next round because, as I understand, it’s not possible to have it before the close of the next round. That’s my thinking. So if we say that it’s not allowed between rounds, there will be no variants. Or the work of this EPDP will again delay the next round for a few years, which I think is against public interest. Thanks.

DONNA AUSTIN: Yeah. Thanks, Maxim. I think that’s a good point as well. There’s the potential that the recommendations for the work that we do in this PDP will not actually be in time to dovetail into the SubPro recommendations. So we could be in a situation where the next round goes ahead but the variant recommendations haven’t been

implemented as part of the next round. So I think that's a valid—it's a pretty compelling reason, actually—reason why we should at least have some kind of backup recommendation here that would allow for that set of circumstances.

Jerry and then Jeff.

JERRY SEN: Thank you, Donna. Talking about a compelling reason to allow the between-round applications of variant gTLDs, maybe I can provide one. Actually, in the last round, there were so many IDN TLDs, but still, after seven or eight years, the market share of IDNs is still very low. And many users didn't even know about the IDN gTLDs. And I know that Sarmad is here and he knows that and many of the colleagues here know that universal acceptance issues ... There's a lot of such issues. But maybe someday the end users, the Internet users, can accept IDN gTLDs. And at that time, maybe the gTLD operators will realize that they should apply for variant TLDs some day but not another ten years later because you don't know the future. But I think we should keep the possibility of this.

And, also, on the other side, maybe I can provide an example here. If a gTLD operator provides their [main] business in the mainland China, they might need the traditional Chinese TLD. But some day, maybe they can extend their business to Hong Kong, Taiwan, and Macau. At that time, they will have such need. But maybe they can give more money, like what Maxim has said, to apply for the variants. But you shouldn't forbid them to do so. Thank you.

DONNA AUSTIN:

Thanks, Jerry. So we're going to go to Jeff, and then I'm going to draw a line under this conversation. I think it's been a really good one, but I think there's some points that we need to process. And then we'll come back to this when we ... Well, we won't come back next week because we're not meeting next week, but I think we can draw a line under Jeff because I think there's been some really good discussion here. We just need to process it.

And the other thing that folks can keep in mind, which is something that we've tried to do, is the implementation and how that would actually work with something like this. So that's something we just need to take a little bit of a step further into to see how that implementation would work.

So, Jeff?

JEFF NEUMAN:

Thanks. I think Maxim makes—well, everyone—a really good point. And I think, to Maxim's point about our work and the impact of whether variants could be in the next round, we should have a backup. I think that backup could consist of, well, even if we haven't figured out all the ins and outs about the second level yet—hopefully (I'm knocking on wood) we'll be done with the top level—us accepting applications for variants and we can run it through all the processes in the next round. It's just that perhaps some of the roles may need to wait until after our work is completed. So I think we can have a backup that does allow for applicants to include variant applications to run it through the

string similarity and everything else that we're now talking about at the top level because Phase 1 should be completed. So I think we can manage a backup plan if the work at the second level, Phase 2, is not completed by then.

DONNA AUSTIN: Okay. Thanks, Jeff.

Alrighty. So thanks, everybody, for the conversation.

So just going back to what we agreed to last week, I don't think anything that we've discussed here today should undo anything that we agreed to last week. So I hope nobody disagrees with me, but I'd like to just confirm that what we agreed to last week is that, for the 2012 IDN gTLD applicants, their first opportunity to apply for those variants will be in whatever the next round happens to be, and there'll be some kind of priority afforded to them in terms of evaluation processes or whatever. I don't think anything we've said here today undoes any of that.

Alrighty. So, Ariel, I think we'll move on to the next item, please.

ARIEL LIANG: Thanks, Donna. Just listening to the conversation, I guess we're not in agreement even for D1B at this point. Is that the correct impression? Because I thought the group had agreement, but it now sounds like not. So I just want to make sure that I have that understanding when trying to capture the outcome language.

DONNA AUSTIN: Sorry, Ariel. I missed that. Could you repeat? Sorry.

ARIEL LIANG: Yeah. So in the last call, we had a preliminary agreement on D1B. That's why it's grayed out on this slide. It's about the existing ROs applying for variants. But based on the conversation today, it sounds like folks want to revisit that. Is that the right impression?

