

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) Sub Team for Data call
Friday, 15 December 2017 at 17:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <https://audio.icann.org/gnso/gnso-rpm-review-15dec17-en.mp3>

Adobe Connect recording: <https://participate.icann.org/p6jda1h8746/>

Attendance is located on wiki agenda page: <https://community.icann.org/x/KRxyB>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page <http://gnso.icann.org/en/group-activities/calendar>

Operator: Recordings have started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening and welcome to the RPM Sub Team for Data taking place on the 15th of December, 2017. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. We do have on audio only at this time, Kristine Dorrain. Is there anyone else on audio only?

Mary Wong: Terri, this is Mary. I'm on audio only.

Terri Agnew: Thank you, Mary. Noted. Hearing no further names, I would like to remind all to please state your name before speaking for transcription purpose 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 Michael Graham. Please begin.

Michael Graham: Great, thank you. This is Michael Graham for the record. And good morning, everyone. We have two listings and we're going to try and get the – is this going to be the most current version or is this the version that you captured a couple hours ago of the chart. Let me see.

Ariel Liang: Sorry, Michael. This is Ariel from staff speaking. I just wanted to clarify the version uploaded to the Adobe Connect that December 8 is not the most current one. But if we want to see the latest changes I'm happy to share my screen and show the Google Doc directly.

However, people cannot resize the screen and see the words as they were so they just have to look at my screen the entire time so I don't know which method you prefer. We have the link in the chat so people can also access the Google Doc directly.

Michael Graham: Okay. Why don't we go ahead and use what we've got on the screen up here. I've got a copy of the current version and I apologize, to the group, I made some change about an hour ago. They aren't incorporated in what you're seeing on the screen but they're fairly simple and straightforward so I can share those.

If you do have a dual screen and want to, you can also – the link to the Google documents are listed there in the chat so great, thank you. So if we could go back – and we had gone through Question 2 both the anecdotal questions and the data questions and made some changes that we discussed.

This version incorporates those changes. And I don't know if we need to go back over those, what they were, if you looked at the document online, you saw indicated the changes there; there were some additions, some changes and such.

Do we need to go over that with Question 2, does anyone want to look at that further? And if not, I think we were just – oh, Kathy, you want to go ahead?

Kathy Kleiman: Hi. Michael, can you hear me?

Michael Graham: Yes.

Kathy Kleiman: Great. This is Kathy. Much more of a procedural question and so – so we're looking at the version literally of – on the screen of December 8 but yet a lot of edits have gone in in the last 24 hours. Is that right?

Michael Graham: Well, when was this upload? My understanding is this incorporates changes that were made up to two hours ago. Is that correct...

Kathy Kleiman: Could Ariel tell us – okay so the version we're looking at – could Ariel tell us who the last editor was of the version that we're looking at on the screen in the Adobe Connect?

Ariel Liang: This is Ariel. So the version we have on the screen, that's incorporating the changes from the last call so it's not the latest. The latest is still in the Google Docs that I haven't got a chance to extract them and put in the clean PDF document. So there is a way to do that as I can share my screen so we can see the latest as a Google Doc.

Kathy Kleiman: Okay. Okay so this...

((Crosstalk))

Michael Graham: ...Kathy, do you think that would be the best thing to do, go ahead and share the screen?

Kathy Kleiman: I'm not sure how that works or what that looks like but at least I understand what we're looking at. Thanks.

Michael Graham: Yes, Ariel, let's try that and see what it looks like. Okay, so you're totally in control of that screen then and we can't control it other than running the size on it, okay. Yes, you want to hold it there at Question 4? We'll start there.

Now this version incorporates some changes that I had made an hour or so ago.

So what I'm going to do is just go through the two columns of questions as we've rephrased them. The one on the left is for anecdotal responses; the one on the right is intended to capture more empirical information and evidence.

And we did make some changes in Question 2 so we may want to make some changes in Question 4 and going on. That's really the thing that I'm most concerned about that and the phrasing the questions and if anyone has any suggestions for changes that might make these more clear what we were trying to get at.

Our intent, as we discussed the last time is to be able to provide the survey developer, designer, with clear questions that we need – we want to have answered then with the expectation that they would make changes that they saw necessary to obtain those answers that we were trying to get at.

So the anecdotal questions for Question 4 begin with “Do you believe registry operators should be required to publish their reserved names lists?” And then that's followed up with, “If so, what problems do you think publication of these lists would solve or address?”

And then this is followed by a separate question, “In the event a registry has placed a trademark in its reserved names list, and later decides to release that name for registration,” I don't know if we – yes, thank you – comma, “should the registry be required to provide trademark owners in the TMCH notice of the release and a priority opportunity to register the domain name upon its release?” That question followed by, “If so, why do you believe this should be the case?”

Any comments on that inquiry?

Kristine Dorrain: Michael, this is Kristine. My hand is up.

Michael Graham: Oh okay, Kristine, since I can't see it, go right ahead.

