

ICANN Transcription
Review of all Rights Protection Mechanisms Sub Team for Sunrise Registration
Friday 16 June 2017 at 1400 UTC

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<https://community.icann.org/x/MVLwAw>

The audio is also available at: <https://audio.icann.org/gnso/gnso-rpm-review-16jun17-en.mp3> AND <https://participate.icann.org/p9llx6dyami/>

Coordinator: Recordings have started.

Julie Bisland: Thank you. Well good morning, good afternoon and good evening everyone. Welcome to the Review of All Rights Protection Mechanisms, RPMs, Sub Team for Sunrise Registration held on Friday the 16th of June, 2017. In the interest of time there will be no roll call. Attendance will be taken via the Adobe Connect room. If you are only on the audio bridge, could you please let yourself be known now? And I do have Kristine noted.

Lori Schulman: And J. Scott Evans I believe, this is Lori.

J. Scott Evans: Yes, that's correct.

((Crosstalk))

Julie Bisland: Thank you. J. Scott Evans, got it.

Lori Schulman: Okay, this is Lori Schulman, yes...

((Crosstalk))

Lori Schulman: ...this is Lori Schulman, the sub team chair, this is the final sub team call so I'm very pleased that we're at this point. We have two points of business today to get through. The first is to formally approve the definitions for the sunrise terms, reserve names, premium names and premium pricing. And then we will go through the chart and finalize what data we need. And after that we will talk about next steps and what we're going to do on Wednesday's plenary call and then at our full meeting at ICANN 59.

And I'm going to ask people to really maintain focus during this call today because this is the end; we've done all the hard work and this really is about confirming what we're going to do as we move forward. But of course if somebody notes something that we think we made a big miss, of course we want to know, but we should be really on our way to closing out and agreeing upon the work of the team. So thank you, everybody, for sticking with this for what was I think some pretty good work.

Oh I'm sorry, in the notes – I want to note in the chat for those on the phone an email from Susan Payne just came in, "I'm late to the party, but I agree with the definitions and was including the reference in the agreement so that people can check precise language if required. I also support sticking with the term 'reserve names' and not trying to break this down. All reserve names are contractually allowed whether they constitute one of the maximum of 100 so that the registry can activate for operational or promotional purposes or not. Indeed, a number of reserve names are contractually mandated either permanently or subject to the requirements to obtain consent. I would suggest the important point for these purposes is that the names can be

reserved and what the interplay with the RPMs is, as names are released from reservation.”

About reserve names, Maxim says, “I think we need to shorten it to RA, meaning Registry Agreement.” I don't think I have a problem with that. So that will be our fourth order of business. I'm going to read aloud for those on the telephone all the three definitions as we have them today and then I'm going to ask for a show of hands in the Adobe to accept these definitions.

So the first definition is reserved names. And the definition that the group has agreed to, at least tentatively, is second level domain names that are withheld from registration per written agreement between the registry and ICANN. And then there is a reference to see Section 2.6 and Specification 5 in the base Registry Agreement.

Maxim has noted that Registry Agreement should probably be shortened to RA. What I would suggest maybe putting RA after the term Registry Agreement for clarity.

Premium names, premium names are second level domains that are offered for registration, that and the determination of the registry are more desirable for the purchaser.

And then for premium pricing, second level domain names that are offered for registration that in the determination of the registry are more desirable for the purchaser and will command a price that is higher than a non premium name. There was a lot of back and forth this week. I think we got a lot of good discussion in. And I'm prepared to ask people to please accept these as the final work of the sub team. If you agree, please note, if you're on the phone, verbally, just state your name and if you agree; and in the chat if you could hit your little disc, I would be most appreciative.

J. Scott Evans: J. Scott agree.

Lori Schulman: Thank you.

Kristine Dorrain: Kristine Dorrain, agree.

Lori Schulman: Thank you. I'm going to click mine. This is Lori Schulman for the record. I agree. Maxim is not against so I'm going to say he's for. I'm waiting to hear from Barry, Brian – oh no, we heard from Maxim, Phil and Philip Corwin. If people are against these definitions, please vote now. Phil Marano said okay. Barry is observing – oh apologies, Barry, of course. All right, it looks like the greens have it. Brian Winterfeldt is the only vote we're waiting for but we have a substantial majority. So I would consider this passed. Yay.

Thank you, guys. Yay, I'm really pleased. This was good work. Okay, now if the staff could put up the chart I would be most appreciative. So what we're going to do with this chart is I had asked the team for questions 17-22 to fill in what data we might need.

I went ahead and took personal initiative and filled in 17-21 with what I thought was, so I wanted to discuss this with the group, and if the group agrees or wants to add or subtract, that's fine. But once we get through these questions then the next step would be to go through all of the data points very quickly to see which ones we would need from registrars and registries specifically because there is the possibility that there may be a face to face meeting with the registries and registrars in Johannesburg and then we would make these requests specifically from the sub team. So that's where we are with that particular piece of work.

While we're waiting for the chart, does anybody have any comments that they'd like to make? I see Kathy's on the audio now. All right I have another question for the group. Did anybody else besides me put anything in the columns for Sections 17-21 in the last week? Or is just my contribution?