DONNA AUSTIN: No. So what I just said, Ariel, is I don't think any of the discussion we've had today would undo what we agreed to last week.

ARIEL LIANG: Okay. Thank you. I just wanted to make sure to clarify that. Okay, thank you, Donna. Okay, sounds good.

And now we're going to the next question, which is E2. It's about the objection process. The group hasn't concluded the discussion of this. So just as a refresher, there are four types of objection processes. One is the limited public interest objection. The group actually had an agreement of what variants [rose to] that. It's basically that such an objection can only be filed against the applied-for primary label and the applied-for variant label. So the non-applied-for—well, non-requested—allocatable variants and blocked variants are not subjected to limited public interest objection. That's the first type.

And the second type is the string confusion objection. So basically, it's replicating the hybrid model. And basically, based on the hybrid model, the objection can be filed.

I'm not going to elaborate on that, but that's what the group agreed on. So that's why we're not talking about those two types of objections.

The two types that we haven't concluded on is the legal rights objection and the community objection. So the small group, when it deliberated on this question, proposed two options for the group to consider. The first option is, for legal rights, such objections can be filed against the primary applied-for string and the requested allocatable variant. But the legal rights objection cannot be filed against the non-requested allocatable variants unless such variants can be activated between rounds. So that's kind of related to our discussion for B4. And then, also, such a legal rights objection cannot be filed against blocked variants. So that's the first option.

And the second option is that the legal rights objection can be filed against basically the primary string, all of the allocatable variants, and all of the blocked variants. That's the second option.

And I see, Jeff, you have your hand up. I wonder whether you want to comment immediately about these two options, or do you want to hear more about the rationale for Option 2? That's the second flag.

JEFF NEUMAN:

Oh, yeah, go ahead. Sorry. I don't want to interrupt.

ARIEL LIANG:

Okay. So folks may have questioned why Option 2 is put on the table for consideration, and I just want to provide some refresher on the example that we actually ran through before. So basically, Option 2 is that all of the primary labels and all of the variant labels are subject to objection. It's because this could help prevent an event where a delegated string may block the chance for a rightsholder to apply for another string that is very similar to any variant label of an already-delegated string.

So this sounds very convoluted, but if you look at this example below, it could possibly help with your understanding. So presumably, A1 is an applied-for string. That was an applied-for string in Round 1 of the New gTLD Program. And A1 has an allocatable variant, A2, and blocked variants, A3 through A6. But the applicant for A1 didn't apply for A2 and obviously cannot apply for A3 to A6. And if we only allow objection against the applied-for string, which is A1, then it's possible there's no objection against A1. And then A1 passes the evaluation and gets delegated to the root zone. So that's our situation right now: this scenario.

And then there's also another string, which is B2. It is a trademark. But the mark holder of B2 didn't participate in the New gTLD Program, Round 1. And then, also, at that time, the objection cannot be filed against any of the variants of A1. So the mark holder of B2 wouldn't have any chance to file a legal rights objection against A1 for application. So if that's the case, then B2 may not have a chance to pass the evaluation because B2 looks very similar to the variant of A1. So it kind of looks kind of similar to A2, for example. It also kind of looks similar to A4. So if we're

using the hybrid model for a string similarity review, then B2 wouldn't be able to pass it because it looks similar to a variant of an existing TLD that's already delegated.

So that's why there are supports for Option 2, allowing legal rights objections against the variants of an applied-for string. So if that's the case, then the mark holder of B2 may have an opportunity to object to A1's application by saying that A1's variant looks very similar to its existing mark. So in that case, if the mark holder's B2 objection prevails, then A1 will be ineligible to proceed, and then B2 may have a chance to be delegated in the future.

So that's, I think, the rationale for supporting Option 2.

And I think I recalled that Jeff mentioned in his comment about the hybrid model the exception process or the exception for mark holders. I think it may be related to this kind of scenario to prevent this from happening, but I'm happy to hear his further input on this.

So this is all from staff side to introduce this legal rights objection again to the group.

DONNA AUSTIN: Thanks, Ariel, for the refresher.

Jeff?

