
ICANN Transcription
The Review of all Rights Protection Mechanisms (RPMs) Sub Team for Trademark
Claims Data Review
Wednesday, 12 June 2019 at 17:00 UTC

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the RPM subteam for trademark claims taking place on the 12th of June 2019.

In the interest of time, there'll be no roll call attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now?

Hearing no one, if I could please remind all to state your name for speaking for recording purposes, and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I'll turn it back over to Julie Hedlund. Please begin.

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ROGER CARNEY: Thank you very much, Terri. May I ask who is the number starting in 1609 and ending in 278?

KATHY KLEIMAN: It's Kathy Kleiman. Hi, Julie.

JULIE HEDLUND: Hi, Kathy. Thank you so much. We'll change your label and we'll put your name in there.

KATHY KLEIMAN: And the label will only be needed for a second, I'm logging in. Thanks.

JULIE HEDLUND: Very good. Thank you. Welcome, everyone. Thanks for joining. Just very quickly, I'll run through the agenda. Number one is some statements of interest. Number two, timeline and work plan. Three is to discuss the proposed answers and preliminary recommendations. Four, question four. Time permitting, discuss final input for the updated text for questions one and three, and number five is Any Other Business.

May I ask if anyone has Any Other Business? Seeing no hands, back to agenda item one. Does anyone have any updates to their statements of interest? Not seeing any hands, on to agenda item two. Just as a reminder of where we are, this is the last meeting before ICANN 65, and there will be no meeting next week. As is customary, we generally do not have meetings the week before ICANN meetings, and also, we'll

need some time for the subteam co-chairs to prepare for the meetings at ICANN 65. And as soon as they have coordinated also with the working group co-chairs on the plan for ICANN 65, we'll go ahead and send the draft agendas for those meetings to all of you, as well as update the information that is on the ICANN 65 online schedule.

And with that, I will turn things over to Roger. Roger, please go ahead.

ROGER CARNEY:

Thanks, Julie. Okay. We're going to jump up to 4B, but I wanted to give everybody a chance to make any comments on 4 or 4A since the document has changed since last week. I just wanted to make sure everybody is good with the proposed answer to 4 and 4A, and give everybody a chance to say if they need any changes or any comments on those before we move on.

KATHY KLEIMAN:

Roger, for those of us on audio, is it too long to read?

ROGER CARNEY:

They are not too long to read, and I can read them real quick. So four is, is the exact match requirement for trademark claims serving the intended purpose of the trademark claims RPM? In conducting this analysis, recall that IDNs and Latin-based words with accents and umlauts are currently not serviced or recognized by many registries. Our proposed answer is the subteam has differing opinions on whether the exact match requirement is serving the intended purpose of the trademark claims RPM.

This is where we landed last week. Again, a lot of the back and forth discussion has been removed out of the status check document and put into the summary document, so that is everything that we have for the proposed answer. Okay, no comments. We'll move on to 4A, and that question is, what is the evidence of harm under the existing system?

Our proposed answer is the subteam has differing opinions on whether there's evidence of harm under the existing system of exact match. Any comments, questions?

Okay, great. And again, we covered those last week, and 4B, we're onto now. Should the matching criteria for notices be expanded? The proposed answer is the subteam has differing opinions on whether the matching criteria for the claims notice should be expanded. Any comments, questions? Excellent.

Alright, so now on to 4B(i), should the marks of the TMCH be the basis for an expansion of matches for the purpose of providing a broader range of claims notices?

Our proposed answer is, if the matching criteria for the claims notice were to be expanded, the marks in the TMCH should be the basis for an expansion of matches for the purpose of providing a broader range of claims notice. Any comments on 4B(i)?

Along with this, there is some proposed questions to the community, and I'll read those as well. Some subteam members recommend that the public comment be sought on feasibility, including technical pros and cons of using the TMCH, alternates to the TMCH. Are we missing anything in our considerations? I'll open it up to comments.

Everybody is good. I like this. Okay. Alright, Rebecca, please go ahead.

REBECCA TUSHNET:

Actually, if we're using the other document that we looked at in a bit of detail last week as a model, I sort of wonder what the questions are doing here. Are we developing questions to the community for all the answers? What's special about this one?

I guess I also think what are we missing is probably something that the commenters are going to figure out for themselves, so right now, I don't see a case for having the questions as part of this. Thank you.

