
**ICANN Transcription
RPM Sub Group A
Tuesday, 30 June 2020 at 13:00 UTC**

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NATHALIE PEREGRINE: Good morning, good afternoon, and good evening, everybody. Welcome to the RPM Subgroup A call on Tuesday, 30th of June, 2020. In the interest of time, there will be no rollcall. We'll be taking attendance by the Zoom room only.

If you are on the audio bridge, could you please let yourselves be known now? Hearing no one, I'd like to remind you all to please remember to state your name before speaking for transcription purposes.

Please keep your phones and microphones on mute when not speaking to avoid any background noise. And as a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. And with this, I'll hand the call over to you. Thank you, David. Please, go ahead.

DAVID MCAULEY: Thank you, Nathalie. Thanks very much. Hello, everybody. Welcome to our first meeting post-ICANN68. It's good to see

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everybody here on the list. I will first review the agenda, and then hand it over to Ariel for just a few minutes.

Our agenda today is, first, the administrative steps which I said I'll do. Then, Ariel will go through a wrap-up of action items from the previous meeting, and I think you all will have seen her format changes in the review tool that we're using, including very helpful page breaks and coloring. Thank you for that, Ariel.

We'll then turn to the substance of today's meeting, which is to review the public comments respecting Sunrise question five, and then Trademark Claims recommendations one through four.

When we get to Trademark Claims recommendation number one, we'll first look at Trademark Claims question one, and then turn to the recommendation for claims one.

And then, following that, we'll have any other business and wrap it up. So, moving forward, Ariel, I'm going to turn it over to you for the wrap-up from our last call.

ARIEL LIANG:

Thanks very much, David. So, there is no remaining action item from last week's meeting, just a friendly reminder to the subgroup that, when you go through the Public Comment Analysis document, you will see some highlighted text in green.

For example, the ones that I'll be showing you on the screen. That is because some of the deliberations were updated. For example, in this particular case from Sunrise Recommendation 1, the subgroup has revisited one of the comments in this particular

recommendation in the context of Sunrise Q3 and Q4, but there is no further deliberation on that. So, we just want to note these updates throughout the document.

And then, some other highlighted updates are referring to the public comments that are received in the context of Sunrise questions, but they may be more appropriately deliberated in the recommendations context. So, we highlighted those updates, as well.

And then, the actual new contents are from, I think, Sunrise question one to four, and there is no action item from these deliberations. And what staff have captured is the subgroup's agreement to flag certain comments for the full working group to further deliberate, and so we have captured these. And I won't go into details because this document has already been circulated with the subgroup, so I stop here.

DAVID MCAULEY:

Thank you, Ariel. Let me also go back. I forgot one very important question of this group, and that is, are there any updates to statements of interest? So, I'll ask it now and just give a short pause to see if there are hands or anyone wants to speak on audio.

Okay, thanks. I don't see hands or hear anyone trying to speak, so we can move onto the substance of today's meeting. And we will start with the question, Sunrise ... I'm trying to remember. Sunrise question number five.

And so, you can see the questions right there on the screen. I'm actually going to be toggling between two screens. And so, staff, if

someone is trying to get my attention and I'm not paying attention, please raise your voice and let me know.

But the questions are right there: did you encounter any problems when you attempted to participate in Sunrise using non-English scripts and languages? I think it's noteworthy that this question is not really tagged to any Sunrise recommendation and it gets back to the notion of seeking information for the full working group.

Remember, our remit is really to flag new information, new material information, that may not have been considered. Those kinds of things. We're not a decision-making body. We're basically triaging, flagging, whatever you want to call it, information to send up to the full working group.

This question lends itself to that because it's basically asking a discrete subgroup of participants if they encountered issues when they were attempting to participate in Sunrise in a non-English manner.

And so, it leads to an interesting discussion, I would say. And obviously, this one doesn't have a donut for us to use, but there were five ... Excuse me. I'm sorry, I'm just getting a screen message.

There are "yes" answers from five groups, "yes with some commentary" from some groups, and there was one "no" answer. And so question five, the next question, 5.b, is really more to the point. And that is, "If you did, please describe it." I'll take a real quick drink of water.

“If you did, please describe what it might be.” And we saw some comments that there were issues in verifying samples of use. I'm getting notices from work, I'm sorry about that. And others. And so, what ... I'm very sorry. I'm getting some interruptions and I think I've just canceled all of them.

So, you see the comments, there. Basically, the Trademark Clearinghouse has been strict. It had a strict approach. There has been rejection. At least some participants claim there has been rejection of legitimate samples of use when the trademark as used on the sample was accompanied by additional wording, and it may not be in English.