Kristine Dorrain: Thank you. Yes, it's virtually up. Thanks. This is Kristine for the transcript. I just wanted to say, the only addition that I would make is I think you're assuming that the brand owners are going to answer in that affirmative here by saying, "If so, why?" I'd also like to just add, "And if not, why not?"

Michael Graham: Good point. I agree, we should put that in there. So that would be – let's see, right now we've got, if so, why do you believe this should be the case? If not, and should that also be on the top one, the "Do you believe registry operators should be required to publish their reserve names lists?"

It says, "If so, what problems do you think publication of these lists should solve or address?" And I guess we don't have to follow that up with a, "If not," because there's not – you apparently don't think there are any problems that wouldn't address so...

Kristine Dorrain: Well but, I mean, I do think – sorry, this is Kristine again. I do think that – there could be a situation in which a brand owner says the reserve names list should not be published because we think that publication would create its own problem.

So I think we do want to leave that space for why does the brand owner think they shouldn't be published? Because I think there would be some discrepancy there. I think some brand owners will want it. I'm interested to find out if some brand owners will not.

And I'm sorry for my daughter yelling in the background; I'm dropping her off here.

Michael Graham: Okay, so Kristine, correct me if I'm wrong, then what you're thinking is wherever we have one of these "If so" questions or follow up questions, we should have also have an "If not," basically why not?

Kristine Dorrain: I think for the ones you've read so far, yes. There may make sense someplace else not to do that but I do think that for at least the two we're talking about it does make sense.

Michael Graham: Okay. I would agree with that change and addition. Anyone else? Okay, if we can do that, Ariel, we can do it after the fact. But add those. The next question, which I hadn't read, "Do you believe registries will have any issue with this requirement? If so, what would those issues be?" Or what do you believe those issues would be? And I guess that's one that if not, doesn't make any sense if we were to follow that.

Then I made a change in my draft so I'll explain it. Originally this last question, "Has your participation in sunrise period registration been affected by registry operator reservation of names? If so, how?" is the follow up. That was originally in the – empirical section, the Data section, and it seems to be calling for an anecdotal response rather than metrics so I placed it down there. And I see a couple hands up before I go further, so, Kathy, I think you were first.

Kathy Kleiman: Actually, let me wait for J. Scott because I just lost the page that was open so...

Michael Graham: Oh okay, J. Scott, you want to go ahead?

J. Scott Evans: Can you hear me?

Michael Graham: Yes.

J. Scott Evans: I mean, I guess I'm curious as to why we would ask trademark owners this question about, "Do you believe registries would have an issue with this requirement? If so, what would those issues be?" I mean, first of all what does that really add to our discussion? I mean, that just seems to be – I'm getting worried that this thing is getting so cumbersome that we're no way going to get it in for \$50,000. And we don't even know if we have the \$50,000.

And so I look at stuff like this and I'm like, how does that really push – give us information that pushes this forward? You know, it should be for the registries to answer a question like that or – but why do we care what the opinion of trademark owners is about what – have them postulating about what registries may or may not want to do?

I don't understand the purpose of that. I don't see how it informs us. Oh my opinion is they would love to do it. My opinion is, they wouldn't want to do it for the world. I just don't understand why we're asking that question. It seems to be superfluous.

Michael Graham: Okay, so let me see if I can address that. This is going back of course to the charter questions and that's charter Question 4 talking about registry operator reserve names practices whether they're unfairly limiting participation in sunrise by trademark holders. And so these questions were intended in part to address that – that more general charter question.

And then there were separate charter questions, "Should registry operators be required to publish their reserve names lists?" which is an opinion question and so that's one that I believe would be addressed also to registry operators as well as trademark owners.

And then, what affect, whether or not that would be a positive effect on trademark owners I think is where these questions are coming for trademark owners and such. And then the final – I'm trying to look at the final charter

question, "Should registries be required to provide trademark owners in the TMCH notice and the opportunity to register their domain name should the registry release it. What registry concerns would be raised by this requirement?"

So I guess that, "Do you believe registries will have any issue with this requirement?" that question itself I think would go at the position of a trademark owner in response to what the registries are doing that might affect the trademark owner's activities which is what in part this question is going for, the charter question. The more important is of course what the registries would say, but I think this is also trying to get at that that perception. Does that do anything to clarify that, J. Scott?

J. Scott Evans: Well, I mean, I guess where I am is I feel like if that's a charter question it can be answered by two groups, same charter question and so we could ask the registries one part of it and the trademark owners another. Or we can ask you know, but I don't think just because it's in this question that was somehow glommed together and thrown into the charter that we need to necessarily ask the same form of the question to every group.

We only need to extract from each group the information to answer that question that they are capable of supplying. And asking someone their opinion about what someone should – what they think someone would think I think is not very helpful.

Michael Graham: Okay. Thank you. This is Michael for the record. Anyone else want to comment on that point? And I think you're specifically looking at that question, "Do you believe registries will have any issue with this requirement?"

Kristine Dorrain: This is Kristine. I'll be in the queue...