ROGER CARNEY:

Okay. Julie, please go ahead.

JULIE HEDLUND:

Yes. Thank you, Rebecca, for asking that question. Previously, Kristine Dorrain had made a suggestion that there be a third column for proposed questions for community input, and what had been, if you note here, suggested in the Google doc, so the three questions that are in blue, are excerpts from the Google doc, and those were suggested questions, so we've included them here as excerpts from the Google doc, but in this discussion, the subteam could decide that these are not appropriate questions to include in this column.

And actually, if there are no questions agreed to in this discussion, then there would be nothing in this column, if they are agreed to, then they will be reflected in this column, but in black text, meaning that they've

been discussed by the sub team and agreed to. I hope that's helpful.
Thank you.

ROGER CARNEY:

Thanks, Julie. Kristine, please go ahead.

KRISTINE DORRAIN:

I'm very late to this call, so I may have missed something that was already discussed, but I just raised my hand because Julie mentioned my name in putting these questions forward, and I agree with Julie that that's what happened. I was just literally trying to kind of data dump, like what are some things that might be interested in, specifically relating to the question, are we missing anything in our consideration? Which I think is what we're talking about right now. I don't have any problem withdrawing it. I agree with Rebecca that we probably don't have to ask, "Are we missing anything?" Because people will fill that in. It was really just more of a list of questions to garner discussion and what questions we might ask.

And just to be really clear, I don't actually think – I would prefer a world in which we asked as few questions as possible. we want to make recommendations, and only have questions where we needed additional supplemental information. As we talked about last week, the point isn't to re ask the questions that we're supposed to be making recommendations on. The point is to call for information that might be new in relationship to our recommendation.

So that, I think, is our point here, not a substitute for recommendations but adding on to our knowledge base as we finesse our recommendations. That's a very long way to say I do not have any problem with removing question three. Thank you.

ROGER CARNEY: Great. Thanks, Kristine. Rebecca, please go ahead.

REBECCA TUSHNET: Thank you. So, now we get into the tough part of this. Are we going to create a new question or new column full of questions for the community? And who's going to populate it [inaudible]? Because I don't think we have worked on that for other of the questions, so I actually have no particular problem asking general questions about feasibility, but it is going to be a little weird if these are the only ones we have. So I don't know where that fits in our timeline, and I appreciate Kristine's points, but I guess I would say, "Okay, we take them out of this column, we actually do have to figure out what happens next." Thank you.

ROGER CARNEY: Thank you. Kristine, please go ahead.

KRISTINE DORRAIN: Thanks. Yeah, and I agree that not every question has questions or not every issue or whatever we're calling it has a question, but if we haven't gone through and checked to make sure that we don't have any questions, I think we probably need to at some point.

When we compare back – and this is what I keep doing, I compare back to the SubPro working document. So they start with recommendations, which I think was section maybe C in each category, and then from there, they had additional questions like follow-up questions, and not every question or recommendation had questions, and not every recommendation actually had a recommendation, some just had questions.

So I think we don't have to have an answer in both columns, but we would presumably want the recommendation column filled as much as possible. So I agree they don't all have to be filled, but I think that's the model we're following, is the SubPro model of having a question section for every – I don't know, question is like a duplicative word, but the issues, whatever it is, having an actual question section for each issue or each proposed question is the model, I think, that we're following, whether or not it's blank. Thanks.

ROGER CARNEY:

Thanks, Kristine. Kathy, please go ahead.

KATHY KLEIMAN:

Great. Hi, everybody. Now coming in via laptop. So Kristine, I'm not sure we are following the SubPro model with lots of questions, because their initial report was really kind of like a preliminary report that was out there to gather a lot of data, but we're much further along, and we've got recommendations.

So for me, the questions in column two, one, three – and I think we've deleted three but not sure – I think would be confusing under the circumstances, because there is no recommendation about going forward with expansion. So why would we be asking about the feasibility process?

I think the proposed answer kind of tells us what's going on. I do have a question about the blue text under the proposed answer and whether the blue text goes into what we're publishing. But yeah, I'd recommend deleting the questions now because I don't think the public will quite follow the reasoning for why they're there. Thanks.

ROGER CARNEY: Great. Thanks, Kathy. Greg, please go ahead.

GREG SHATAN: Thanks. Can you hear me?

ROGER CARNEY: Yes. Please go ahead, Greg.

