ICANN Prague Meeting
IPC Meeting- TRANSCRIPTION
Tuesday 26th June 2012 at 14:00 local time

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Coordinator: Conference now being recorded. You may now begin.

((Crosstalk))

Steve Metalitz: Welcome everyone. You're in the meeting of the Intellectual Property

Constituency of the Generic Names Supporting Organization. I'm Steve

Metalitz, President of the IPC. We've got two sign up sheets going around,

one will go on this side and one can go on that side, and please bring them

back up to the front when they're, when they've gone through the room.

And what I'd like to, as you can see we have a proposed agenda that was

circulated and posted and I think it's up on the screen, and it's pretty simple,

so I'll ask if people have any additional agenda items you can raise your hand

and we will, we will address them. Before we get, you know why don't you

bring that into the audience please. Thanks.

Before we get started on the agenda I wonder if anyone will volunteer to take

notes of the meeting and prepare a rough draft of minutes. We do try to post

our minutes on the Web site pretty quickly.

Paul McGrady: I will.

Woman: Thank you.

Steve Metalitz: Paul will. Okay. So let me start by introducing, let's have everyone at the head table introduce themselves, they are all the, they're the officers and leadership of the IPC plus the scribe for this meeting so you now have a title too.

So why don't we start down there?

Mark Partridge: Hello. My name's Mark Partridge with Partridge IP Law in Chicago. I'm the Treasurer and I participate in the IPC as a representative of the American Intellectual Property Law Association, the IPLA and the American Bar Association, ABA.

David Taylor: David Taylor from (unintelligible) Levels based in Paris and I'm not French but English, if anybody laughs that means they're must be a few French in the audience who won't like me forever so. GNSO Counselor for IPC and also involved with (unintelligible).

Brian Winterfeldt: Brian Winterfeldt, (unintelligible) (Johnson) based in Washington, D.C., also IPC Counselor to the GNSO.

Steve Metalitz: I'm Steve Metalitz, I represent the Coalition for Online Accountability in the IPC, I'm based in Washington, D.C. and I'm the President this year of the IPC.

Kristina Rosette: Kristina Rosette out of (Covington Burlington) D.C. office, I am Vice President of the IPC.

(Ellen Chenkman):   I'm from Israel and I'm Secretary of the IPC.

Paul McGrady: I'm Paul McGrady from Winston & Strawn, I am the Chair of INTA's Subcomittee on Internet Governance and I am also the scribe.

Steve Metalitz: Okay. Now do we have a microphone for the audience I hope? People are pointing but I don't know. There it is, great. So if you could bring it up to the front here and people can pass it along and introduce themselves and state whether they are IPC members.

(Russ Bangor): I'm (Russ Bangor) with Microsoft and we're an IPC member.

(Stefano Magufky): (Stefano Magufky) for (unintelligible) an IPC member.

(Luke Alberto): (Luke Alberto), (Luke Alberto), IPC member.

Laura Covington: Laura Covington (unintelligible) IPC member.

Claudio Di Gangi: Glaudio Di Gangi, INTA, we're a member of the IPC.

(Fidel): (Fidel) from (unintelligible) registry from IPC.

Man: (Unintelligible).

Man: (Other input), Phoenix legal reps (unintelligible) in the IPC.

(Maria Angola): (Maria Angola), (Philips) legal, non-IPC member.

(Doug): (Doug) (unintelligible) Intellectual Property Organization non-IPC member.

Brian Beckham: Brian Beckham, also (unintelligible) Intellectual Property Organization and non-IPC member.

Fred Feldman: Fred Feldman, (Mark) (unintelligible) IPC member.

(Zavier):   (Zavier) (unintelligible) IPC member.

(Christian):   (Christian) (unintelligible) and non-IPC member.

Mike Rodenbaugh: Mike Rodenbaugh, Rodenbaugh law and representing E-bay, IPC
                        member.

(Philip Sanchez): (Philip Sanchez), Creative Commons Mexico, non-IPC member.

(Jeff Jarvis):   (Jeff Jarvis), out of (unintelligible) in Boston, I'm here on behalf of the
                        Intellectual Property Owners Association, IPC member.

(Alexander):   (Alexander) (unintelligible) from Macedonia, IP lawyer, Attorney at Law.

(Karen Melentaryville):   (Karen Melentaryille), (Silverberg, Goldman and Bikoff), IPC
                        member.

(Jim Bikoff):   (Jim Bikoff), (Silverberg, Goldman) IPC member.

(Jonathan Gook): (Jonathan Gook), the Association for Competitive Technology out of
                        Brussels, IPC member.

(Mortie Gaines):   (Mortie Gaines), Marksman, IPC member.

(Michele Bernew): (Michele Bernew), I'm an IPC member.

(Mark Vlasik):   (Mark Vlasik), (Checkmark Network), non-member.

(David Sweeney): (David Sweeney), European (unintelligible) Federation.

(Richard Pringle): (Richard Pringle) from Shell, non-IPC member.

(Philip Moreno):   (Philip Moreno) from (unintelligible) and Johnson in between IPC
memberships right now.

(Michael Adams):   (Michael Adams), (Mayor Brown), IPC member.

(Sean Dewire):   (Sean Dewire), (QVC), non-IPC member.

(Mark Tractonberg):   (Mark Tractonberg), (Winston & Sean), IPC member and Web Master.

Woman: (Unintelligible) (Deloitte), non-IPC member.

Woman: (Unintelligible, IPC member.

(John Hudson):   (John Hudson), (Deloitte), non-IPC member.

(Don Fancer):   (Don Fancer), (Deloitte), non-IPC.