Amr Elsadr: Hi, Lori. This is Amr.

((Crosstalk))

Lori Schulman: Yes, I can't see the table at all. It's just blank. I can't see it.

Amr Elsadr: Okay, is – do other members of the sub team also not see the table being shared on the screen or – I can see it.

Lori Schulman: You can see it. Jeremy...

((Crosstalk))

Amr Elsadr: Okay, Lori, I think...

Lori Schulman: Roger can't...

((Crosstalk))

Amr Elsadr: This hasn't to me before.

Lori Schulman: Okay.

((Crosstalk))

Lori Schulman: So let me go into my email. All right, let me go into my email...

((Crosstalk))

Amr Elsadr: You might want to reload the Adobe Connect room. I just wanted to note that the only comments we have for Questions 17-22 in the data collection column are from you, Lori. We don't have any others.

Lori Schulman: Okay. All right, that's what I wanted to ask because this is the thing, I put those in to get the ball rolling just like with the definitions because sometimes it's just easier to react to things. But I – because it was only me I think it's really important that the group look at these answers today and see if there's anything they want to add, subtract, so I'm going to look at the – Amr, what I'm going to ask from you is I'm going to look at the chart on my screen. And I hesitate to go in and out of Adobe because I'm in, you know, so what I'm going to do is I'm going to look at the chart offline, you know, out of Adobe room and then I would ask you just to manage the queue when I can't see the screen.

So let's go to 17, so the first question is 17, after our edits was, "Does the sunrise work for registrants and trademark holders in other scripts, languages and should any of them be further internationalized such as in terms of service providers, languages served?" So it was determined that this question would be for general working group review and not specific necessarily to sunrise. But since we substituted RPM for sunrise, I do think that there is a piece of data that we can look at and that is to survey the IDN policies to see who is offering the service and how many sunrise registrations have occurred in IDNs if any.

I think without knowing whether or not these programs are actually offered, we can't even begin to answer the question. And if anybody knows if you know of IDN sunrises, please let us know. I'm not aware of any. Kathy, I see your hand.

Kathy Kleiman: Great. Thanks, Lori. First, I'd like to recommend we edit out that note for general working group review, not specific to sunrise. When it went back through I found out that that was a note that had been added. There were a lot of notes that never got added but last week when we were going through this I seem to recall enthusiasm that this was an important issue. And so I'd like to recommend we just delete that note. I think it'll confuse the working group. So, you know, this is an area that...

Lori Schulman: Okay.

Kathy Kleiman: ...this is one of our questions as it relates to sunrise. And, you know, I like what you said; I think we do need to survey and see what's going on as a starting point. Thank you.

Lori Schulman: Okay. So Amr, I agree. Since we decided to swap out sunrise for RPMs, I think that general comment in all these questions now is no longer relevant for general working group review. It obviates it. So I agree to move forward with that suggestion.

Kristine Dorrain: Lori?

Lori Schulman: And then – yes?

Kristine Dorrain: Hi, this is Kristine. May I put my hand up?

Lori Schulman: Yes, and then I'm going to call on Maxim and then Susan Payne. So just so you know.

Kristine Dorrain: Okay thanks. I wanted to mention – and maybe I'm going to say the same thing that Maxim and Susan are, that there are no – sunrise is a requirement. Every single TLD has to offer a sunrise regardless of whether they're an IDN, regardless of where they're located, everyone has to offer one.

Lori Schulman: Okay. I wasn't aware of that but thank you for that clarification.

Kristine Dorrain: Yes, I'm not sure what else we'd be asking here.

Lori Schulman: Okay. So then to take out my quote, because my quote was based on lack of information about the requirements for IDNs, I didn't understand that there

were under the same sunrise requirements as others. I'll call on Susan and then I'll call on Amr.

Susan Payne: Hi. Yes.

Lori Schulman: Susan, go ahead.

Susan Payne: Yes, I was going to say what Kristine has beaten me to so that's fine. But as I – I put my hand down and then something else occurred to me which is that the reason that I think that this question is – was raised, generally, in relation to the charter is that there were comments back on the staff report around challenges with non-English script and trademarks in non-English script in terms of getting them into the TMCH or, you know, challenges sort of administratively if you like with recording in the TMCH.

And I think it's a really valid question in that context, but I'm not sure how relevant it is in relation specifically to sunrise because for the exact reason that Kristine has said, I mean, every registry has the same Registry Agreement, they all have the same sunrise obligations. So I'm not sure what perceived problem there would be with particular scripts in terms of sunrise.

Lori Schulman: Susan, do you think it would be helpful to know how many there have been in the different scripts? Do you think that would be helpful in any way? Because I'm wondering if we – in what my notes take out the first half of my notes, survey the policies, because obviously we know what the policies are based on the requirements. But maybe leave in how many have occurred. Do you think that would be helpful one way or another in terms of, you know, if there's been very few then it might signal the problems you've identified with just getting things into the TMCH or if there's many that might signal something's working. I'm not sure, I would be interested in knowing if you think any data would be helpful.