Some have said that non-English trademarks yield their own particular issues. So, all I'm trying to do here in describing some of the problem here is sort of seed a discussion.

It sounds to me like this question actually gets to things that we should flag to the working group, but if there is any way that we can triage this and make this more focused for the working group, that's what I'm looking for. Excuse me. Or whatever thoughts you might have. So, I will look for hands or anyone to comment on the totality of question five, but especially 5.b right now.

And I don't see any, so I'm assuming that the best we can do with respect to question five is to flag it to the full working group and say, “We asked this question of the community, ‘did you encounter problems?’ There are a number of answers, and here there are some common themes among the answers. We've looked at them. We don't have anything special to flag out of this group, but we do

think this is worthy of consideration. And it, after all, a question that we asked, and people did take the time to respond.”

With that approach, if anyone has any concerns, or any comments or statements they want to make ... I thought I had successfully ... Thank you. Sorry, Julie. I'm trying to toggle between two screens, and I'm getting some messages from work, and I'm desperately trying to stop but it's not happening. And so, I will sit more still. Sorry about that.

But that's what I mean to say, is that's how I think we should intend to handle Sunrise question number five. If there are any concerns or any requests for tweaking that, or refashioning that, please raise your hand now, or we will move to Trademark Claims question number one.

I don't see any hands or hear anyone so, Ariel, why don't we move onto claims question number one? Okay. Trademark Claims question number one: have you identified any inadequacies or shortcomings of the claims notice? And so, obviously, we have the same type of response, and it gets more meaningful if we get to the second question: if so, what are they?

SUSAN PAYNE:

Apologies, David. Hi. Shouldn't we be doing Trademark Claims Recommendation 1 before we do the question? Or is it deliberate that that's reversed?

DAVID MCAULEY: Thanks for the question, Susan. I actually thought that we should take the question first because it would inform what we do with the recommendation.

SUSAN PAYNE: Okay, thank you. Sorry for interrupting.

DAVID MCAULEY: Well, I should have more clearly said that I've asked to tweak the agenda a little bit, but that's what I'm proposing. And so, if we look at the claims question number one, we see a number of comments, including from ... I believe Jason is one of our participants, Jason Schaeffer.

"A claims notice should not be overreaching or expand trademark rights." "American University said the Trademark Claims Notice is too difficult for most potential registrants to understand." "It's intimidating." "These issues have been raised and should be addressed." "Internet Commerce Association need to make the notices more user-friendly."

"Provide more information and resources." "Explain that receiving a notice does not mean that you have necessarily done anything wrong or that the referenced trademark owner has superior rights." So, I see a question. Brian? Why don't you go ahead, Brian?

BRIAN BECKHAM: Yeah. Thanks, David. More just a comment [inaudible] to move us along. I think the question is—

DAVID MCAULEY: Brian, can I interrupt just for a second and ask if you could maybe just get a little closer to the mic?

BRIAN BECKHAM: Yeah, is this any better?

DAVID MCAULEY: That's better.

BRIAN BECKHAM: Okay. Yeah, I was just going to say I think this is well-worn ground, and we had made a recommendation to revise this. So, it's unsurprising that we see comments to the question that said some people found it confusing, over-reaching, what have you. So, I feel this probably nicely situates our ability to accept this feedback and look to our recommendation to make improvements to the claims notices.

DAVID MCAULEY: Okay. Thank you very much, Brian. Are there any other comments or questions with respect to going through this particular part of the question? Excuse me. If there are not, are there any other comments or questions with respect to Trademark Claims question number one? It seems sort of seamless.

We could turn, then, Ariel, to—and we're making great progress—
Trademark Claims recommendation number one. I'll answer a

question that Phil asked in the chat. He was knocked offline. “Did anything get decided?”

No, Phil. What we talked about, though, with respect to Sunrise question five is that this will ... It’s a question unrelated to any specific recommendation. People did answer with concerns and comments, and we thought we would flag all of them to the full working group.

There was no one that took precedence over another, but it’s obvious that there are certain groups responding, individuals responding, and people should accord those the way that they think that they deserve. But interesting issues were picked out in Sunrise question number five, and that will be sent up to the full working group. After our having looked at it, nothing in particular was decided upon.

So, going to Trademark Claims Recommendation 1, I’m now going to toggle, as I said I would. Bear with me one moment. Trademark Claims recommendation number one: “The working group recommends,” and I’m going to be paraphrasing, here, “that the language of the Trademark Claims Notice be revised in accordance with the implementation guidance outlined below.”