GREG SHATAN: Not to sharpen this pencil even further, but my general understanding of the working method is that we would have some questions about where – there was a real need identified to try to fill a gap or a hole, but not to have a slew of questions that were kind of broad and almost generic, and try to have questions for every question.

So in looking at these questions here, they're certainly not formed really as questions yet, and they tend to look a little bit generic, like, "Are we missing anything?" I don't think we're going to be asking that. And even kind of asking broad questions like this, if we have a question about feasibility, I think it would have to be more targeted. So I expect that largely, most questions will not have follow-on questions, but it really is where we kind of all scratch our heads and say, we'd like the community's input either a specific question so that they comment, give us a comment that we're actually trying to address or where we see a follow on question.

But I think I'd want to see much more kind of targeted and specific questions, not leading, obviously not easy. So I don't think we have to worry about the fact too much that we haven't been fashioning questions all along and that we're somehow 47 follow-up questions behind. But we should try to see if we have kind of questions that'll really help our work and make sure that we kind of limit ourselves to that. So in many cases, we may have no preliminary recommendation where we can't agree on one, or we agree that there's nothing to recommend, we may have questions in those cases and we may have no questions following up on those where there are. But I would not look to populate the question column just because it's there, even though I'm sure that's somebody's principle, that anytime there's an empty cell in a table, something has to rush in to fill it. But I think we should resist that. Thanks.

ROGER CARNEY:

Great. Thanks, Greg. Everybody's comments are leading the same direction, as few as few questions as possible, and I think Kathy may have said it. I don't think that we're trying to necessarily replicate the SubPro. That was a good process, and I hope that we went through that and in our own process, coming up with those questions and answers on our own. And as Kathy mentioned, we're a little further along than that. So hopefully we do end up with very few questions, and it sounds like from this group that 4B(i) should not have any questions at this time.

And Kathy, just to follow up with you on the blue text, do you have any other questions? I see a lot of chat back and forth in the chat.

KATHY KLEIMAN:

Yeah. Thanks, Roger. I guess I was trying to type something. Question to everyone, should we keep the blue text and make it black? Does it help people understand the proposed answer? Or not?

ROGER CARNEY:

Are you suggesting, Kathy, to include bot the black and blue? Or are you suggesting replacement with the blue?

KATHY KLEIMAN:

No. I think we have to keep the black. But yeah, it looks like we're talking about deleting the blue in column three. Should we keep the blue and column one? I'm not sure the answer of that. I've been kind of looking at it closely. Thanks.

ROGER CARNEY:

Great. Thanks, Kathy. Kristine, please go ahead. I don't necessarily have a firm answer to that text in blue in column one. I wrote it, so I'll explain to you why it's there, and perhaps that might help, because I'm not sure we need it.

I thought that question 4B(1) could be read in a couple of different ways. So, should the marks in the clearinghouse be the basis for an expansion of matches for the purpose of providing a broader range of claims notices? I think the proposed answer is a very black and white answer for lack of a better description.

It says yes, the marks in the clearinghouse are the basis. The answer is that yes or no. I feel like a broader implication of Q4B(1) is, how would this happen technically? Would the clearinghouse manage it? Other than just the submission of the marks in the clearinghouse as the base for non-exact matches, who would decide – where would be the repository of non-exact matches? Whatever the implementation piece was, would the clearinghouse be that likely implementation, or would we literally be outsourcing a whole new provider to come from the ground up with this whole new process and system that we've never heard of or seen before?

So my suggestion with the blue text, which maybe many of you will now go, "Holy shit, I had no idea what she meant, I changed my mind," basically, the suggestion with the blue text was to say, "Yeah, to my thinking, if we were going to do non-exact matches – and I'm opposed to them, by the way – then the clearinghouse seems like the likely place,

because we're already doing trademark Plus 50, we've already got the marks there, we've already got the EPP connection to the registrars. Stuff is there, the basic pieces are in place.

So the blue text was trying to go a little further to figuring out sort of some of those implementation thoughts. So that might help some of you decide whether you like it or not. Thank you.

ROGER CARNEY:

Thank you. Any comments, questions on keeping that blue text, removing the blue text, adding pieces of it? Okay, I'll spur the conversation in lieu of no comment. Okay, Susan thinks it makes sense, and I believe Kathy said it makes sense.