Susan Payne: Hard to say. I mean, I suppose in many ways all data is helpful, but, you know, if we get something back that gives us an average of 10 I'm not sure, you know, I'm not sure that we can form really valid conclusions from that. But I suppose, you know, at the moment we don't even know that. I mean, if it were only 10 or it was 50 or 100, you know, I'm not sure that that necessarily is indicative of necessarily a problem, it's just information about...

Lori Schulman: Not used.

Susan Payne: Yes, about you know, could be indication of sort of attractiveness and need, could be an indication that people who were familiar with this process and system didn't have IDN, you know, not as many IDN trademark registrations exist amongst, you know, the community of people who have been using these RPM services. I'm not sure what it will tell us. I mean, you know, we may find it interesting to know but I'm not sure what we'll do with the data.

Lori Schulman: Okay. Okay. My inclination then would be just to delete my comment. Would people agree with that? Just delete my comment.

Kristine Dorrain: Lori, I do agree with that. This is Kristine. I just wanted to mention that I know when we did the Trademark Clearinghouse charter questions, the one for the database, I know one of the things we talked about was wanting data about participation generally in the Clearinghouse because we wanted to know the correlation between did people from other places and using other scripts put marks into the Clearinghouse? If so, then did they use them for sunrise? And there may be some information around that.

I know that Amr and Mary and had gone back and gotten some of that maybe from the Analysis Group report, but I don't remember actually discussing that as the plenary group yet with respect to the database. So there may be some data round usage, as Susan mentioned.

Lori Schulman: Okay so maybe we'll see I'm on two sides of this. I don't want us to do data gathering that we don't need, but at the same time I'm also worried if we leave this out the second half of my comment probably should stay in. And then the group – the full group can decide. This is just a recommendation. The full group can say hey, you know what, we don't think it's going to be that helpful. So maybe better to leave it in and then have the main group just take out if they don't want it. Amr, you have your hand up.

Amr Elsadr: Yes, thank you, Lori. This is Amr. I think Kristine and Susan earlier said some of what I wanted to say. And what I really wanted was a clarification on a few things. First the issue of, you know, having internationalized RPMs did come up on the trademark claims sub team and in that context it was relevant because the sub team wanted to know whether trademark claims notices were being provided to potential registrants in the language of the registration agreements.

So this covers a broader base than simply IDNs because for example if you have someone, for example, from Russia or from the Arab world who is dealing with a registrant or registration agreement is not in Latin script but they are still registering a domain name in a Latin script so regular gTLD, not an IDN, then there may be some accountability there to having a trademark claims notice displayed in the local language or script.

But from a sunrise perspective, I'm not exactly clear on what we are being asked to look at from that perspective. And if we do remove the comment that you've put in on data collection here, does that mean that the earlier recommendation to remove the comments on, you know, that this is a general working group issued for the working group's review not specific to sunrise, should we still clear that or should we then leave it? And so if you could clarify...

((Crosstalk))

Amr Elsadr: ...I'd be grateful.

Lori Schulman: All right, this is what my inclination is based on what we are talking about. My inclination is to leave the second half of my quotes in there, how many have there been, let's just find out and decide if that is useful, okay? I mean, I don't know and I think I'd rather ask the question now, and as I said, have the group determine it's not useful rather than delete something now and – because we're not clear. Do people agree with that approach?

Yes, Susan says it seems reasonable. Jeremy, I think before had said, okay, Kathy said plus one. Yes, why don't we do that? Why don't we – Amr, I would take out the for general review. I would leave for general working group review but I would take out not specific to sunrise. And then I would take out my – the first half of the comment and just leave in how many sunrise registrations have occurred in IDNs. And then maybe add to that once we have that data we can determine how to use it. That's what I would do or if to use it. Once we have the data, how/if to use it. That's...

((Crosstalk))

Kristine Dorrain: Lori, to Amr's point, though, I think we have to take out IDNs because it's not just for IDN domain names. We want to know about if people from other regions can also participate in ASCII.

Lori Schulman: So what would the wording be, survey what, IDNs and what.

Kristine Dorrain: I wouldn't even say IDNs. I would just say – how extensive is the range of participation in sunrise meaning geographic. What's the geographic reach of participation in sunrise?

Lori Schulman: All right, yes, that is actually a better question although it doesn't directly go to IDNs though.

Kristine Dorrain: Was the original charter question addressing IDNs, I'm sorry, I don't have the text in front of me.

((Crosstalk))

Lori Schulman: So this is yes – so this is to say, the reason I went to IDNs, and maybe I jumped too far, was does the sunrise work for registrants and trademark holders in other scripts and languages? That's IDNs. Correct?

((Crosstalk))

Kristine Dorrain: Yes, I was just going to mention but I think the – that might be true when it comes to like the top-level domain participation, but there are registrants that use other scripts and languages but also want to participate in sunrise irrespective of whether or not they'd like to participate in IDNs. So I would say that your jump was possibly one step too far in my opinion.

Lori Schulman: So how would you reword the question then, survey policies –what I would ask you to do, Kristine, once we are often called if you could just submit how you would reword the question because...

((Crosstalk))

Lori Schulman: ...that would be helpful.

Kristine Dorrain: Great. I'll probably be at my desk in the next 10 or 15 minutes also.