“This recommendation aims to help enhance the intended effect of the Trademark Claims Notice by improving the understanding of recipients while decreasing any unintended effects of deterring good faith domain name applications.”

Now, with respect to that latter phrasing, the IPC said, “Decrease the possibility of it,” because it hadn’t approved when George

Kirikos, in his individual comment, said it [had, and it's] statistically shown.

The implementation guidance looked to was, basically, to: make the notice understandable to a layperson; to make it brief, including useful information links, information, and links to information; and consider input from external sources, experts, people that might have expertise in this sort of thing.

ICANN Org, in their comment, cautioned on some potential internal inconsistency here, asking for brevity, and yet, more information and external sources, etc.

So, that roughly is what is being recommended in Trademark Claims Recommendation 1. I'm cutting in and out. I'm sorry. Julie, go ahead, please. Can't even call out to me. I'm sorry for all these technical difficulties. I'm getting a number of ...

JULIE HEDLUND: Yeah. Sorry, David. All, if we could just ... We'll take a moment to dial out to David.

DAVID MCAULEY: Okay. Thank you.

JULIE HEDLUND: And get right back in. Thank you very much for that, David. David, it looks like we have you on audio, and we also have an echo, evidently. Oh, it's gone. Can you try speaking, David?

DAVID MCAULEY: Yes. I'm speaking on the phone and I'm muted online. I don't know where the echo is coming from.

JULIE HEDLUND: I think it was someone else, David. I'll ask everybody who is not speaking to mute, please. Try it again, David.

DAVID MCAULEY: Okay. I'm not speaking on the phone and asking, is this any better?

JULIE HEDLUND: That's loud and clear. Thank you.

DAVID MCAULEY: Okay. And I see Paul's not in the chat. Thank you, Paul. So, apologies for that. And also, I've been having some interruptions, as I mentioned before, that seemed not to be ending. So, that may be a little bit more intense on the phone. But let's press on.

So, on Trademark Claims recommendation number one, I believe that I teed it up by summarizing and paraphrasing what the recommendation was, indicating some comments. But it's basically getting to this notion that the claims notice needs some work; clarification, brevity, whatever it might be. Let a layman not be intimidated by it, but be able to understand it, etc. First hand up is Phil Corwin. Why don't you go ahead, Phil? Phil, you need to unmute on the phone, too.

PHILIP CORWIN: Okay. Can you hear me now?

DAVID MCAULEY: Got you now, thank you.

PHILIP CORWIN: All right. The infamous double-unmute conundrum. Yeah. Speaking in an individual capacity, while these answers are helpful, while I forget the exact wording, I believe we already have a working group recommendation to revise the language of the Trademark Claims Notice to make it more comprehensible and less intimidating to the average registrant, and also to consult with some outside groups in that implementation process. So, I don't see anything in the answers that would alter in any substantial way that existing working group recommendation. Thank you.

DAVID MCAULEY: Thank you, Phil. Let's move over to Susan, please.

SUSAN PAYNE: Yeah. Thanks, David. So, just a couple of things. I think the IPC comment which is in row 30 does suggest a very small tweak to the recommendation. Just pointing out that whilst, of course, we've had lots of discussion about there being unintended effects, and the deterrents of good faith domain registrations, we obviously, as a group, don't have proof of that. And we felt that it would be preferable to express this as something that would be decreasing

any possibility of deterring good faith registrations, rather than making assumptions that this has happened.

But then, to move on from that, I think there are a few comments, including the Org comments, but also INTA and, again, the IPC, who are commenting about the bullet three, about the consultation with third parties.

And I think, if one takes those collectively, the suggestion is that, perhaps, this is best left to an IRT to determine who they should be consulting with, rather than trying to be too prescriptive.

As INTA points out, there is a range of experience, and skill, and perspectives already within the community without necessarily having to go out and get those same inputs from outside the community, and that, perhaps, as the IPC is suggesting, if any input is needed it's about how to communicate complex issues in a clear manner that, perhaps, the implementation of this recommendation would find assistance from.

And as I say, I think this sort of accords with what ICANN Org is saying, which is they're concerned about obtaining input from multiple external sources – could add complexity to what could otherwise be a pretty relatively straightforward implementation step.

So I think, collectively, there is some feeling that that bullet point three is, perhaps, being a bit too prescriptive, and that, maybe, that's adding unnecessary complexity to something that is really a question for the IRT to decide.

DAVID MCAULEY:

Thank you, Susan. I think that makes great sense and, barring anyone objecting, I think we should flag those comments in particular when we send this issue up to the full working group.

I mean, it's obvious that there is work that needs to be done on the Trademark Claims Notice. And it seems to me that the full working group will decide the principles that that should follow, and maybe lead to the implementation team the actual wording of it.