So we have support to keep it in there and turn it black. I'd like to hear from anybody that disagrees with that. Greg, please go ahead.

GREG SHATAN:

Just briefly. Based on the clarification from Julie Hedlund, I would say kind of the question I asked myself is, is this deliberative, or is this amplifying and clarifying the answer?

In this case, I think the blue text is the latter, amplifying and clarifying the answer. So I feel comfortable putting it in. I think there are a lot of cases where the blue text is deliberative, and should go to where the deliberations go. Thank you.

ROGER CARNEY:

Thanks, Greg. Alright, so we will add that to the proposed answer, and then we can move on. 4B(ii). What results, including unintended consequences, might each suggested form of expansion of matching criteria have?

Proposed answer, as the subteam had differing opinions on the need to expand matching criteria, the suggested forms of expansion were not examined in detail, and as such the subteam did not flush out the possible results of such suggestions.

I will open that up before we get into any of the blue text in this question. Greg, please go ahead.

GREG SHATAN:

Thanks. Sorry to be so chatty this afternoon. I have thought – and maybe I'm just blending too many different things together – that we had some fairly detailed suggestions, or at least some fairly detailed concepts that were expressed as to different ways that this could be put forth. But this almost makes it sound like we just kind of never even got to that point. So I think we either need to clarify that we had detailed proposals but couldn't agree on them at all, and therefore they're not going to be in the answer.

I wouldn't quite put it that way, but that should kind of be the implication. Or if I'm just wrong, then I guess we need to clarify that, or I need to clarify that. But I thought we had – that we did have detailed suggested forms, and we did spend quite some time talking about them, just didn't necessarily accomplish much of a meeting of the minds, but we did at least burn some oil on it. Thanks.

ROGER CARNEY: Thanks, Greg. Any other comments on that, anybody – just noting Rebecca commented on chat. Kathy, please go ahead.

KATHY KLEIMAN: Yeah. I remember seeing different ideas kind of listed and being surprised to see them in such detail because I don't remember discussing proposals in detail because we hadn't agreed on expanding beyond the exact match. So I would actually say the black text here works. I'm not sure we need the blue text because I think it repeats the black text, but the black text seems to work. There were some suggested forms of expansion, but we really didn't examine them and that much detail. Thank you.

ROGER CARNEY: Great. Thanks, Kathy. Greg, is that a new hand or an old hand?

ROGER CARNEY: Old.

ROGER CARNEY: Okay. Thanks, Greg. Julie, please go ahead.

JULIE HEDLUND: Just very quickly, staff recalls that there were some ideas that were discussed, but not proposals or in any great detail. But we will go ahead

and check on that just to make sure that we've captured that accurately here. But our sense was I think more along the lines of what Rebecca is saying, that there were some ideas, and not a lot of detail, and that there was no consensus. Thanks.

ROGER CARNEY:

Great. Thanks, Julie. And that was my historical view too. I think as Greg mentioned, some of some of the proposals were somewhat detailed, but I don't know that as a discussion, we actually got into those details and looked far enough down to see the possible issues or results of those things. So that's why I think the black text works as well. Any other comments, questions?

At this point I think for the first column, the black text will stay and the blue text in that column will disappear. I'll leave that open now for comments, questions, people that want to keep the blue text or want to change the black text. So on this one, there were some thoughts on questions, results and consequences that we haven't yet identified here. Ideally, community members should quantify their opinions with data. I guess that's not really a question. So Kristine, please go ahead.

KRISTINE DORRAIN:

Thanks. and given our conversation a minute ago about asking sort of obvious questions, I don't think we need the blue text here. I'll throw that out there. I think it was just sort of a placeholder for "please discuss," which we think and hope people will. Thanks.

ROGER CARNEY:

Great. Thanks, Kristine. Alright, so we will remove the blue text. If anyone disagrees, please come forward. Alright, let's go ahead and move on to 4B(iii). What balance should be adhered to in striving to deter bad faith registrations but not good faith domain name applications?

Our proposed answer is the balance is between generating match criteria that covers many [applicable] scenarios as feasible and avoiding a potential overflow of false positives due to bad matches. Respective registrants should be appropriately notified by a well-crafted claims notice regarding a potential problem with their chosen domains.

And just to call out, in our proposed answer, there is a blue line. I assume that was [purpose, not a scenario] as feasible as being in blue. So just to call that out. I'll open it up for anyone that wants to comment on this proposed answer, make suggestions, changes, keep, delete. Kathy, please go ahead.