JEFF NEUMAN: Yeah, Ariel is reading my mind here. So as you can imagine, a legal rights objection is very important to the IPC—and I'm here representing the IPC—because of everything that Ariel just said.

The IPC opposes the whole nature of the hybrid model that would prevent the trademark owner from applying for something that may look like a blocked variant of another TLD. So that's the overall position.

But if the hybrid model was adopted, that's the reason for an exception process to allow a B2 trademark owner to still go forward because it has a trademark or it has legal rights in that mark. It shouldn't be prevented from launching a TLD simply because a blocked variant of another TLD looks like it.

So if we have the exception process, then I suppose it could be Option 1 for the objection. But Option 2 is still, in my mind, the only real thing that we can adopt if we support this hybrid model because we cannot put a trademark owner or anyone in a position of potentially not being allowed to reflect their mark as a top-level domain simply because it may look like a blocked variant of another TLD.

this is the exact scenario that I was talking about. So it emphasizes why IP owners don't support the hybrid model without an exception process, but it also supports the need that an objection process must allow objections to blocked variants if we adopt the hybrid model, period.

DONNA AUSTIN:

Justine?

JUSTINE CHEW: Thanks, Donna. Jeff, can you help me understand? I understood the bit where you said that the legal rights objection would be available to the trademark holder of B2. And I think that's what we are kind of getting at. But when you talk about objections to trademark holders—in this case, B2—to be allowed to have their label, what does that actually involve in this situation?

JEFF NEUMAN: Good question. So ultimately, the position of the IPC is that, if B2 and A1 were applied for in the same round, they should not be in the same contention set because it's similar to a blocked variant. But if it's in the next round, and then B2 then applies, but A1 already exists, then B2 should be allowed to move forward and not be deemed to be confusingly similar to A1 because of a blocked variant. So that's the whole objection the IPC has to the hybrid model in general.

But if the hybrid model is adopted, then B2 should be allowed, if it is applied in the same round as A1, to say, "No, we shouldn't be in the same contention set because we're similar to a blocked variant. That makes no sense." Or, alternatively, if it's a next round, B2 should be able to say, "Yeah, I should be able to exist and go forward with my application, even though a blocked variant of A1 is confusingly similar to B2."

So that's what I'm talking about: the exception process and the objection process as sort of working together.

JUSTINE CHEW: Okay. Thank you. That's very clear. Thanks.

DONNA AUSTIN: Do folks have any other thoughts on this?

I noticed that Edmon is typing in chat, and he's multitasking. I'm not sure if I'm reading correctly, but is he saying the same thing as Jeff?

[inaudible]?

JEFF NEUMAN: Yeah. And one other aspect of it, too, is kind of the converse. I know we say B2 should be able to object, but I'm actually thinking, at the end of the day, putting aside objections, A1 and B2 should be allowed to exist, right? So I'm not sure giving B2 an objection right to A1 really works because I don't think either of them should be prevented. And a legal rights objection ...The result of that would just prevent A1 from even existing. If B2 prevails or if A1 prevails, it would prevent B2 from existing in a subsequent round.

Perhaps, if we allowed the exceptions, meaning that B2 could proceed not in the same contention set or could apply in a later round, I don't think we need legal rights protection for B2 against A1 because the result of an objection doesn't make sense either. If we're thinking about that both should be able to exist without an issue, then the objection process doesn't help, doesn't solve the problem.

JUSTINE CHEW: Sorry. If I may interject, Donna.

DONNA AUSTIN: Yeah.

JUSTINE CHEW: I think, in this situation and probably on a case-by-case basis, the similarity is between B2 and A2, not necessarily B2 and A1. So one of the possible outcomes would be that A1 and B2 will still be allowed to exist—both—but possibly A2 may not be able to be activated by A1 because of the similarity. And the same goes for A4, I guess. But A4 is blocked, so that applicant for A1 can't get it anyway. So the situation might end up being that the applicant of A1 just doesn't get A2. But, again, of course that situation is case-by-case, depending on the set, I guess.

DONNA AUSTIN: So how does this affect the same-entity principle? So the blocked variant ... So if I ... I'm just trying to remember this kind of stuff. It does my head in. But wouldn't this undo the same-entity principle?