But I think you make fair points, as Phil did before, that there is already a recommendation in this respect. And so, it seems to me that that's how we will manage this. But we still have plenty of time today, and I'll look for other hands or people, if there's anyone.

I don't believe there is anyone just on the phone, but I'll wait for other hands. Otherwise, we can move on. There are some very cogent comments in here, obviously—I think we've all looked at them—about the difficulties that the notice presents to potential registrants.

And Phil's comment in the chat, "The IRT should be able to consult with a wide variety of outside groups, both in views on trademark policy as well as expertise in clear communications." Good point. I think Susan made that point about clear communications of complex concepts, too, and we can tweak the recommendation to the ... Okay. We can tweak it at the full working group.

So, with respect to this recommendation, I think that we're done and we can move on. Ariel, could you move on? I think we're done with the question/the recommendation.

ARIEL LIANG: Hi, David. Actually, I have my hand up.

DAVID MCAULEY: Oh, I'm sorry. I didn't see it.

ARIEL LIANG: I just put in the chat. So, I just want to quickly confirm about TM Claims question one. Is the subgroup's agreement to flag the entire comments, like the entire spreadsheet, for the working group to deliberate, or would you like to highlight the answers to Q1.b?

Because these are the suggestions that can potentially inform the implementation guidance for the Implementation Review Team to look at when they deliberate on the Recommendation 1. So, I just want to confirm whether it's the full contents of this comment to be flagged, or do you want to highlight any particular comments for Q1.b?

DAVID MCAULEY: I think it's actually 1.a.2, question 1.a ... The first part of question 1.a, 1.a.1, "Have you had any problems?" And we've got a number of "yes" answers. I mean, that's easy to see. So, maybe I would flag the whole question. I think it's actually easily digestible, but I do think that there are some indications in 1.a , the second part, that would be interesting, too. And I think that this is easy enough to digest, but that's what I would recommend. I see Phil's hand is up. Go ahead, Phil.

PHILIP CORWIN: Okay. Can we go down on the screen to the response from CORE?
Because that got my attention.

DAVID MCAULEY: Okay.

PHILIP CORWIN: And CORE stated that “many registrars are not accredited with
TMCH and do not provide claims services,” and that struck me as
very surprising. I had assumed that any registrar providing
registration services for new TLDs would be hooked up to the
Clearinghouse.

And CORE seems to be saying that there are registrars that provide
registration services for new gTLDs that were not accredited with
the Clearinghouse and did not provide claims notices. If that’s true,
I think that’s a major issue, and something that hadn’t been brought
to our attention before, and might be the basis of some
recommendation for the next round.

To me, it would seem that if a registrar is going to be providing
registration services for new gTLDs, they ought to be ... I would be
surprised that they weren’t required to honor all the RPMs. And if
they’re not providing claims notices, they are not participating in all
the RPMs. So, I leave to others with greater expertise, but that
answer was quite surprising to me. Thank you.

DAVID MCAULEY: Thanks, Phil. Susan, go ahead, please.

SUSAN PAYNE: Yeah, thanks. So, I can respond to Phil's comment with my interpretation of what CORE are saying, which would be the experience that some of my colleagues in the registrar said [of our] business encountered as well, which is that some registrars did not want to have to connect to the Trademark Clearinghouse.

And so, they didn't offer registrations in the new gTLDs during the period when they were in their Sunrise and Trademark Claims periods. And so, they would only be able to offer the names in general availability, instead, because they didn't want to get into the complication and cost, or whatever, of offering those RPM services, as well.

And so, CORE's comment is that, sometimes, if a potential customer went to one of those registrars and sought to register a name, they would get told it wasn't available because of the way that their request would be returned by the registrar instead of the registrar necessarily saying to them, "We don't offer this." And so, it may appear to them that the name isn't available when, in fact, it's just that it's not available from that registrar.

DAVID MCAULEY: Thanks for the clarification, Susan. So, it's your belief that there is no case where a registrar would be offering registration services, even during Sunrise, and not be connected to the Trademark Clearinghouse, is that right?

SUSAN PAYNE: Well, I'd love Roger to correct me if he knows better than me, but I don't think it would be possible unless the registry were complicit in that.

DAVID MCAULEY: Fair enough. Fair enough. Roger, why don't you go ahead?

ROGER CARNEY: Thanks, David. Yeah, Susan's right. I mean, they could try to participate, but any create at the registry would fail because the registry has to check the ID, and they wouldn't have an ID to pass. So, as Susan said, unless the registry itself is also non-compliant, then that's the only way that would work. The creates would fail. So, thanks.