KATHY KLEIMAN:

Yeah, I don't know why this doesn't sound familiar to me, but it doesn't. So I will ask, what are we saying here? I'm afraid I'm confused. So are we advocating a change in the current balance, or support of the current balance? And if anybody is the drafter of this, please feel free. Thanks, Roger. Yeah, I'm confused.

ROGER CARNEY:

Okay. Thanks, Kathy. Greg, please go ahead.

GREG SHATAN:

If the current balance means supporting the current trademark claims notice, I think there's quite a number of people who wouldn't support that as being the current balance, and that seems to be, hopefully our results will be at least a recognition of the need to change and a pathway for doing it.

but I think that in terms of this answer, I'm not sure it says anything about the broader status quo or what was attempted as the status quo in terms of the policy level balance implementation may have left something to be desired. But at the policy level, I support the balance that was being aimed for.

But this is kind a non-answer answer. It kind of just explains the question but doesn't really answer it. When we're talking about balance, I'm thinking more about things like it's better to let 100 guilty men go free than to hang one innocent man/person/whatever. That's a balancing choice one makes, and there are different cultures that have made difference choices about that balance over time.

So that to my mind is kind of what the question is asking about, but the non-answer answer is noncontroversial and therefore might be the best we can come up with. Thanks.

ROGER CARNEY:

Thanks, Greg. And I'll note Kristine's comment in chat. The question may be the hard part here. Is the question worded well? Is it really getting somewhere? Phil, please go ahead.

PHIL CORWIN:

I would propose just keeping the second paragraph. I don't think the first paragraph says anything. [inaudible] generating match criteria, whether criteria we have and that we're not going to change because there was no agreement to change as an exact match generates a claims notice.

So it makes an exact match – does that cover as many applicable scenarios as feasible? And avoiding false positives – none of it makes sense to me. It might make sense if we had expanded the matching criteria to generate a claims notice, but by sticking to exact match as the only thing that generates a notice, I don't think it adds anything but confusion and really should be dropped. And the second paragraph is fine, it's really about proper language. The criteria is very simple, exact match, and we need to communicate that in the way that effectively deters bad actors but doesn't scare of registrants who have no infringing intent. So that would be my proposal. Thank you.

ROGER CARNEY:

Great. Thanks, Phil. So, thought on that, of dropping the first sentence and just keeping the last one? Just noting, a comment that Kathy did agree with that as well as the possibility of dropping that first sentence and just keeping the last sentence. Greg, please go ahead.

GREG SHATAN:

Thanks. I took a minute to think about that, and I actually tend to support that. I think the first sentence is kind of a mess the more you look at it. It's obviously the draft, and it's probably a draft that could be tightened and all that, but it kind of goes off in a lot of different

directions. And I don't mean to criticize the drafters, whoever they were, but I think it's not necessary to answer the question. The second sentence really answers the question, and the first one just kind of – I think it's surplusage and it's also just kind of an all over the place sort of thing. So I would support dropping it. Thanks.

ROGER CARNEY: Great. Thanks, Greg. Go ahead, Susan, please.

SUSAN PAYNE: Thanks. I was just going to ask the question since there was a pause. I got a bit confused about what we were proposing to delete, so I was just trying to understand if the proposed answer was just going to start [at] prospective registrants.

ROGER CARNEY: That is correct. That's where we would start.

SUSAN PAYNE: I feel ambivalent. I don't think it really answers the question, but then I think the first sentence is – I agree with the comments that have been made about the first sentence anyway, so I didn't know. It doesn't seem to me to be a sensible answer.

ROGER CARNEY: So, are you supporting that the first sentence is somewhat sensible as an answer?

SUSAN PAYNE: Well, I think the first sentence is pretty horrible, but it does at least reflect the balance thing, albeit that I accept that we were already asked about balance in the question, and the answer if you only have the second sentence isn't referring to the balance at all.

ROGER CARNEY: Okay. Thanks, Susan, and some good things going on in the chat. Kristine, please go ahead.

KRISTINE DORRAIN: Thanks. The lawyer in me really wants to answer the call of the question, as I think a few of us on this call are struggling with right now. so I'm seeing some great conversation in the chat, and I'd like to propose another sort of variation, which would be something that directly answers the call of the question in the second sentence. So the current balance is achieved by notifying prospective registrants about potential problems with their chosen domain names and can be enhanced – or something like that – by updating the notification [process,] or something like that.