So, Jeff, is that a new hand or an old hand?

JEFF NEUMAN: Well, both.

DONNA AUSTIN: Okay. Go.

JEFF NEUMAN:

Again, this is one of the issues I have with the whole hybrid model, although Justine is pointing out that the confusion here could be between B2 and A2, which is an allocatable variant. I don't know if we can avoid—it's unfortunate—that situation, but let's assume that A2 is not similar to B2, and let's just assume it was only A4. The whole big objection we have is that a blocked variant be used to prohibit another application.

But I see the issue, too, with A2, which is, yeah, if A2 is an allocatable variant, then we need Entity B to be able to object to A2 but not necessarily A1 so that A2 is not allowed forward, and B2 is allowed to go forward in a separate round or in a different contention set.

So I do see now why there is a need for an objection process for allocatable variants, even if not requested. Again, I think we need an exception process to blocked variants—to being similar to a blocked variant—and I now see what Justine is saying. I think we do need to allow objections against allocatable variants. But a successful objection to an allocatable variant may not prohibit A1 from existing. It would just, in this case, prohibit A2.

And the effect on the same entity is, well, yes, you're going to have different entities doing A1 and B2, but presumably they have two completely different meaning, and that's okay. That happens every day with trademarks around the world. It's fine. Yes, a consumer may be initially confused, but after the initial confusion, they can understand it's got a separate meaning.

So, anyway, thanks.

DONNA AUSTIN: Thanks, Jeff.

Michael?

MICHAEL BAULAND: Thanks. First, to Donna's question, the same-entity principle is not a problem because that is only related to actual variants, not mere confusables.

And now, to the question of whether we should allow an objection process, just because we allow an objection doesn't mean that, if B2 objects, it will actually go through. There are two possibilities when B2 objects. One is that the objection is okay. So B2 will prevent the application of A1. Then, in a later round, B2 will be able to apply on its own. And if the objection does not go through, it means the similarity is not strong enough. So A1 will be able to go through, but then, in a later round, B2 will also be able to go through because, if A1 were to object, it would be rejected to the same reasons that B2's objection got objected. So I think that should be okay. Thanks.

DONNA AUSTIN: Thanks, Michael.

Jeff?

JEFF NEUMAN:

It's interesting because this one can be kind of a cross between a string similarity objection and a legal rights objection because of the point Michael is making. In a legal rights objection, the trademark owner is objecting not because it looks like the mark only but that there's going to be confusion from a trademark perspective with any use of the mark. So if B2 tried to file a legal rights objection against A2, there's a good chance it wouldn't succeed because, if it's going to be used just like A1 is being used, and presumably A1 and B2 are used for different things, then it wouldn't succeed in a legal rights.

I think, at the end of the day, we need to take a step back and figure out how they could coexist without an issue. And I think this is a perfect example, where, whether it's through an exception process, which may be more effective than an objective process, we need to allow that coexistence.

DONNA AUSTIN:

Thanks, Jeff.

Does anyone else have any other thoughts on this?

Okay. So what I think I'd like to do on this is just draw a line under the conversation today and see if staff can pull together the pertinent points so that we can come back with a suggested path forward. And, Jeff, that would be helpful, too, if you could write something up. And if anybody else has an input that they'd like to provide via the e-mail list, that would be good. So I think we'll just draw a line under this for now—yeah, it's "complex," alright—and then we'll see if we can suggest a path forward.

Ariel, what's our next item here?

ARIEL LIANG:

It's actually very much similar to the legal rights objection. It's the community objection. It's exactly the same two options for the group to discuss. And Option 1 is that an objection can only be filed against the applied-for primary string and request the allocatable variants but not against the non-requested allocatable variants and blocked variants. But then if variants can be activated between rounds, then a community objection can also be filed against the non-requested allocatable variant. That's Option 1.

And Option 2 is that a community objection can be filed against the primary, all of the allocatable variants, and all of the blocked variants.

So it's the same to options.

And in terms of the rationale for Option 2, that's also very much similar to what we said before. Basically, you just replace the mark with a label that's affiliated with the community. And then, basically, Option 2 will allow for a community objection against the string that may prevent allocation of another string in a future round.