J. Scott Evans: Right.

Kristine Dorrain: ...and I think Kathy is waiting. Thank you.

Michael Graham: Okay. Well Kristine, you spoke up first, why don't you go and then I have Susan so, Kristine...

Kristine Dorrain: Okay thank you.

Michael Graham: ...you want to go ahead?

Kristine Dorrain: Thank you. This is Kristine. Yes, I support J. Scott. And I think – and I know – I think maybe you didn't make the first call that we had and that's in the plan, but I actually made the same argument because the very first lead-off question for registry operators was, "Do you think that your sunrise pricing is affecting brand owners?" And so I'm with J. Scott, I think you have to be – we're not going to be able to ask every single party all the same questions.

I think the first two questions on this section are absolutely right on. I do not think we should waste our time asking brand owners to speculate about registries. We're asking registries themselves this exact same question and that – and we – and I think we're asking registrars as well.

So I think that we – asking the brand owners again and again it's just making this too big and unwieldy. And I think that that's – that's my thought for the entire thing. Don't ask people that aren't the sort of the niche market we're targeting. Thanks.

Michael Graham: Susan. Susan Payne.

Susan Payne: Yes, hi there. Just the same comment really. I put it in the chat but I wasn't sure how much you're watching the chat as well. And I was just going to say the same thing. I think it's, you know, it's information we want but it's not really information we want from the brand owner because they probably

would go of course I don't think the registries will have any issue with this, but that's not really the point. I mean, they're not the ones who are able to answer this.

So provided we are asking it of the registries and I said in the chat, I haven't had the time to go back and cross check that but I'm assuming we are, if we are asking it of the registries then we don't need to be asking it of the brand owners as well. We'll get the information we need, and then we have to decide what we do with it, you know, weighing up the answers we've had from registries and from others.

Michael Graham: Okay. Thank you, Susan. Kathy, you had your hand up as well?

Kathy Kleiman: I'll just say a big yes to all of that. Thanks.

Michael Graham: Okay and in response to that I – since I have a copy open as well, Ariel, I went ahead and removed that “Do you believe...” question. So that's out. How about the movement? Was there any comment on the movement of the, “Has your participation in the sunrise period registration been affected by registry operator reservation of names?” follow up, “If so, how?” Kathy, is that an old hand? Okay, thank you.

Then going back to the – for lack of a better term – the metrics question. There I had removed the last part and revised it somewhat so that it now reads, “Do you know if any of your trademarks have been reserved by any new gTLD registry operators?” Question mark. A follow up to that, “If so, have you contacted the registry operator to inquire about these trademarks?”

And I'll explain why I put that in there, and I'm not entirely sure, you know, how – one, how a trademark owner is going to know if they've been reserved unless they've tried to register and received a notification what we were trying to get at with this. So I wasn't sure just asking the question, “Do you know?” didn't seem to be getting anywhere. That's a yes or no answer. What would

be a good follow up there that would help again, elucidate whether or not there were actual effects for the reserve names practices.

Any suggestion there would be welcome. Kurt, you have your hand up.

Kurt Pritz: Yes, maybe you just hit on it right there where we just change the question to, you know, have you tried to register one of your trademarks during the sunrise period and were unable to because the name was reserved or for some other reason? So just go right to the factual question. And, you know, then you could say, "If so, which ones," or, you know, if you tried to register a name during sunrise and could not, you know, what do you think the reason why?

Michael Graham: Thanks, Kurt. This is Michael. I have a couple other hands so let me go through those. Susan. I think you're – yes, there you go.

Susan Payne: Thanks, sorry. Yes, am I off mute now? Yes I am. Yes, I think – I think something that gets to the heart of it touches the language that Kurt was just suggesting might be better because it's – because that makes – that helps the person you're asking it better understand what we mean by "reserved" as well. Because I think we all probably know what we're meaning by reserved in this particular group.

I know these aren't the questions as they'll go out but, I mean, even to the survey providers, they may not quite know what "reserve" means and so we need to kind of explain what the issue. And the issue is actually, you know, did you try to register it and find that you couldn't because it was out of action for you?

And I don't know if it falls here or if it falls somewhere else, but it may be – might be helpful to be asking did, you know, did you – if you contacted the registry operator did you manage to get the name released for you to register or do you think that there would be a benefit in having some kind of formal

process to allow you to make inquiries or make challenges on when names have been reserved?

Michael Graham: Okay, great. And I see you're capturing this, Ariel, thank you. Kathy, you have your hand up as well.

Kathy Kleiman: Yes, I don't know how far we want to go down this, but I agree that people aren't going to know why they can't get their domain name. So one of – one thing we might do is ask for examples that means that people did try to register because they're not going to know and I don't think most people know about reserve names, premium lists of protected marks lists.

You know, three reasons why they wouldn't be able to register their marks during the sunrise. So let's see if we can grab some examples and that would give us the ability to pursue more information. Thanks.