I want to say that we want to say that there's a current balance, it's there with the exact match, but we're going to make it a little bit better so there's a balance – I don't want to imply that it's a balance but it's not a balance. But I think between the chat and some variation of what I just said could get us there where we sort of answer the question about

balance and the fact that we think the exact match with a better claims notice is that balance. Thanks.

ROGER CARNEY: Great. Thank you. Lori, please go ahead.

LORI SCHULMAN: I'm going along the lines of Kristine as well, and I think maybe even Phil. I think it's almost non sequiturs between the first and second sentence, and the first - [you're just] really asking the question – answering the question. So I would say divide it up again into two sentences, but say the balance in terms of the criteria themselves in terms of matching we achieved is right. Where we are now is where we need to be. Where we're out of balance is in the – I don't want to say accuracy. Where we're out of balance is the – I could just say inscrutability of the claims notice. What's out of balance is notice. The policy of the matching makes sense, but how we're telling people about it doesn't make sense.

So I think this follows along what Kristine is saying. What balance should be adhered to? We believe that in terms of the policy of the matching [inaudible] we are achieving the right balance. Where there is imbalance is how the public is notified through the actual notice, and that part could be improved. I think that's the answer.

ROGER CARNEY: Okay. Great.

LORI SCHULMAN: I haven't drafted it, but if somebody – yeah.

ROGER CARNEY: Greats. Thanks, Lori. So I'll pose this to staff. Do you feel, Ariel, Julie, that you actually have what you need to update this?

JULIE HEDLUND: Yeah. Thanks, Roger. And we'll actually use the recording to make sure that we get the discussions right, as well as checking the chat and what people have written there.

ROGER CARNEY: Perfect. Yeah, I was going to say the chat has a lot of good stuff. Okay, great. We'll move on from the answer, we will update that, and look at the questions. Looks like there's two suggested questions in this one. Do you agree with the balance suggestion above, and do you have additional suggestions? I think for previous items, it sounds like these both can be removed and no question here, but I'll open it up. Please, comments.

Okay, unless someone wants to keep them, we will remove them. Thank you. Alright, 4B(iv), what is the resulting list of non-exact match criteria recommend by the working group, if any?

The proposed answer – with some blue text, so please note that – the subteam has not approved the concept, much less developed a proposed list of non-exact match criteria. If the matching criteria [inaudible] claims notice were to be expanded [let's seek] community

input in case the result of the public comment period suggests it is a path forward.

So, open this up to the proposed answer. Thanks, Kathy. You saw me stumble through that. Greg, please go ahead.

GREG SHATAN:

I guess I'm torn between improving this answer, which goes to the community input question which then should probably put the question into column three, which I guess would be soliciting ideas for non-exact match, but to be honest, I think we probably could have developed a rational non-exact match if there was a [inaudible] in general, but I think maybe our public comment at least implicitly can ask for whether – people can disagree with our conclusion, which is that we're not going to have non-exact match, but if that is in fact our conclusion, then I think the actual answer to this question is not applicable. Thanks.

ROGER CARNEY:

So Greg, from what you started there, the last comma part of that sentence is more appropriate for column three, is what you're suggesting?

GREG SHATAN:

I am suggesting that, and I'm not sure it's appropriate for this for QB4, because we're really asking first whether there should be a non-exact match, and second, if you think there is, then what should it look like? I'm not sure that really goes to QB4. Thanks.

ROGER CARNEY: Great. Thanks, Greg. Alright. Other comments? There's quite a bit going on in chat. Susan, please go ahead.

SUSAN PAYNE: Yeah. Hi. Thanks. just wanted to understand what Greg was saying here. I think what you're saying, Greg, is that you support that input being sought, but you think it's not a question that goes to this specific sub-question, but rather it goes somewhere earlier on in question Q4. If that was what you meant, then I think I would agree with that. I think you want to seek some input on this, but perhaps we ought to be clear that if we're going to seek input, we're asking for reasons and evidence based. We don't need just a load more people saying "I think this and I think that," because we've already had that, and we as a group decided we don't think that's good enough. So there's no point in us encouraging the community to just give us more of the same.

ROGER CARNEY: Okay. Greg, any comment back?