DAVID MCAULEY: Okay. So, I think that addresses it, Phil. Phil then asks, "Shouldn't the non-participating registrar be sending a different message?" I'm not sure I follow that, Phil.

PHILIP CORWIN: Yeah. David, let me jump in. Yeah. Basically, CORE told us, now that it's clear to me that these were registrars that chose not to provide Sunrise registrations ... I'm not sure there's anything with this working group to do, but it seems to me if a registrar is not participating they should be telling their customers other than "domain not available." They should be telling them, "We don't provide Sunrise registrations."

DAVID MCAULEY: Okay.

PHILIP CORWIN: But I'm not sure that's an issue for this working group.

DAVID MCAULEY: I think it isn't, and you make a good point – I'm not sure it's for this working group. I agree with you on that. I had thought, maybe, we were talking about a claims notice, which there wouldn't be for such registrars. Okay. So, Roger, is that a new hand?

ROGER CARNEY: Yes. Thanks, David, yes. Just to clarify on what Phil was saying, a lot of the reasons why registrars don't do claims is because they didn't want to add any additional code. So, I agree with Phil, it would be nice if those registrars did say, "Hey, we're not taking during claims period," but again, then they would have to change their systems to recognize when the claim started and when it ends, and that's one of the reasons why they didn't want to do it.

So, I think it's a little difficult. And the registry response is, when you do a domain look-up at the registry, it just comes back as "unavailable." Most of the time, it just comes back "unavailable" if you're not providing the claim ID. So, just for clarification. Thanks.

DAVID MCAULEY:

Thank you, Roger, and thanks, Phil and Susan. So, I think we're then ready to move to Trademark Claims recommendation number two, and I will briefly state what that is: "The working group recommends the delivery of the Trademark Claims Notice be both in English as well as the language of the Registry Agreement."

"In this regard, the working group recommends first changing relevant language in the Trademark Clearinghouse rights protection mechanisms requirements on the topic, using the word 'must.'"

"And then, secondly, a claims notice should include a link to a webpage on the ICANN Org's website containing translations of the claims notice in all six UN languages." Excuse me.

And so, with respect to recommendation number two, the IPC, basically ... There are a number of comments. I'll just highlight several, just in a manner or in the hope of seeding discussion. Not trying to give weight to any individual ones but trying to generate discussion.

The IPC believes that a reasonable step should be taken to ensure applicants understand the notice. IPC believes requiring that notices be provided in the languages of domain name registration agreements is a reasonable and necessary step, but they also think the final bullet should be amended to include "the claims notice must include," etc., etc.

The Business Constituency, "It's likely easier for registrars to deliver a single notice containing the recommended hyperlink to the translations in UN languages."

So, here is my question. The recommendation is now on the table for us to flag anything that we think would be worthy of consideration by the full working group. And so, I will pause for a minute and look for hands. You can see the donut, and it's a widely supported recommendation. Phil, go ahead, please.

PHILIP CORWIN:

Yeah. Can we please scroll down to the ICANN Org comment? Yeah. I wanted to say I didn't agree with their comment. There's a personal view, of course. Okay. All right. They were talking about the cost to registrars. I may have misread this and thought they were talking about the cost to themselves of posting it in a different UN language, since it's one standard thing.

But I still would question the comment because if the registrar is operating in the language of the registrant, and they're already providing things in that language, I don't see how it would be a major burden on a registrar to translate a single notice into a language they were already using for their commercial business purposes. That was my sole comment on the responses. Thank you.

DAVID MCAULEY:

Thanks, Phil. Fair point. Susan, go ahead, please.

SUSAN PAYNE:

Yeah, thanks. Just to go to that, in the chat I put in what the current language is, and it's just a reminder for everyone—although I'm sure everyone remembers this, themselves—the current language

says “should” rather than “must” in terms of the languages of the Registration Agreement.

And I think we generally felt, in the group, that our feeling was that “should” could be interpreted as there was an option, here, which I don’t think any of us really, necessarily, felt was appropriate. So, it’s a tweak to the current requirements, rather than some overarching new obligation to translate, just in terms of Org’s comments.

DAVID MCAULEY:

Okay. Thank you very much, Susan. And so, again, it’s a straightforward recommendation in most respects, talking about the issue of making sure that the registrant understands the notice that they’re getting.

And the suggestion seemed to be appropriate. It seems to me that we’re going to, basically, pass this onto the working group, noting that the comments are interesting, some interesting suggestions.

I don’t know what else we can do with it except to say that this looks like a very interesting discussion and ensuring that registrants understand the claim’s notice seems a worthy goal.