Lori Schulman: All right. So Amr, this is what I would say. I would say take out the "for general review" take out my comment, put a placeholder in there to say Kristine will offer the language.

Kathy Kleiman: Wait, Lori, this is Kathy.

Lori Schulman: Yes.

Kathy Kleiman: I still like your question. I think as it's been defined down, which is, you know, understanding better the IDN sunrises that have taken place. I think that's still a legitimate question in and of itself. If I remember correctly, Deloitte told us that they don't have a lot of geographic data, there is only so much we can get from them on that. And it's very shallow. So I would still hold because we spent so much time talking about, you know, how have sunrises gone in the IDNs or who has done it? That's still a valid question I think. And then...

((Crosstalk))

Lori Schulman: So what if we had – okay, so what if we had a compromise, we keep my question in and add Kristine's as a data point?

Kathy Kleiman: Perfect.

Lori Schulman: Will that work?

Kathy Kleiman: yes.

Lori Schulman: Does anybody object to that? Does anybody think that's just not the way to go? Amr.

Amr Elsadr: Thanks, Lori. This is Amr again.

Lori Schulman: Is that an old hand? Yes.

Amr Elsadr: Yes, this is a new hand now.

Lori Schulman: Okay.

Amr Elsadr: And the way I see it – I think Kathy is correct that, you know, to what extent IDN gTLD registries are able to participate in sunrise, I think that does seem like a valid question to ask. I think my original query was on the charter question that is being proposed here on how sunrise may work for registrants and trademark holders in other scripts and languages. I'm not exactly clear on the correlation between sunrise in languages other than English so let's say internationalized sort of sunrise and how this affects domain name registrants. So if that could be clarified for me so I could take the appropriate action item I would appreciate it. So my question is really on the actual charter question, not the question that you added, Lori. Thanks.

Lori Schulman: Yes, I didn't write the charter question so I'm a little – personally I would take – well the way I read it is registrants and trademark holders, that's everybody, so how does the sunrise work for everybody in other scripts and languages? That – I would take it to its broadest meaning. Because you're either a registrant or you're trademark holder and if you're a trademark holder you're a registrant. So to be honest, to me, registrant to me is so broad, that's everybody.

So if there's a particular reason why registrants were there, I would understand why trademark holders were there because trademark holders may have marks in different scripts or transliterated marks or whatever and there would be issues. I mean, there's issues in the real world, the brick and mortar world which registering your marks globally and using different languages, so that's something trademark owners have been managing for many years.

So it's the registrant's part to me that seems very broad because that's everybody. I mean, who is that not going to include? Susan, I see your hand up.

Susan Payne: Yes, I was just going to say I think it's worth remembering that this question originally said do the RPMs work for registrants and trademark holders. You

know, and the RPMs is all of them. And then, you know, once it's got to say in this context does the sunrise, I'm not sure – I mean, I'm not suggesting we take the word out but I'm not sure the word "registrants" is relevant. I mean, you know, the only registrant in the sunrise is the trademark holder so it's...

((Crosstalk))

Lori Schulman: So you know what I would do?

((Crosstalk))

Lori Schulman: Oh sorry to jump in...

Susan Payne: I think it's just a feature of the fact that we redrafted, you know, we inserted with sunrise in place of RPM.

Lori Schulman: So this is what I would recommend for that. In column number – proposed notes or alternative wording, in that column, Amr, I would – that's the note I would put. I would say that given that we have substituted sunrise for RPM, that for this question only registrants, including registrants, may be too broad. Does that make sense?

And I don't hear any objection so let's do that to solve that problem. Let's not reword the question because we agreed we wouldn't. We agreed we'd put that in notes so let's put that in notes. And maybe even in the recommendation side that we recommend for this question only as it pertains to sunrise to remove registrants and – and again then group can decide, which I think is right.

Are we ready to move onto 18? Okay, we'll move onto 18 and this is where registrant is completely works. Does the sunrise adequately address issues of registrant protection such as freedom of expression and fair use? And that would be a registrant issue so changing the words makes sense. What I

wrote was I'm not sure how quantitative data could be collected on this; it would have to be anecdotal. So if there's anecdotal information we would make a call for it. Other than that I don't know how we would get this information. If anybody else has a suggestion I'm very much open to it.

Kathy Kleiman: Hi, Lori. I've got my hand up.

Lori Schulman: Kathy. Yes. Yes, go ahead.

Kathy Kleiman: Okay. I would think that this is one that we might want to reach out to SOs and ACs on if that's appropriate. I know there's a fatigue there but issuing a question. Trade associations, public interest groups and reporters where we're getting a lot of the anecdotal evidence is through reporters who are reporting to us about problems. And in some ways we can even lump at least the registrant perspective with Question 18 as well. Gaming has various aspects to it but from a registrant perspective, are, you know, keywords being kind of registered inappropriately which deprives registrants of using them like the word "the" or M or A.

Lori Schulman: Right.

((Crosstalk))

Lori Schulman: Right so you're talking about bunching 18 and 19, not 17, you had said 17 but I think you mean 19.

Kathy Kleiman: I'm sorry, 18 and 19, right at least from a registrant perspective...

Lori Schulman: Yes.