Michael Graham: I'm wondering just to follow up on that, Kathy, if there's a way to phrase – so if the first question is as drafted by Kurt, "Have you tried to register a name in sunrise and could not?" That would be the first part of the question. The second would be, "Were you informed or do you know the reason for the non-registration? If so, what was that reason?" So that would specify that.

Is that what you were trying to get at, that sort of clarification, Kathy?

Kathy Kleiman: No, I'd love if people could give us an example. Could you give us an example of a string or a domain name you couldn't register during the sunrise period that is in the TMCH, that's a registered TMCH mark? And that would actually give us the ability – because they're not going to know – again, they're not going to know why it was that they couldn't register it so actual physical example or two would be great.

And some of these people will have it at their fingertips and, you know, some of the trademark owners responding will have it and some people won't.

Thanks.

Michael Graham: Thanks, Kathy. And Michael for the record. Yes, I think you're probably right, if there were a refusal that's probably something that is stuck in the trademark owner's craw and they would be able to give it; if there's reason they couldn't give it that's fine, but if we can get some actual firm examples that would be excellent to take a look at. I wonder if...

Kathy Kleiman: Exactly.

((Crosstalk))

Michael Graham: We should have a follow up such as that being suggested. I think it was Susan suggesting it, which was if you did have a refusal whether you contacted the registry operator to get the name released to registration. I'm not sure – maybe the broader question is, "Were you able to get the name released through registration despite the initial refusal?" I'm not sure how – whether and how that might be best phrased.

Kathy Kleiman: Michael, can I make a suggestion? This is Kathy.

((Crosstalk))

Michael Graham: Yes, go ahead.

Kathy Kleiman: How about, "What did you do, if anything?"

Michael Graham: Oh that's too easy. I would go with that. I mean...

Kathy Kleiman: Okay.

Michael Graham: It's rather open ended to be on this side but I think it is asking for a specific type of answer. And maybe what we ought to do is if there's a way of phrasing it so that if they come up with, say, one example, you know, the questions are fine.

If they come up with more than one example perhaps we need to – it needs to be phrased in a way that they can say this one I did, these I did not sort of thing so that it could actually be – the metrics of that could be counted. But I do like that follow up question.

Kathy Kleiman: Great.

Michael Graham: So if we could sort of save those proposed changes to the Question 4 in the metric side, that would be great, Ariel. Then if we can move down then on Page 17...

Susan Payne: Michael, could I leap in...

((Crosstalk))

Susan Payne:.....before we move on?

Michael Graham: Oh yes, Susan, sorry.

Susan Payne: Hi. It's Susan, sorry. I was just – sorry, I was just thinking about that again and thinking that we are particularly interested here of course in the issue of reserve names. So I do think we need to have some kind of reference to that, you know, even if it's a reference to the term and an expert at what we mean rather just like you know, did you try and register a name and you couldn't?

Because we then run the risk of getting all sorts of answers from people who basically went, yes, the name was already gone, someone else had got it. And that's not the information we're after. So we do – we do need some

degree of specificity in this question, otherwise we're going to get answers that aren't the answers we – that are answers to a different question, not the one we're trying to ask.

Michael Graham: That's a good point. So maybe the follow up question is, "Do you know if any of those were due to the registry," what is it, "reserve names list?" Or, "Due to the string," using that term, "the string being on the registry's reserved name list?" Question. If so, can you give an example?" Or, "If so, please give the specific examples." And I think you're right, that keeps the focus on that specific part of the question and not the other types of refusal that they might face.

I'm just going to go ahead, Kathy, is that okay? I mean, recognizing that there are different reasons why it might be refused, we're really just asking about the one in these questions, so...

((Crosstalk))

Kathy Kleiman: I just don't – I think you're going to – I don't know how you stop. Nobody knows why – unless you've got special inside information in which case you're pitching the question to the narrowest, narrowest of groups. You know, I wish Lori were on the call with us but the idea that people stopped answering questions at a certain point – I don't know, how is a normal trademark owner supposed to know what reason? Again, reserve lists, premiums lists, protected marks lists, how do you know what barrier you hit up against when you couldn't register during the sunrise?

We're going to get into similar issues with, you know, registrants turning around at trademark notices, you know, we're trying to delve into this but, you know, they only have so much information when they're sitting there at their keyboards. So I would keep it open. Thanks.

Kristine Dorrain: This is Kristine. Can I get in the queue?

Michael Graham: Yes, go ahead, Kristine.

Kristine Dorrain: Thanks. I want to address Kathy's point just really quickly from just the registry perspective. So the brand owner actually can get some information so they could get rejected because they don't have a valid SMD file, and that registrar would tell them that, you know, your SMD file is not valid. If it was a reserve name, I'm not sure exactly if all registrars display that it's a reserve name, but it's very easy to go look at the Whois. I mean, if someone's filling out the survey I think we have to assume they're slightly competent. They can go look at the Whois and figure out if the domain name is reserved to the registry.

And if it's a premium name, well, they're not prevented from registering it, they're just charged this crap ton more. And I think the only difference might be – I'm not entirely sure what the Whois shows for blocked versus reserved and I'm not sure if Susan, I know she's with a registrar, maybe she can weigh in on what the Whois would exactly show.