Susan, is that a new hand? Oh, no. I will pause just for a second to see if there are further hands on this. Anything anybody would like to point out? Other comments? Ariel’s hand is up. Go ahead, Ariel.

ARIEL LIANG: Thanks, David. Just a quick confirmation that the subgroup wants to refer all of the comments for the full working group to deliberate, or would you like to highlight any specific comment?

DAVID MCAULEY: Well, let me ask ... That's a fair question, and so I'm going to give you what I think, but I'll be speaking personally. And then, let's offer that as a question to everybody here at the same time. And so, what I would suggest is ... I'm of two minds. It's to sort of forward to the working group all of the comments, because these are easily digestible. I just think that this won't be hard to get arms around.

On the other hand, I think the comments from the IPC and the BC were particularly noteworthy and would, perhaps, be worth flagging. But again, I'm saying this in my personal capacity right now and asking if there is anyone else that has any views on how we want to characterize this to the full working group.

I will pause for hands. And not seeing any, Ariel, I think we would pass on all comments and say that we discussed as noteworthy the comments that I just mentioned. And thank you. Excuse me. Whoops, Michael Karanicolas has his hand up. Go ahead, Michael.

MICHAEL KARANICOLAS: Hi. Sorry, I just jumped in. I had another meeting. Did I ...? Right. Just in terms of the BC suggestion, the claim looks there, I thin ... Basically, it seems like what they're suggesting ... And again, I apologize if this was discussed five minutes ago.

But it seems like what they're suggesting is that the recommendation should be amended such that it only applies to the six UN languages, as opposed to language of registration. And if that's the case, then not only do I disagree with that but I think that that's not a tweak. That goes directly counter to what the recommendation is.

And I don't think that's something that we should be passing on insofar as it's ... The recommendation was designed the way it was for a reason and, certainly, if people wanted to limit the applicability to UN languages, that would have been done in the working group. That's not something that I think was not under consideration. I think that that's directly counter. So, I'm not sure if that should be flagged in the same way. Thanks.

DAVID MCAULEY:

Thank you, Michael. I'll just mention in response that the way I read it was what BC was saying was there should be a notice with a single language with link to UN languages. And then, I think the language that they used with respect to additional language is something along the lines of, "This may prove to be impractical."

And I don't think they were ... At least, I didn't read them as suggesting that this group recommend a requirement that the notice in the Registration Agreement be deleted. I don't remember anything like that.

And so I think, if something in their view may prove to be impractical, then it simply may prove to be impractical, but it didn't arise to any kind of a recommendation, certainly from this group.

So, I think the way we'd wrap this is up is as I just described a moment ago. When it gets to the full working group, if there is anyone in the full working group that believes that the BC's recommendation goes further than what I just stated—I think Susan agrees—then we can take that up at that time. But I just didn't read that in there, and I tend to think that wouldn't get a lot of consideration. Thanks, and welcome to the meeting.

So, we will move onto the next recommendation, Sunrise recommendation number three. And I'm going to toggle, again, to another screen. So, if there is anything, staff, urgent, please just note it to me verbally.

Trademark Claims rec number three: "The working group recommends that the current requirement for only sending before a registration is completed be maintained. The working group also recognizes that there may be operational issues with presenting the claims notice to registrants who have pre-registered domain names due to the current 48-hour expiration period of claims notice."

"The working group, therefore, recommends that the Implementation Review Team consider ways in which ICANN Org can work with registrars to address the implementation issue."

And we had a number of comments, here. I'll just highlight some. Whoops. I've just, of course, deleted them from my screen, so bear with me one second and I'll come back to that. And again, this is just to seed discussion. I'm not trying to give weight anywhere.

But I will note that the IPC said that if the IRT can't identify a method by which presale implementation issues could be addressed while

still meeting the requirement of the claims notice to be presented and accepted before registration, then presale of names will not be possible.

INTA has a recommendation, as well: claims notices to the proposed registrant, notices to the trademark owners, that notices be given not just to the registrant but also to the trademark owner before the registration is completed.

ICANN Org had another cautionary note: "The reasoning for the 48-hour acceptance period is to avoid situations where a registrant is unaware that their pre-ordered domain name registration was based on an acknowledgment of a claims notice containing trademark information that may no longer be current." Roger's hand is up. Go ahead, please, Roger. Roger, if you're speaking, we're not hearing you right now.

ROGER CARNEY: Thanks, David. I'm sorry. Double-mute again.

DAVID MCAULEY: There you go.