GREG SHATAN: I agree with Susan. I think she advanced by thinking. So, thanks.

ROGER CARNEY: Thanks, Greg. Kathy, please go ahead.

KATHY KLEIMAN: Yeah, thanks. In follow up to that – and tell me, Susan, if, if this completely contradicts what you've just said – and also wanting to answer the question, so what is the resulting list of non-exact match criteria recommended by the working group, if any? And it seems to me the answer is kind of in the first part, the subteam has not approved the concept, much less developed a proposed list of non-exact match criteria, period. I don't think we have much more to say than that. And then people can comment if they want to. Thanks.

ROGER CARNEY: Okay. Good suggestions. Any other comments? Let's just say to the first comma is our answer, remove the rest. But really, that last part of blue is going to be asked elsewhere on question four.

KATHY KLEIMAN: Roger, sorry, where would we ask it? Because we're kind of closing – are we reopening what we've already looked at in Q4? Or do we want to ask it here in column three, move this to column three and just say, "Do people want to comment?" But I'm not sure where else we'd move it. So because we're closing everything down, I just want to make sure we don't lose something we need, punt something we don't want to punt. Thanks.

ROGER CARNEY: Okay. Great. Greg, please go ahead.

GREG SHATAN: Thanks. I was assuming it would go earlier in question four. I don't think we're closing things like a submarine that's flooding, we're closing the doors never to reopen again, even in this conversation. So I would probably put it maybe at the chapeaux of Q4B would be my general thought, because it's as higher-level question than this sub-question. Thanks.

ROGER CARNEY: Great. Thanks, Greg. Comments on that? Yeah, I think move it to column three and the question, as I think Greg said, maybe goes to – and as Ariel put in the chat – Q4B. Just the blue part. Kathy, please go ahead.

KATHY KLEIMAN: Wait, so we're going back to Q4B, or we're putting it in column three of Q4B(iv)?

ROGER CARNEY: The suggestion or the proposal now is to move that to column three of Q4B.

KATHY KLEIMAN: Can we go back up and look at Q4B?

ROGER CARNEY: Yeah.

KATHY KLEIMAN: Cool.

ROGER CARNEY: So Roger, what did we decide was going to be – or to Ariel and Julie, what did we decide was going to be in the third column now that we’re adding something to the third column here? Thank you.

ROGER CARNEY: Thanks, Kathy. Ariel, please go ahead.

ARIEL LIANG: Thanks, Roger and Kathy. I think the parts in blue is – I just read it, seeks community input in case the result of the public comment period suggested as a path forward, so the path forward is referring to expanding the matching criteria, so I guess the question to the community is whether there will be a path forward for expanding the matching criteria. I think that’s what we understood, but perhaps we didn't understand it correctly.

ROGER CARNEY: Great. Thanks, Ariel. And just to note, we didn't cover this today, and I don’t remember if we covered it last week, but there is blue text in Q4B column three already, and some of that may already include what we’re talking about moving. Greg, please go ahead.

GREG SHATAN:

Thanks. I think Q4B is the right place to put it, but I think it points out an infirmity in our answer to Q4B, which is that we don't actually say that we are not recommending – due to the divergence of opinion, there is no recommendation to expand. And then in the third column, the question is, should there be an expansion? And with could ask here, or we could keep it in Q4B(iv) and say if you believe there should be a nonexact match, then what criteria would you suggest? Or maybe it's even if you don't agree – so I'm not sure, but it's not really what is – I guess we're asking here for alternative proposals on what nonexact match would be if in fact we agree that it should be nonexact match. Although that's kind of putting the cart before the horse, because without a good [inaudible] the specifics of the proposal may well influence whether people agree to it. So maybe I'm more confused.

But I see kind of the bigger question, at least implicitly, is, should there be nonexact match? And secondarily, if you think there should be, what do you think it should consist of? And I suppose that could be in Q4B(iv) rather than Q4B, at least the second part. The first part, “should there be nonexact match,” I think belongs where that question is almost answered by the group. Thanks.

ROGER CARNEY:

Okay, great. Thanks, Greg.

REBECCA TUSHNET:

I'm not on the computer anymore. Can I get in the queue?

ROGER CARNEY:

You bet. I'll call you right after Susan. And Susan, you're up.