But I don't think that there's a huge universe of options. If you show up as a trademark owner during a valid sunrise period with a valid SMD file and you are denied access to a domain name, I don't think there's a huge long list of reasons why not. And I don't think it's extremely puzzling to figure out what those reasons are if you have any sort of competence at all. And...

((Crosstalk))

Kristine Dorrain: And if you've got an SMD file I assume you've got that.

Kathy Kleiman: Can I ask you a question? If...

Kristine Dorrain: Of course.

Kathy Kleiman: ...it is on a premium list, and I try to register it during sunrise, and I'm, for whatever reason I'm not following the premium lists of that registry, how would I find that out that it's available if not...

((Crosstalk))

Kristine Dorrain: Yes, you would – yes, sorry, you would go to register it and it would say this domain name is \$500,000. It's available, \$500,000 and it's yours. That's how you would know.

Kathy Kleiman: Okay. Thank you.

Kristine Dorrain: Yes, and I'm...

((Crosstalk))

Susan Payne: ...some registries – they choose to reserve – sorry.

Michael Graham: And is that Susan trying to get...

Susan Payne: Kathy, some registries also chose to put a bunch of names on their reserve list for a period of time because they wanted to churn pricing. But so they might have reserved it and they were going to release it later in a kind of special splash for premium names. But in that case that name is reserved basically for the present purposes. Do you see the distinction?

Kathy Kleiman: Yes, and I also think Kristine's point is really – of course you can go through the Whois and a lot of these reserve – are there any names that would be reserved that would not be in the – where there would not be Whois data for the registry?

Kristine Dorrain: This is Kristine. And I'm hoping Susan...

((Crosstalk))

Kristine Dorrain: ...will correct me if I'm wrong but I think that domain names that are registered in 999 are not in the Whois but I hope someone will correct me if I'm wrong or Kurt, someone else.

Susan Payne: Yes, I'm going to say...

((Crosstalk))

Susan Payne: The registries could reserve by registering themselves or they could reserve by just, you know, putting a bunch of names you know, unavailable. So I don't think they would all show up in the Whois.

Kurt Pritz: Right and they do – sometimes reserve names show up in the zone file like Susan's first example, and sometimes the names are put on blocked status in which means they wouldn't show up in the zone file. So I'm not sure – I'm not sure that it was really straightforward for the trademark owner to know the reason, and I'm not – and I'm also not sure the trademark owner is going to want to spend even five more minutes on the survey to look and find out.

So I think we want to, you know, we'll be happy to know that the trademark owner tried to register a name and couldn't, and then if the trademark owner can list the name then if we wanted to go to the extra effort to find out we can. So we should give the trademark owner the chance to identify the reason but probably shouldn't count on that.

Michael Graham: This is Michael for the record. And I'm just looking over at the notes that Ariel has been keeping and I think we've got sufficient information. I think this Question 4 is going to have to be revised along the lines that were suggested and I think the primary question we have, a couple of the follow up questions which I think are sort of – we begin more open ended to address the fact that it may be other reasons for refusal.

And frankly when I see a survey like this it's easier for me to go from did I have something that was refused? Yes. Do I know why it was refused? Yes. Why was it refused, then I give the answer rather than saying if you have something that was refused do you know the answer and what was – the reason and why was that.

That jumps right in and I may not follow it. So I think we've got good follow up questions here that do end up getting to the point of, you know, do you know if any were refused because they were on the reserve list. So I think we can put that together, Ariel, from the quoted sections that you've saved in here.

And I'm going to say because we could do word crafting but I'd like to move on to 5 to see if we can get through some of this more quickly. And I guess my question to the group that's on the phone is whether or not you had time to look at these questions.

If you want me to read through them, I could do that, or I could just focus on changes that have been proposed and then if anyone wants to propose any changes that aren't recorded in the Google document. Does anyone have any sense of what you would prefer?

Kristine Dorrain: This is Kristine. I'm on the phone. I would appreciate if you'd do a quick read through. It's been a few days since I looked and I know it's not fresh in my mind. I'm sorry about that. Thanks.

Michael Graham: Okay. That being said, I'll go ahead and do that. You can listen as you're waiting – driving the car or whatever. So Question 5, the charter question was addressing whether the current 30-day minimum for a sunrise period serves its intended purpose. And that was one of the questions back and forth.

So the first of the anecdotal questions, and I'll go through those first, under 5, was, "Do you believe the 30-day minimum for a sunrise period serves its

intended purpose?" There was a note after this, "I think we need to identify that purpose as a preface to these questions."

And I would agree with that. Nobody sought to put that purpose in phrasing with the questions. I don't know if anyone has a good starting place for that or wants to propose something? But I do think, you know, just asking, "Does it serve the purpose?" if I got the survey my question would be, "Well, what's the purpose?" And I suppose we could simply add, i.e. you know, I don't know where a good definition of that purpose would be. Can anyone point to that?