ROGER CARNEY: Thanks. Just to answer for those questions, yeah. These aren't new ideas. These were items discussed when we discussed this previously. And maybe there was some confusion or misunderstanding, but there are simple solutions to this. So, I'm not sure where the IPC or the INTA is concerned about it. I think there

are several different easy solutions to resolve this, so I don't see this as a complex issue. Thanks.

DAVID MCAULEY:

Thank you, Roger. Phil asked a question in chat: "IPC and INTA comments are similar regarding implementation. Can anyone recall whether the" ... Oh, I'm sorry. Roger, you just did that. Pardon me. So, the floor is now open for additional comments on Rec 3 – Trademark Claims Rec 3.

Ariel, could you go back up to the donut? Is there anyone that feels we should do anything other than pass this on, basically, as-is, with the working group to work out the nuances of what the recommendation is? Susan, go ahead, please.

SUSAN PAYNE:

Sorry. It took a while to get off mute. So, I'm not sure if there is anything we need to do about it, but I just ... Is there anything we need to do in respect of the ICANN Org comments, at all? I know you did refer to them, but they ask some specific questions about, "Are the working group envisaging a shorter or a longer expiration period for the claims notice?" and some other comments, and I don't know the answer to this. I just wonder whether we need to do anything further with this.

DAVID MCAULEY:

Thank you, Susan. We don't, but we do have the floor open if someone would like to suggest an answer to the full working group. Phil is next in the queue. I'll ask Phil to go ahead.

PHILIP CORWIN: Yeah. Thank you, David. And again, always in a personal capacity on this stuff. I'm just wondering whether—of course, we shouldn't decide it here, but at the full working group level—we should consider tweaking the last sentence of the recommendation, kind of when we suggest on, "To address this implementation issue to ensure that a registrant receives a claims notice where appropriate," something like that.

And noting that it's in the best interest of both the registrant and the trademark owner that a registrant who has pre-registered a domain still received notice before the registration is completed by a potential conflict with the trademark, so that they can be on notice and avoid that if necessary or decide there is no need to avoid the registration.

But I think that's the implication around the final sentence of the recommendation, but maybe it needs to be clarified just a bit. That was my only thought on that. Thank you.

DAVID MCAULEY: Thank you, Phil. Roger, go ahead, please.

ROGER CARNEY: Thanks, David. Yeah. Just for a little background, I suppose, what typically happens from the registrar standpoint is that we actually present the claim notice at the time of pre-registration. And again, that could be ten days, it could be 90 days before general availability opens, whatever it is.

But we present the claim notice at that time. But then, the problem with the 48-hour window is we're forced to make them come back in within two days of general availability and make them accept it again.

And generally, the claim notice hasn't even changed, but we have to do it because of this requirement. It's arbitrary. I couldn't find a reason for this 48 hours. I assume someone just picked a nice timeframe. But there was no logic or discussion around that 48 hours, prior to that. So, it was just something I think that the TMBD decided to do because they needed a window.

As far as Susan's comment about ICANN's questions, yeah, I think the easy solution is you present the claim at the time of registration, whenever it is. And then, not until the claim changes do you have to present it again, and that's something easy that can be done in the background.

So, I'm going to say it's probably going to be a longer period, but it would be to the fact that, unless a claim changes, there is no reason to present it to the registrant again. Thanks.

DAVID MCAULEY:

Thank you, Roger. And barring any further comments on that, Ariel, I would ask, Ariel and Julie, if the staff wouldn't ... I think we should forward this, basically, as-is, but note the comments that Phil and Roger just made in our summary, if possible.

Thank you, Ariel. So, any further comments on Trademark Claims recommendation number three? If not, we can move onto recommendation number four. I'm going to go ahead and read it. It's a short one.

Trademark Claims recommendation number four: “The working group recommends in general that the current requirement for a mandatory claims period be maintained, including a minimum initial 90-day period when a TLD opens for general registration.”

And you can see in the donut the levels of support, non-response, etc. There were comments in here saying that it might be advisable that the claims notice be indefinite. If someone’s running a limited registration period, it should be applicable to that as well.

A number of interesting comments. I’d like to open the floor. It strikes me that, on this one, we will again forward as much as we have the others, but are there any comments that someone would like to be sent along with it, or any objections or concerns about this recommendation?

Excuse me. I don’t see any hands. This one seems fairly straightforward, and that might be the explanation. But we’ll wait for another minute because we’re basically at the end, then, of our meeting. And I don’t see any hands or see any concern.

So, what I’m going to do is ask Julie if she has anything administrative that she wants to mention to us. Or I would, at the same time, invite her or anyone else to put their hand up about other business that they might like to mention, and we can move on. So, Julie, can I ask you if there is anything administrative that you have for us?