So I want to further elaborate on this, but it's very much the same logic as the legal rights objection. So I wonder whether we need to further discuss this or if we can go back to this after we see the write-up for the legal rights objection. And then the same logic may be applicable to community objection as well.

What do you think, Donna?

DONNA AUSTIN: Doesn't matter what I think, Ariel.

ARIEL LIANG: In terms of chairing the session, what do you think would be the most effective, efficient use of time? We could go back to these two types of objections after compiling the bullet points and seeing what Jeff is going to propose as well. Maybe it can be more efficient for next time to discuss this because it's the same kind of options that we're considering.

DONNA AUSTIN: But I think the point that Edmon has raised in chat is that ... So the community applications are different. I think it's a different scenario to what we just discussed with legal rights. And Edmon is saying that Option 1 would have this group overstep the definition of [granting] some objections. I think he's talking about communities. Or perhaps not. Maybe we're back on legal rights. I don't know. I'm confused now.

Jeff, go ahead.

JEFF NEUMAN: Thanks. It's interesting. I think we're asking the wrong question. It's not whether objections can be filed. It's whether we need to create additional standards to allow an objector to succeed, right? Anyone can file an objection. You can't really stop them. But when

we say an objection should be allowed, we're also indirectly saying, "And we need to make some changes to the standards to allow an objector to succeed." I think that's the real question. I know we're kind of doing it shorthand. But I think it's an important distinction. Anyone can file an objection. You can't really stop them. The question is, are they going to have any grounds to prevail? And that's the real question we need to work on, not whether you can file an objection. I don't know if that makes sense, but that's what I'm trying to get at.

DONNA AUSTIN: Okay. Thanks, Jeff. And I see that Justine and Jennifer agreeing with you in chat.

Edmon, go ahead.

EDMON CHUNG: Again, I apologize. I'm splitting myself between two meetings, but this is an important discussion, I think, and hopefully this is useful.

So I do agree with Jeff. I mean, the question should be asked[:] what type of things might likely succeed or not? But I think, even from the discussion in the small team, if I recall correctly, we specifically said that this is guidance for confusability, but it's a kind of string similarity. But when we talk about objections, we have to allow people to file the objection. And then whether it succeeds, this is just one element out of many that perhaps the panel needs to consider, right? I mean, if it comes along, and someone presents a case, and the applicant has a track record of

doing things like this, then the objector can probably win the case, regardless of what we write here.

I think, if we write it such that they ... We can write it such that it would be very difficult for them to win the case, but we cannot write it in such a way that, even if they have overwhelming evidence that the applicant is an abuser, they cannot file that against a blocked variant. Maybe they have always been using the "blocked" variant as a way to abuse or infringe on cases, right? So I think that's the part where we need to think through and not try to overstep what this group can probably produce.

DONNA AUSTIN: Thanks, Edmon.

Maxim?

MAXIM ALZOBA: I'm not sure that forbidding something to the particular applicants—I mean legal bodies—will do anything because it's quite simple to create even not directly-affiliated bodies for applications. So we might suggest that, but I'm not sure it's going to work. Thanks.

DONNA AUSTIN: Okay. Thanks, Maxim.

So I think, probably, based on the conversation, we need to go back and rethink this and perhaps come back with a different question for the group to find a path forward on this one.

Does that sound reasonable to folks? I think there's agreement that we're asking the wrong question here, so I think we do need to recast this.

Okay. Alright, that's what we're going to do.

So the last ... We've only got six minutes, but I'd like Ariel just to walk us quickly through E6. I'm going to come back to this a little bit later, but I would like to get this read in. And if folks can take a look at the slide deck. This is a little bit of a curious question, but I think the crux of it is related to ccTLDs and maintaining that current delineation in some way between what is a ccTLD and a gTLD in terms of two characters and the complication that comes in with IDN Latin scripts. So, Ariel, if you can just run us through this. I'm not expecting a conversation today, but just so that folks have had an opportunity to look at this and try to understand the question so that we can have a conversation about it later. Thanks, Ariel.

ARIEL LIANG:

Thanks, Donna. So for Question 6, the wording is a little complicated. It says, is there any reason to permit registration of gTLDs consisting of decorated two-character Latin labels, which are not variant labels of any two-letter ASCII labels? So that's the question.