Kathy Kleiman: ...18 and 19 could be – right, exactly, could be bunched both for concerns to freedom of expression, fair use and abuses because in a lot of ways that's really what we're looking for is abuses.

Lori Schulman: Right, but I also want to make sure that on the trademark side – there's two issues right, on the trademark side there's those who may be registering trademarks in countries that don't do substantive examination like the "the" example which is very famous. But on the flip side of this there's the premium pricing issue which on the rights holder side is perceived as an abuse, say perceived, without making a judgment call, a you know, an abuse in the same area of sunrise that you can't go in to sunrise and buy your name.

So I agree, I think 18 and 19 could be bunched, but then I would say registrant and trademark holder because...

((Crosstalk))

Lori Schulman: ...there it's relevant.

Kathy Kleiman: Whenever we bunch registrants and trademark owners, registrant always gets taken out. So can I suggest that we keep 18 maybe as registrant and add abuse to it and then 19 maybe make the variation for trademark owner. But for registrant, in terms of collecting data, I think it's an outreach effort and again, I would add reporters, we should be going out asking some of the reporters and checking some of the famous stories that have appeared online. They're out there, someone's done research and investigative reporting to get to them. So someone in some ways has done our legwork of collecting the anecdotal. So for question 18, again I would say outreach to SOs and ACs, trade associations, public interest groups and reporters.

Lori Schulman: Okay that's fine because that...

((Crosstalk))

Lori Schulman: ...that substantiates what I wrote. We don't have quantitative data, it'll have to be anecdotal. So we can add to that, that means an outreach effort...

((Crosstalk))

Kathy Kleiman: Right, anecdotal – but I mean, there could be some – again, investigative reporting has been going on and that’s more than anecdotal; that’s someone investigating.

Lori Schulman: Okay.

Kathy Kleiman: ...and looking into it. Thanks.

Lori Schulman: All right. Okay so Kathy, can I ask you a favor? Would you mind writing that little piece so we can add it in? Amr can add it right in just write it out like I asked Kristine to do for 17, if you could do it for 18, right after the call then it’ll give Amr what he needs to put in the final chart.

Kathy Kleiman: You bet. Thank you.

Lori Schulman: Okay. Thank you. All right, so then let’s go down to 19. To Kathy’s point, this is about – or potentially about abuse as well but this – and we might not want to bunch 18 and 19 because here’s where I believe that there are two sides to this coin, the trademark side and the registrant side. There have been abuses on both sides. And I don’t want that lost; I want it to be very clear that depending on where you’re standing in this ecosystem, that there may be perceived – and I’m going to say perceived abuses to keep the temperature down on these issues. And then we can discuss more about them of course with the full group.

So the question is, have there been abuses of sunrise that can be documented and how can these be addressed? So what I had written was, we know of the example on the trademark side – the – the T-H-E- example on the trademark side. Are there any others of which team members are aware? And then I asked the question, does premium pricing – or I put does

and may – pardon the grammar error, I did this quickly and I didn't see it on Google. What I would say is take out the word “does” Amr and just say premium pricing may fall into this category too. And then you're covering both sides of this, which I think is very important.

Does anybody have anything to add to that? Kathy, was that an old hand or a new hand?

Kathy Kleiman: Sorry, old hand.

Lori Schulman: Okay. So does anybody have an objection to that? No, okay good. So Amr, did you catch those notes? Amr.

Amr Elsadr: Hey, Lori, sorry, this is Amr. Took me a minute to get off mute. I believe I have, yes.

Lori Schulman: Okay.

Amr Elsadr: So...

Lori Schulman: Okay great. So then we'll go down to 20.

Amr Elsadr: So I'll wait for Kathy's proposed text on Question 18 and I'm clear on what to do with the text in Question 19.

Lori Schulman: Right, now 20 – I didn't put anything in 20. I have no response to 20. Twenty was, examine the protection of country names and GIs and generally have indications of source within sunrise. I – this might be one where we might want to remove sunrise because my understanding was is the GI discussion has been tabled for now.

And if that's the case, I certainly don't want to raise it within the subgroup recommendations. So I'm actually going to ask our chairs, Kathy and J. Scott,

and Phil who's on the call too, do you think it – I just left this blank. And as I said, after I read it again I was inclined to actually remove sunrise from this one and just let this issue go where it needs to go and stay out of this group. Do you guys have any thoughts on this? Okay nobody's raising their hand...

Kathy Kleiman: Hi, Lori. This is Kathy.

Lori Schulman: Yes.

Kathy Kleiman: Instead of typing I'll just say that I agree with that. Let's add a note to that effect exactly what you just said in the notes section, let me recommend, you know, that it's our understanding that this is under consideration by the full working group and to that end we will not deal, we will not address it here.

Lori Schulman: Okay. And then, Amr, if you could actually remove the replacement, I'm going to backtrack from what we decided to do last week in this particular question let's keep it original and just say we are not addressing this is a bigger – bigger than we.

Okay, and I'll move on to the last one. In light of concrete cases, case law, and from the perspective of owners of protected signs and marks, which are the identified deficits of the sunrise? I put some notes here anecdotal examples should be obtained. And I would say Kathy's note about outreach could certainly be applied here. And I also wrote that there may be some in the INTA study. As you all know, INTA very recently completed a cost impact study that we presented to the CCTRT.