JULIE HEDLUND:

Thank you, David. Before we go to that, can we just ask to confirm, then, what is the subgroup’s determination on this

recommendation, number four? Is it to be passed as-is to the full working group, or any particular comments to be highlighted to the working group?

DAVID MCAULEY: I think it's to be passed to the working group as-is for further work. There's nothing noteworthy that we discovered.

JULIE HEDLUND: Right. So, there are no new ideas that the subgroup was able to extract from the comments to highlight to—

DAVID MCAULEY: Not yet. Susan's hand is up, so let's ask Susan.

JULIE HEDLUND: Thank you.

SUSAN PAYNE: Yeah. Sorry, and sorry to be so slow. I was just playing catch-up on reading this. I suppose the only thing that I think it's worth flagging, and indeed, it's a comment that my company made, amongst a couple of others, is that there is some nuance in relation to the existing RPMs requirements that address the situation where there is, actually, a limited registration period.

And in that circumstance, it makes it clear that the 90 days has to cover the LRP, and the ... Or rather, the claims period has to cover

the LRP, and then your 90 days starts running after that. So, you may run a longer-than-90-day period.

Since the working group has recommended that the requirements be maintained, my understanding would be that none of that has been changed. But it did seem as though this was something that was worth being clear on, since it wasn't expressly referred to, the fact that we're ...

If we're maintaining all of the requirements as they exist, then that includes that provision, as well, about what happens if the registry operator runs some kind of limited registration period between the Sunrise and before they start the general availability term.

DAVID MCAULEY:

Thanks, Susan. That's a fair point, and I think we should flag that comment to the full working group. Thank you for that. Ariel, if you would, please, make that summary that Susan just mentioned about the limited registration period. Phil, your hand is up. Please, go ahead.

PHILIP CORWIN:

Yeah. One other thing. Several of the comments suggest there is no need to require a claims notice for .brands where, of course, the other registrations are by a single registrant who owns the brand. I don't know if we have previously considered that, or whether that needs to be flagged for any consideration by the full working group. I just wanted to note those comments. Thank you.

DAVID MCAULEY: Okay. Thank you, Phil. I think that had been previously discussed, but it is noteworthy, and I think it will be included, since we're sending it on as-is. But Ariel, if you would also include in the summary that that was also brought up in the discussion. Julie, I hope that answers your question. And I also see ... Phil, have you raised your hand again? I didn't notice if you put it down. Okay.

JULIE HEDLUND: Hi, David. Ariel has her hand up.

DAVID MCAULEY: Oh, sorry.

ARIEL LIANG: Thanks, Julie. Thanks, David. So, I just quickly confirmed the comments that we can highlight are, basically, the comments under "support recommendation concept with minor change." And I notice that INTA/the IPC pretty much have the same comment regarding what Susan mentioned about the IRP. And then, the .brand is the comments following that. So, we can highlight these particular comments.

DAVID MCAULEY: Good. Okay. Sounds good. Excuse me. So, we've run the string, then ... Go ahead, Julie.

JULIE HEDLUND: Yeah. Thank you very much, David. So, we don't have anything else on the agenda today. I don't know if ... I know we haven't prepared to go further. We can certainly, for the agenda for the next meeting, put even more on the agenda, since we're obviously moving through these pretty quickly. Or I don't know whether or not you want to do a preview of coming attractions and go onto ...

DAVID MCAULEY: Julie, I think in the next meeting we will have everything on the agenda, including all the way up to Trademark Post-Delegation Dispute Resolution Policy, if I'm not mistaken.

JULIE HEDLUND: I think that's what we do have in the plan, David, yes. Thank you.

DAVID MCAULEY: So, that's the plan, is we will finish review. And then, I will be meeting with staff in the interim, and we'll determine how we want to wrap this up. To answer Phil's ... As Ariel always does, she's on top of it, answering Phil's question.

So, next meeting, we will have on the agenda everything remaining, which is good. And we'll have a wrap-up discussion at that time about sending this thing forward. But other than that, I think we're done, and we can give everybody back a half an hour of today's 90-minute meeting.

Unless I see a hand or hear someone wanting to make a comment, I'm going to draw this one to a close. Going once. Twice. And I,

again, apologize for all the interruptions I was having at the beginning, getting a number of calls that were very ... It was disruptive on my end.

Sorry about that. But I think it's all resolved. At least, I hope so. So, we'll draw to a close. We can stop the recording. Thanks, everybody, for being here, and we'll move on. See you next week.

NATHALIE PEREGRINE: Thank you all for joining. This concludes the call. Have a great rest of your days.

[END OF TRANSCRIPTION]