And then we tried to distill the question into three parts to help the group understand it. So the first part is, can the two-letter gTLD labels in the Latin script be applied for? That's the first part. And then the second part is, can a two-character IDN gTLD label in a

Latin script be applied for? So, basically, if you look at decorated two-character Latin labels, that's IDN Latin labels, not ASCII labels. So that's the second part. And the third part is, can a two-character IDN gTLD label in Latin script that is not a variant of any two-letter ASCII label be applied for?

So that's basically the direct translation of this charter question, E6. So we tried to distill that into three parts for understanding.

And I see Justine has her hand up. Do you want to speak now?

JUSTINE CHEW: Yes, please, if you don't mind.

ARIEL LIANG: Sure.

JUSTINE CHEW: I just wanted to ask you, Ariel—I'm sure you mentioned this before somewhere—can you give us an example of a decorated two-character Latin label, please?

ARIEL LIANG: So I'm not a script expert, but I believe, for example, German, if you look at the example on the screen (3B here), the O has two dots on that. I think that's decorated. And then I see Michael and Maxim have their examples down below. So you see these little ... I don't know what you call these, but that's a decorated letter or

character. It's not an ASCII label. But Michael can probably explain this better. He's in the Latin scripts panel.

JUSTINE CHEW: Thank you. It's the double dots and the umlauts and so forth.

ARIEL LIANG: Yeah.

JUSTINE CHEW: Okay, got it. Thank you.

ARIEL LIANG: Okay. I think, Justine, you understood it correctly, so Michael put his hand down.

So now I'm just going to need to talk about this in the ccTLD context because this is very much related. So we want to mention that, for two-letter ASCII labels, there's some existing restrictions because the two-letter ASCII labels are country-code top-level domains. And then the two-letter labels that are derived from the ISO 3166-1 list that allocate two- and three-letter alphabetic codes to represent countries. So basically, they have special meanings and significance to that.

And in order to ensure there's no conflicts with any future ISO country name assignments, ICANN has been maintaining a restriction on the use of two-letter TLDs.

But also, we want to mention that, currently, in the ccTLD labels, there are no IDN ccTLDs label in Latin script. So you probably haven't seen that created—two-letter codes—in the ISO 3166 list.

So that's the current situation.

So we also want to mention something about the 2012 round, but I know there's only one minute left. It's that two-letter ASCII strings were not permitted in the 2012 round because it may conflict with current or future country codes based on the 3166 standards.

Also, another important note is that any applied-for two-character string was reviewed for a visual similarity to any possible two-character ASCII combination to protect possible future ccTLD delegations. So in the string similarity review, you will note that restriction as well.

But then the third point we want to mention is that, with all these restrictions, two-character IDN string were still allowed in the 2012 round. And indeed, there were applications received for two-character IDN strings. And these are reflected in some Japanese and Chinese strings, for example, like you see on the slide. But then for two-character IDN strings in Latin script, none of such applications were received because I think the applicant understood, if they do submit such applications, it would be very unlikely that would pass a string similarity review because it will be compared against any two-character ASCII string combination. So it probably would cause that visual similarity.

So this slide is to analyze the questions that we distilled before and tried to answer. I don't know whether we have time to go

through these, Donna. We're already one minute passed time. Do we want to pick up this in the next call?

DONNA AUSTIN: Yeah, I think that's enough for now. I just wanted people to see it and understand. This is a question we will come back. But I think Maxim's points in chat are probably important on this one. So this is about two-letter gTLD Latin-script labels that could be confusingly similar with two-character country codes. When Nigel mentioned politics before, this is very much about protecting two-letter country codes, and the Latin script two-letter being confusingly similar. So I think there's a pretty simple answer to this question, but you guys need to have a look at it, and we'll come back to it.

So thanks for sticking out the extra two minutes folks. Good discussion today. Got a little bit of follow-up to work so that we can try to iron out the legal rights and community objection processes. Thanks, everybody. Just a reminder: no call next week because of the GDS Summit, but we'll see you in two weeks' time. Thanks, everybody.

[END OF TRANSCRIPTION]