There is anecdotal evidence in there. I don't believe it's case law in there at the moment, that talks about possible deficits with the sunrise and RPMs generally. So what I will do is will forward a copy of the study to Mary and she can post it on the wiki. And you all would be very welcome to look at the study and if there are cases that can be pulled from the anecdotal evidence, that should be used for the purposes of RPM review. Does that make sense

to people? And I will study it right after – I will actually make it right after the call – even mail it to the sub team. Kristine, yes.

Kristine Dorrain: Hi, this is Kristine. Yes, I think that does make sense. I just wanted to make a note that I know when we had gone through and kind of revised the questions above, Kathy had gone through and I really liked this feature of like kind of pulling in some of the more general questions. And I like the fact that we did that and so if you go to Question 1, if we look at the narrative or the proposed notes, we do actually bring this topic up into Note 1 as well. So I'm not sure if we...

Lori Schulman: Okay.

((Crosstalk))

Kristine Dorrain: ...as we're gathering data, you know, for one, it should cross over here. So, I mean, there's a lot of interplay there.

Lori Schulman: Okay. I mean, we can cross reference back up to 1, I don't have an objection to that at all. I think that would be fine. I think that makes sense. That was the feature of the work that you did honestly I thought was the most helpful in showing where all of the commonalities were. I thought that was very useful. Okay then I think we are through the chart.

Amr has the notes so he'll be able to send around an updated chart hopefully as soon as possible. So the last task I wanted to do today is very quickly go through the suggestions on data collection to see which would be needed directly from registrars and registries. And I'm doing that right now. I'm looking – I'm not even going to go question by question...

Amr Elsadr: Lori.

Lori Schulman: ...what I'm going to ask – yes? Amr.

Amr Elsadr: Yes, sorry, this is Amr. And apologize for interrupting. But I did want to ask if you wanted to also go through Question 22? Or did we already do that?

Lori Schulman: I thought that was – we went through 21 but I'm pretty sure 22 is part of claims or did I miss a question? I might have missed a question.

Amr Elsadr: And 22 which is sort of the update of Question 12 and there's some text there...

((Crosstalk))

Amr Elsadr: ...and Kristine had recommended. So that's...

((Crosstalk))

Amr Elsadr: ...text that we will be working with. But we don't have recommendations on data collection for this question. Thanks.

Lori Schulman: Okay, my apologies. I omitted it when I went through the chart. I just saw that claims and I stopped. Okay, so the question for those on the phone is, is the TMCH – it really should be are – there's a grammar error there it would be nice if it were fixed. Are the TMCH and the sunrise period allowing key domain names to be cherry picked and removed from new gTLDs unrelated to those of the categories of goods and services of the trademark owner? Example, allowing windows to be removed from a future dotCleaning. And this I think goes to some of the issues that Maxim is concerned about as well. You know, we do we want to remove, you know, police from dotLawenforcement or whatever.

So Kristine and Kathy had suggested that these are – that this is really reworded from Question 12 and 18. Is that what you guys meant? Question

22 and Question 18 should be bunched together? Is that what you were recommending here?

Kathy Kleiman: Certain aspects...

((Crosstalk))

Kathy Kleiman: ...of Question 18, not all of it but certain aspects of it.

Lori Schulman: Okay. And Susan's hand...

((Crosstalk))

Amr Elsadr: Lori, this is Amr. And to be clear, here this is they're referring to reword of Question 12 which is actually this one. But as Kathy said, excuse me, certain aspects of Question 18 that are relevant to Question 22 and so those are both reflected in the reworded Question 12 here. Thank you.

Lori Schulman: Oh I see. All right, thank you for keeping me on track. So the reworded Question 12 would be, should the sunrise period be reevaluated for special purpose gTLDs such as geos, and specialized gTLDs to properly balance trademark owners' interests with those of registrants whose use of a second level domain, let me to go the second part, name is in accordance with the registry operator's plan for the development of the TLD? If so, what changes should be made to the sunrise period? Examples include paris.police, policy.nyc, windows.construction. This is the Maxim question. Yes.

And then Kathy noted special purpose TLDs sort of a catch all term for TLDs that generally have some sort of restrictions or eligibility criteria, it's not an ICANN term and we're open to other terminology. So you're right.

From a data perspective, I think this is something we would want to note from the registrar and registries, Amr. I would suggest here on the data side that,

you know, Maxim's example I thought were really helpful and if maybe there are other examples that registrars could supply where they couldn't – they were prohibited from selling something because of a trademark claim that would – should have made sense. I don't know how else to say it.

But to the point, police.music versus police.nyc could be very different and should that be – should Police, the band, block police.nyc, I mean, that's the example. Special purpose is a catch all term, does anybody have any suggestions about what we call these TLDs? Susan.

((Crosstalk))

Susan Payne: ...suggestions on that. I was going to just say this seems like one for anecdotal evidence, and I suppose it's a question we could ask of some registries particularly the type of registry that's envisaged here. I mean, we're asking of it all registries. But, yes, that was all I was going to say.