Kristine Dorrain: This is Kristine.

Michael Graham: Yes, Kristine.

Kristine Dorrain: Thanks. I think that we did discuss this on the two sub teams, both the sunrise and the claims when we came up with this intended purpose language. I think we were able to extract something from one of those – the STI or the IRT reports, but I don't remember what that was. So perhaps staff could go back and take a look and see if during those calls we were able to extract the purpose of sunrise. I do believe we were, I just don't remember where to find that at this point.

Michael Graham: Is that something you all want to bite off, Ariel, or Mary, to take a look at that? So, yes, that'll be the end action item. So let's go ahead with that as an action item. And I think if it's built in at the beginning of this Question 5 that'll be good going forward. J. Scott.

J. Scott Evans: Well, I mean, I was involved in some of the straw market stuff that took place after the STI and everything and I think that's where a lot of – when the discussion came up. And I think the purpose was just to ensure that there was adequate time – an adequate period of time for trademark owners to take advantage of the sunrise period, didn't want it to be five days. So the

thought was give it 30 days and it would allow – that would allow everybody plenty of time.

So I think rather than asking its purpose I think you just ask that question, “Do you believe that a minimum 30-day period is sufficient to allow time for trademark owners to take advantage of the sunrise period?” something to that – that seems to me, you know, that's why it was given – that's why there's a – there was a minimum requirement is to ensure that there was enough time for people to learn about it and to actually take the action to get it done.

Michael Graham: Great, thank you.

Kurt Pritz: No, J. Scott, I wonder if we could ask it more – I'm sorry.

Michael Graham: Jumping in there. And I was going to say I entered a quick possible revision to the question so what I was suggesting if you can't see the screen was to change it so it would read, “Do you believe the 30-day minimum for a sunrise period provides a sufficient period for trademark owners to take advantage of the sunrise period?” Question mark. Susan, you have your hand up.

Susan Payne: Yes, thank you. I just thought – I think we probably need something at the beginning of this. And again, I recognize that this is not the final version of the questions as they would go out. But I think there needs to be something that explains the two different durations of sunrise period because we're thinking the 30-day and the 60-days as being the same thing but one's just twice as long. And they're not.

So I think we have to have an explanation in there that says that, you know, there were different minimum options that registries could adopt. One was 30-days' notice plus a minimum of 30 days sunrise period in which case the names are registered first come first serve from the first day of the sunrise; or

alternatively, no minimum notice period specified but the sunrise period itself runs for 60 days and the names are not allocated until the end.

Because they're two very different models and so it's not – it's not just that the 60-day one is twice as long as the 30-day one. And so, you know, in which case why would you no go oh 60 days is much better for me?

Michael Graham: Good point. Thank you, Susan. Kurt, you have your hand up as well?

Kurt Pritz: Yes, I think Susan's point is really good. And to J. Scott's point I wonder – and to you, Michael, I wonder if we should start with factual questions and, you know, right at the very top I don't know if we've asked, you know, did you try to register names during the sunrise period? But at this point we want to ask, did you try to, you know, did you intend to register a name during the sunrise period but missed the sunrise window?

And then, you know, if you did miss the window, you know, why? You know, because you think the period was too short? Because, you know, you were unaware of the sunrise? That sort of thing. And then, you know, so then if you believe then to get to what you wrote, you know, do you believe that the 30-day minimum for a sunrise period provides sufficient period, etcetera, you know, that really becomes one of the choices to that last question.

So did you attempt to register a name during sunrise? Did you attempt to, you know, did you intend to register a name during sunrise but the sunrise period closed? Or sunrise was no longer available, you know, and it that occurred you know, or if you decided not to register a name because the sunrise period closed, you know, why? And then that would be one of the choices.

Another choice would be – I don't know that, you know, that you had no notice about the whole new gTLD program or something like that.

Kristine Dorrain: This is Kristine. Can I get in the queue please?

Michael Graham: Yes, Kristine, go ahead.

Kristine Dorrain: Thanks. Kristine for the transcript. You know, I also want to know if we should also add in some mention of end date versus start date sunrise. You know, we've got the 30 days start day or the 60 days end date, you know, was there – or the other way around, I'm sorry, backwards.

You know, did that mess people up? Were there brand owners that were confused and did they not get in because it was a start date but they were fine – it was an end date? You know, I didn't read ahead so I don't remember if we asked start date versus end date questions. Thanks.

Kurt Pritz: So to build on what Kristine just said, maybe that could be one of the choices that, you know, that the trademark owner was confused about the ending date of the sunrise period.

Michael Graham: And I'm putting in some possible wording for that in the Google document. I don't know – I'm afraid I'm missing terms, the registration window and then the end date or if those would be clear what we're trying to get at. Maybe the registration window end date or? I wonder if there's better language that we might use. J. Scott.