SUSAN PAYNE:

Sorry, I thought there was someone ahead of me. Yeah, I think towards the end of that, Greg made a good suggestion which is with something along the lines of – and sorry I can't scroll back up – “Do you think in Q4B column three, there should be expanded matching criteria? And if so, what should those matching criteria be?”

And again, something to the effect that, “Please give full explanation in detail, and ideally, evidence for your answer.” Because again, we’re not just seeking open-ended views ad nauseum here. We've done that already. But hopefully, staff did catch Greg’s point, which was that in the main column of the proposed answer on Q4B, we haven't actually gone on and said, “And therefore, we’re making no recommendation to expand the matching criteria.” And I do think that that’s key.

ROGER CARNEY:

Right. Okay. So it’s something to the order of working group has recommended no expansion, if you disagree, provide matching criteria and details. Kathy, please go ahead.

KATHY KLEIMAN:

Yeah. Okay. So we’re back to 4B. I think it’s easier if we just do it in the section that we were in, but if we’re talking about 4B, then I agree with Susan that we have to expand it to include the affirmative statement that we’re not recommending any exact matches. And also, Roger, let’s

do both sides. If you agree or disagree, please let us know and comment with data if possible.

ROGER CARNEY: Okay. Great. Thanks, Kathy.

KATHY KLEIMAN: I think Rebecca's in the queue.

ROGER CARNEY: Yes. Rebecca, please go ahead.

REBECCA TUSHNET: Yeah. So I don't get the point of specifically saying, "If you disagree with this specific answer, tell us and give us data why." What makes this answer different from all the others, where apparently we aren't saying that, because [inaudible] put the questions to a minimum. It smacks of trying to get another bite of the apple, and it seems like we should then also be asking, "Well, should we get rid of the whole thing? What do you think, community? Give your data if you have it."

I could probably get behind saying something like if you think it should be expanded, you really have to provide enough specifics to evaluate the proposals, because that's been a huge stumbling block. But other than that, what I'm hearing discussed is nothing more than, "Do you agree?" Thank you.

ROGER CARNEY: Great. Thanks, Rebecca. Greg, your hand's up. Is that a new hand, old hand?

GREG SHATAN: New hand.

ROGER CARNEY: Go ahead.

GREG SHATAN: [I think the ask, or at least the] attempted ask is the second to last thing that Rebecca said, which is if you think there should be expanded match then give us a specific proposal, evidence and like that to back it up. I think that the, "Do you agree?" Was more a kind of – that can be implicit in asking the second question. So maybe it makes sense not to go full circle, to keep it in Q4B4, and to ask that question, "If you believe there should be expanded match, give us – any answer should give a detailed proposal and rationale" or something along those lines. Whatever it is. I've probably wasted time on this, in retrospect. Sorry.

ROGER CARNEY: Okay, Greg. Thank you. Susan, please go ahead.

SUSAN PAYNE: Thanks. Yeah. Just very quickly, and just Rebecca, to respond to you, I'm obviously not being as clear as I might wish I was being, because really, my point was trying to flag up the same point you were making.

Otherwise, it seemed to me that we were asking people to come in and just randomly give us a load more anecdotes. So what I was what I was trying to suggest was that we only want input if it's really going to advance the ball here. And you're absolutely right, why are we asking that on this question and none of the others? But I suppose the answer to that would just be because generally speaking, it seemed to me when we were having this discussion, we were taking most of these questions out. And it seems to me that generally, I think this is an overarching comment to be making rather than on each individual question, something overarching that says to people who are going to respond, "If you're wanting changes to what we're suggesting or what we're recommending or what we're not recommending, then you need to come up with good reasons."

And that was all I was meaning. I certainly wasn't trying to reopen the endless discussion we've already had. Quite the reverse. I thought I'd made that clear. But hopefully, that makes sense. I think you and I are in agreement, rather than the reverse.

ROGER CARNEY:

Okay, great. Thanks, Susan. We are out of time, so we'll clean this up and move that to the Q3 or the third column, and we'll move forward. Julie, please go ahead.

JULIE HEDLUND:

Thank you, and thank you all. We do want to go ahead and adjourn this call. Sorry to cut off the discussion, but we do have the sunrise call starting momentarily. That one will actually start at five minutes past

the hour to give you a little bit of time to transition. Thank you very much, Roger, for chairing. Thank you all for joining, and this call is now adjourned.

TERRI AGNEW:

Thank you, everyone. Once again, please remember to disconnect all remaining lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]