Lori Schulman: Okay. I don't necessarily have a – what I would suggest with special purpose is I wouldn't capitalize it, I would use it lower case. I wouldn't put it forth as a defined term. I think this is one where it's going to have to be case by case. Because I don't want to make up a new name for gTLD, I don't think that is a good idea. So my thought is let's just leave it in lower case, let's leave the examples in and it's sort of like obscenity, we know it when we see it. Not that any gTLD is an obscenity.

Kristine is saying lower case is fine. Kathy is saying lower case. I think we'll go with the lower case option at this point. And the data, again, would have to be, to Susan's point, from the registries. There's no way we can know necessarily what something's been blocked or...

Kathy Kleiman: Hi, Lori. This is Kathy.

Lori Schulman: Yes.

Kathy Kleiman: I was wondering...

((Crosstalk))

Kathy Kleiman: Oh, I just raised it. I was wondering is Maxim still on the call? No, he's not. Shoot, because he may help us with the phrasing of the data gathering, he's been so diligent and, you know, patient on this one continuing to kind of echo these issues. I was wondering if we could reach out to him especially to help with the phrasing of, you know, what questions would make the most sense from this perspective.

Lori Schulman: That's fine, why don't we just put that in the notes that the data should be from industry experts like Maxim. And I would actually, at that point, put that as a staff...

Kathy Kleiman: Actually, I'm sorry, it wasn't...

((Crosstalk))

Kathy Kleiman: I apologize, Lori, it wasn't the data itself, it was the phrasing of the question so when we reach out...

((Crosstalk))

Kathy Kleiman: ...to registries like the ones Maxim has been trying to get us to think about how would, you know, what type of question would be the best one to kind of illustrate the type of issues he's been trying to tell us. Sorry, that was a long way of saying it.

Lori Schulman: Yes, you can just put that in the notes, that's fine. What I would do, Amr, is just in the note part say this is – will be gathered or should be gathered from registries and reach out to experts to help frame useful questions. That's

what I would say. Does that make sense for people? There's a lot of notes here this week but this is the cleanup part, this is the part where we get to get it right.

Okay, now the other question I had, we talked about maybe recommending that 17-22 be put up top because they were so general. But do you want to leave them in their place and then when I'm giving my presentation suggest that or do you actually want to reorder things? I'm a little hesitant to wholesale reorder but I'm interested in what people think. Do people have an opinion one way or the other? Kristine.

Kristine Dorrain: Sorry, I'm just coming off mute here. As far as ordering goes, the only suggestion I had is I really the like of having sort of a broad overarching question that kind of leads into it. And I mentioned it in my first comment at the top which sort of suggests that whole general concept of will, you know, what are the – we've kind of gone around and around about this a few times but what are the effects, what are the intended and unintended consequences of sunrise.

I like the idea of sort of gathering our – or circling our wagons around sort of a general question first, and then pulling the – pulling the sub questions or the more specific questions or the questions that go to specific features out from there. That's really my only suggestion. I don't know that this specific set of charter questions lends itself to an order per se. maybe like I know the claims group they sort of the questions fell into kind of a natural order. But I do think we want to – we do want to generally go – start with something, you know, broader and...

((Crosstalk))

Kristine Dorrain: ...in my opinion.

Lori Schulman: So maybe what we do is those two questions that you and Kathy put into the notes on 1, why don't we, Amr on this chart, not number these. I'd really like to keep the numbers of the questions as they came to us as the group, but maybe what we do in the chart is take these two questions, pull them out, put them on top of 1 and just call them preamble questions or what other term can we call them? Agenda setting questions, tone setting questions, overarching questions. Maybe that's the term. Kristine.

Kristine Dorrain: I'm sorry, that was an old hand.

Lori Schulman: All right. I would like to see these two questions pulled out and put on top of the first question. And maybe we just call them introductory questions, I don't know if the nomenclature is that important because the group could decide to renumber the questions. I just think if we start renumbering the questions it gets confusing as to what we did. Okay, Amr, the two questions that are inside the first note of the first question, it says KK/KD and the first part of this particularly sets the tone for the entire discussion.

So my suggestion was maybe pulling out this question and the one underneath it, putting it on top of what we are calling it 1, or what we could do is this is one question we decide to reword because if you look at what 1 is and how Kristine and Kathy are asking the question, maybe this is the one instance where we delete 1 and have a 1a, which would be the first part of this question and 1b, which would be the second. How do people feel about that? Since 1 basically just appears when you read Kathy and Kristine's comments. Does that work?

Amr.

Amr Elsadr: Thanks, Lori. This is Amr. Excuse me. And my impression was that the questions that Kristine and Kathy rephrased, that those would eventually replace the text we already had, so I thought that this applied not only to Question 1 but other questions as well. So if you look down at Question 2 for

example, which is highlighted in yellow, there's another question which is a threshold question that Kathy and Kristine provided, and then beneath that you'll see the reworded and that's the old text. And I assume that that would also be removed during the cleanup process.

Lori Schulman: Okay.

((Crosstalk))

Lori Schulman: Yes, I think – yes, I'm sorry I think I missed that step. So yes, please go ahead and do that to make it clear.

Amr Elsadr: Thanks.