J. Scott Evans: Well it's almost like – I'm going back to – I'm sort of reckoning back to what Susan was saying. It seems to me that you know, there were two forms of sunrise, right? And I guess we need to maybe what we do is we explain there were two forms of sunrise periods mechanisms – for implementation, Form A and Form B, which of the forms do you believe gave trademark owners the best opportunity to participate? I don't know, in sunrise because it seems to me that's the question we're trying to get at, right? Of these two forms, which one gave the best?

Because as I understand Susan, her point is that the registration period was still 30 days in both mechanisms, it's just in one the registration happened in a certain fashion, in another happened in a different fashion. So I don't know. But it seems to me what we're trying to delve into here is there are two mechanism, which one do we – do you feel was the most effective?

Susan Payne: Could I – I completely agree with you, J. Scott. But do you mind if I just jump in and say, they didn't both have a 30-day registration period, I mean, in the start date sunrise you had – you got 30 days' notice where nothing is happening and then you got 30 days during which you could register but any – but there was a benefit to being in on Day 1 because it was first come first serve. And then the other option, the registry might have given you some advance notice but there was nothing specified about how much advance notice of the opening of the sunrise they had to give you.

But when it opened on Day 1 you could start applying for names, you had 60 whole days to apply for names but no one got allocated them until the end. So there wasn't quite the same benefit so there wasn't quite the same benefit in being – there wasn't the kind of first come first serve issue going on.

Michael Graham: So let me ask a quick question, Susan. Do you or does anyone know what – whether and what registries, I mean, adopted the different schedules? Are those both out there for different registries? Do we know how many of each?

Susan Payne: I don't know off the top of my head exact numbers. Mary has made a comment in the chat which I would agree with which is that most registries went for the end date, not everyone, but it was very common because it allowed for registries to run – to have – it allowed potentially for things like if there were two brand owners with the same name you could have some process for deciding who got the name, for example, giving an auction process or something like that. Whereas the first come first serve doesn't allow for that.

And it also allowed for things like if you wanted to have tiered allocation so you had the trademark sunrise but you then also had some nexus requirements around, you know, if it's dotLondon and there a London nexus and then there was a, you know, some other nexus requirements you could do, you know, sort of tiered allocation of names and the tiered allocation for some registries worked quite well by doing the 60-day end date sunrise as well.

Michael Graham: Thanks, Susan. I'm going to put on my...

Susan Payne: That's probably much too much detail.

Michael Graham: Well and I was about to say I'm going to put on my non-ICANN participant trademark owner hat and say, "Huh?" You know, the question for me is whether or not the period for registration in sunrise was sufficient for me to make a decision or not. And frankly, I allow somebody else to tell me when the deadline for making that decision is.

So I'm – I think it is useful – I mean, in looking at this, you've actually educated me in a way so it looks like there's a mandatory 30 day advance if I'm giving a start date and saying it's going to be open for 30 days so that's my 60 days.

Whereas if I give the end date then there's a mandatory advance notice but that end date has to be 60 days after I open it, something like that. I'm not sure how we would phrase this question, I don't know, Susan, if you would want to, you know, set pen to paper and try one simple explanation of the two things. And then the question inevitably is going to be the same thing, do you think that these are sufficient? Now, are we trying to get at is one better than the other? Or are we trying to get is the way that it's set up now sufficient or both of those? So is this sufficient? And if so, are both of these methods sufficient for you or is one better than the other? I'm not sure how we would phrase that question. But that seems to be what we want to get at.

Susan Payne: Okay, I'm happy to try, yes. I think it probably works if there's a kind of an explanation and then it's, as you say, you know, did you encounter these? You know, did you encounter particular issues with either of these? You know, did you, you know, did you find that there were problems with the duration of the sunrise?

Michael Graham: And then looking at – I'm just looking at the question, so if we're able to come up with that, I'm looking at subsequent questions in the anecdotal section. "Do you believe the 60-day period observed by many registry operators would be more appropriate? If so, why?" That sort of gets subsumed in two types of periods we're going to ask you whether or not you believe they are effective.

What else? "What benefits have you observed when a sunrise period is extended beyond 30 days?" It seems to me to be a misleading question based on this conversation. "What disadvantages, if they're extended beyond 30 days?" I think the next one is interesting, "Do you believe that the sunrise period should continue to be mandatory in new gTLDs or should it be optional? Why?" And I guess with that I would add, "Why not?"

Can't spell. And then finally, "Do you believe having a sunrise period but no claims service or having claims service but no sunrise period would be a better means for meeting the goals of the TMCH and these rights protection mechanisms?" And I think there again we have the issue of what those goals are.

We're rephrasing it to address that. And I think that probably should be split into two questions rather than have it be a compound which leads to a yes which then we have to say well which one was it? And I can set myself to that. Kathy, you have your hand up.

Kathy Kleiman: Yes, just a quick note going back to what other people said earlier, since we are handing this off to professional survey writers, can we leave them those little things to kind of break things down since these aren't the questions actually going on to the survey...

((Crosstalk))

Kathy Kleiman: Just kind of let them handle that kind of stuff. I mean, it's correct but do we, you know, do we need to do it? Thanks.

Michael Graham: Michael for the record. Just to clarify then, Kathy, would you say go ahead and leave this as a compound question maybe revise it only to point out what the goals are the same way that we did up front providing sufficient period, blah, blah, blah? But leave that compound question...

((Crosstalk))

Kathy Kleiman: Yes, it doesn't, you know, I don't want to spend too much time on it but just the idea that, you know, we're just drafting, we're just trying to give ideas to the survey writers I think.

Michael Graham: Okay.

Kathy Kleiman: Thanks.

Michael Graham: And I think try and keep that in mind, we're not writing the perfect questions. But I will set my hand to the last – to that question just to rephrase that. Then so the questions that you were going to come up with, Susan, really are going to be towards the opinion side of the things and looking at the metric side, these proposed revisions that I made, the first question being, "Did you attempt to register any of your trademarks in any gTLDs during the sunrise period?" We could follow that up if we wanted with, "In which ones did you register?"

The question that I have though, the next one was, “Did you attempt to register any of your trademarks in any gTLDs during the sunrise period but you missed the registration window?” And then the question following that was, “If so, why did you miss a registration window and date?” And that was trying to get at not what people felt about, you know, whether the 30 period, the 60 period was better but if they actually had an incident in which they missed the window and what was the reason for that?

And then a question that was in there earlier, which, “Are you aware of any domains that contain strings that are identical to or confusingly similar to any of your TMCH-registered trademarks that were applied for after the sunrise period?” and that just getting at the sense of timing. Kathy, is that an old hand? I’m going to presume that’s an old hand.

Any comment on those revised added questions in the Metrics section? And I guess we have – we only have one minute, is that correct, Mary? I think we had just set up for 60 minutes today, correct?

J. Scott Evans: That’s correct, Michael.

Michael Graham: Okay, so we’re going to have to end here. Susan, if you could work on that question and I will work on that end question that I was going to revise.

J. Scott Evans: I think Julie Hedlund’s hand is up.

Michael Graham: I’m sorry?

J. Scott Evans: Julie’s hand is up. Julie Hedlund’s...

((Crosstalk))

Michael Graham: Oh, Julie, I’m sorry. Go ahead, didn’t see that.

Julie Hedlund: Hi. Thank you, Michael. This is Julie Hedlund from staff. Just very quickly, just the last item on the agenda is to note the future meetings. You know, we did ask on the list people thoughts about canceling the meeting on the 22nd of December and it seems the consensus is to cancel. We have no objections about canceling and many people suggested that that would be helpful.

So then looking to January, we just want to note that, you know, based on discussions that we've had it seems that this sub team should plan on several more meetings to get through the entire document. And then just to note that we'll also – you also have to review the data needs for the additional voluntary RPMs.

So what we'll do with respect to January meetings is we'll just send another note to the list to see if there's a preference for the 1700 UTC versus 1730 time, that's sort of gone back and forth. We'd like to see if we could settle on one of those two options perhaps for the meetings in January and suggest that we start up on January 4. But I do see that Susan's hand is up.

Michael Graham: Yes, Susan.

Susan Payne: Okay. Yes, I just – thank you. I just wanted to ask Julie, I mean, are we sort of committed to a Friday slot? And the reason I'm asking this is because I know, you know, I can see that many of the people who volunteered for this work are on the West Coast and so obviously the later we can go in what's my afternoon is better for them. And I know, you know, the particular challenges that individuals have in the kind of 1700, 1730 slot where it's for me, you know, going later on a Friday is not an option.

But, you know, every day of the week I'm on calls all night from my time because that's how I can work. So, you know, can we – could we – is there a – could we do this on Thursday or, you know, and I'm willing to do a call much later in the evening if it's not on a Friday.

And I'm very, very happy to do that. So I just wondered whether, you know, are we – do we have to be doing it on a Friday because that seems to be causing us the difficulty in finding a slot.

Julie Hedlund: Thanks, Susan. This is Julie Hedlund again from staff. Of course we can do a Doodle. We could do a Doodle then asking about availability for the Thursday, perhaps also including Friday but or anyway we can do a Doodle, short answer, yes.

Michael Graham: Okay, yes, let's do that and I presume we are looking then for the next time we would actually be getting together on a call would be after the New Year.

Julie Hedlund:: Correct. Then we would be looking at – sorry, yes, January 4 would be the likely time skipping out on the week of the, you know, Christmas holiday so starting back up then that week first week in January.

Michael Graham: Great. And if I could invite everyone between now and the 22nd at which time let's close it down, if you could look at the remainder of the questions under the trademark owners portion if you have any suggested changes or questions or comments and set those in the Google document and they can be shared and reviewed, it's a great way to work on it.

So thank you all very much for your time and effort and have a great weekend and once we have some date from the Doodle we'll be talking with you again soon. Thank you very much and I guess we can...

J. Scott Evans: Thanks Michael.

Michael Graham: ...stop the recording.

Kristine Dorrain: Thanks, Michael.

Michael Graham: Yes.

END