Lori Schulman: That's right. That's exactly right, I apologize.

Kathy Kleiman: Wait, wait, wait, this is Kathy. So are we talking about now deleting 18, 19 and 22? I'm not sure...

Lori Schulman: No.

Kathy Kleiman: Oh okay.

Lori Schulman: No, not deleting anything in the first column; everything stays the same...

((Crosstalk))

Kathy Kleiman: Okay.

Lori Schulman: It's just in the – when we clean up those notes things where there's confusing wording we're going to take out – we're going to add the reworded there this is our suggested rewording without changing the first one and then the full team can vote on it. That make sense?

Kathy Kleiman: Because well I think now the way we've done it we've actual added and expanded 18 and 19 and others so they – I'm not sure...

((Crosstalk))

Lori Schulman: So would you rather...

((Crosstalk))

Lori Schulman: All right so maybe just leave the reworded the way it is and not take anything out, the reword are the suggestion.

Kathy Kleiman: Or, as you said, to move them to the top and say this is, you know, if we address these questions chances are we've hit the majority of 7, 14, 16, 18, 19 and 22 but there may be other aspects of those that the working group wants to take into account. I like your idea of making them overarching questions but I defer to Kristine as well as one of the drafters and everyone whose been reviewing them. It's kind of hard now because we hadn't been talking about deleting to talk about...

Lori Schulman: Yes, yes.

((Crosstalk))

Lori Schulman: All right.

Kathy Kleiman: Thanks.

Lori Schulman: Thanks. Yes, I may be confused too. We've gone through so many versions of this. Because I think the way it reads now is here's the original, we don't suggest a change but we do suggest some – well if we say we don't suggest a change but then we do have changes, we have this other wording and

that's confusing. So in fact we are suggesting a change. Amr, I think we are suggesting a change because 1 gets subsumed by the second part of the KK/KD question so we are suggesting a change.

So I think what – during the cleanup phase is when some of these we originally started out with and said no change and then some changes have occurred so I would not say this is a no change anymore; we are suggesting a change. And we suggest a change as worded by Kathy and Kristine. That make sense? I think that was the confusion in that first question. We don't have that in other questions.

Amr Elsadr: Lori, this is Amr. Yes, thank you. That does actually – that is how I understood it. But to be clear, none of the original charter questions will be removed in case that was Kathy's...

Lori Schulman: Right.

Amr Elsadr: ...concern that when we're referring to, for example...

Lori Schulman: Right.

Amr Elsadr: ...Questions 17, 18 and 19, those will stay there and the proposed rewording actually makes reference to them. So...

Lori Schulman: Right.

Amr Elsadr: ...they need to be there along with the proposed rewording. So...

Lori Schulman: Okay. All right, so that was just a misnomer. So when staff goes through this to be very sensitive to that, and when you have your cleanup document ready just send it to the group as soon as you can so we can look at it as quickly as we can because I know people are going to start taking off probably Wednesday, Thursday, Friday of next week so just to have it done by then so

people can either read it on the plane or actually I think ideally – I don't know how long this is going to take you but if there's a way for people to comment before they take off, it's probably ideal.

And then we're hitting the end of the – we're hitting the end of the hour, so I just want to very quickly say my thoughts were how to introduce and present this chart is that I would write like one, two paragraphs max on what our methodology was, how many times we met, where we ended up and why the chart looks the way it does and call it a day. And, Kristine, you have your hand up.

Kristine Dorrain: Hey thanks. I know time is up. I just wanted to mention that I wanted to mention that if you look in the reworded proposed notes or alternative wording for Question 1, and under the italicized “and” is actually related to charter Question 1. So it's only the stuff from KK/KD all the way down to Number 22, closed brackets, that was the overarching part of it so for Amr's purposes like it's not that we're doing a complete renumbering of anything, 1 doesn't actually go away, we just add a row above 1 and I agree with your point to say if we could call it umbrella, overarching, whatever, and just pull that overarching question out from KK/KD all the way down to 22. That was just going to be suggestion for Amr.

Lori Schulman: Okay, you know what, I think that makes a lot of sense. So let's add that first part of the question to something that goes over 1. And let's just call it a preamble or an umbrella question, maybe umbrella question is better, preamble or umbrella, which do you think?

Kristine Dorrain: Either one. Umbrella. Let's go...

Lori Schulman: Okay.

Kristine Dorrain: ...with umbrella.

Lori Schulman: Let's go with umbrella. Okay, that'll be the last part of the day. I want thank everybody. We are pretty much done except for the cleanup. Kathy in the notes has put out her outreach comments and I think that that should go where we discussed 18 and I believe either 19 or 20 as well. Where we asked for anecdotal information, this is what should be used. Thank you, guys, so much. It was a pleasure most of the time. And I look forward to seeing everybody in Johannesburg in a, you know, 10 days basically.

Kristine Dorrain: Thanks, Lori.

Lori Schulman: Thank you.

((Crosstalk))

Julie Bisland: Thank you. Today's meeting is adjourned. Operator, would you please stop the recording?

Lori Schulman: Yes, you may stop the call.

Julie Bisland: And to all, have a good rest of your day.

Lori Schulman: Thank you.

END