Man: (Unintelligible).

Man: (Unintelligible), Japan, IPC member.

Woman: (Unintelligible), IPC.

Owen Smigelski: Owen Smigelski, ICANN staff, former Trademark Attorney IPC guy.

(Emily Murray):   (Emily Murray), (Stephill & Johnson), IPC member applicant.

(Gail Disvala):   (Gail Disvala) from Italy, a non-IPC member.

(Roberta Salas):   (Roberta Salas), (will need to be from representing the) (unintelligible), non-
IPC member.

(Jennifer):   (Jennifer) (unintelligible) non-IPC member.

Woman: (Unintelligible) from ECA, non-IPC member.

(Carl):   (Carl) (unintelligible), non-IPC member.

Jim Prendergast: Jim Prendergast, the (unintelligible) strategy leader, non-IPC member.

Woman: (Unintelligible), (Grants Consulting), Japan, IPC member.

Man: (Unintelligible), (Grants Consulting), IPC member.

(Marty Schwimmer):   (Marty Schwimmer), (unintelligible) (Ellis), IPC member.

(Robert Conner): (Robert Conner) from (Welter's Corner), non-IPC member.

(Francis Ricar): (Francis Ricar), IBM IPC member.

(Grady McGary):   (Grady McGary), (McGary & Co), non-IPC member.

Man: (Unintelligible), World Intellectual Property (unintelligible) Magazine, non-IPC member.

(John Haley):   (John Haley), Trademarks, Brands and Internet Magazine, non-IPC member.

(Dennis Prall):   (Dennis Prall), New York Office of (Lattice) and peri-IPC member.

Woman: (Unintelligible), non-IPC member.

(Amy Bivens):   (Amy Bivens), (unintelligible).

Woman: (Unintelligible) IBM.

(Yolish Kolis):   (Yolish Kolis), IBM, non-IPC member.

(Jonathan Livy):   (Jonathan Livy), (unintelligible) non-IPC.

(Erline):   (Erline) (unintelligible) non-IPC member.

(Kimberly):   (Kimberly) (unintelligible) non-IPC member.

(Trent Verton):   (Trent Verton), Managing (unintelligible), non member.

(Lillian Uldragard): (Lillian Uldragard) (unintelligible).

Man: (Unintelligible), non-IPC.

(Teresa):   (Teresa) (unintelligible), (unintelligible) Arbitration Court, non-IPC member.

(Christian Delray): (Christian Delray), (unintelligible) Arbitration Forum, non-IPC member.

(Stephanie):   (Stephanie) (unintelligible) non-IPC member.

Man: (Unintelligible), not an IPC member.

(David Green):   (David Green), KPMG, non-IPC member.

(Tom Cush):   (Tom Cush), IRR Registry Services, non-IPC member.

Man: (Unintelligible), non-member.

(Alex Galt):   (Alex Galt), I'm from (unintelligible), IPC member.

Man: (Unintelligible).

(Jay Scott Evans): (Jay Scott Evans), Yahoo.

(Jonathan Cohen):   (Jonathan Cohen), IPC.

Woman: (Unintelligible) non-IPC member.

Woman: (Unintelligible), U.S. Patent and Trademark Office, not an IPC member.

(Ashley Roberts): (Ashley Roberts), (unintelligible) non-IPC member.

(Vicky Thorn):   (Vicky Thorn), (Deloitte), non-IPC member.

Man: (Unintelligible), IBM, non-IPC member.

Man: (Unintelligible), (Deloitte), non-IPC.

(Becky Birch):   (Becky Birch), Orange, non-IPC member.

(Christian Meer): (Christian Meer), non-IPC member.

Woman: (Unintelligible), non-IPC member.

Woman: (Unintelligible).

Man: (Unintelligible), IBM, non-IPC member.

Woman: (Unintelligible).

Woman: (Unintelligible).

Steve Metalitz: Is that all? Well welcome everyone. This is an extremely well attended meeting. I think my rough estimate the non-member out number the members by about eight to one, but we welcome all of you, it's an open meeting, and those of you who are eligible, meet the membership criteria for the IPC we encourage you to apply.

The, I also particularly want to recognize and thank our attendees from the Czech Republic and from the neighboring countries, we always welcome our fellow IPC practitioner, excuse me IT practitioners from the regions, so thank you very much for being here and I hope that this will not be the last time that we see you involved with the IPC.

We have some people on the phone I think, or at least we have a phone line, so let me ask can people on the phone identify themselves?

(Ken Taylor Marksman):   (Ken Taylor Marksman), IPC member.

(Fabricio Meyer): (Fabricio Meyer), Time Warner, IPC.

(Anne Eckman-Scalise):   (Anne Eckman-Scalise), IPC member.

(John McIlwain):   (John McIlwain), I'm (Nelson Mullens) IPC member.

Steve Metalitz: Anybody else? Okay thank you. As is normally the case in these meetings if people will try to remember when they speak to identify themselves both for the benefit of people on the phone and for the transcript that will ultimately result from this meeting, the meeting is being recorded and if you aren't being interested in being recorded we encourage you to not say anything or leave the meeting. That was your full disclosure.

So the agenda is up on the, on the screen, I haven't heard any suggestions for any additional agenda items so we'll assume that the agenda is approved.

The first item here is Leadership Report, which is a bit of a placeholder, and I just want to say that, and I'll kick off and of course if any others in the leadership wish to say anything else at this time I would encourage them to do so.

I've been involved in the Intellectual Property Constituency since its inception, which I guess goes back about 13 years now, I've been the President for seven of those years off and on, and I think the events of the last couple of weeks have been more consequential, if you will, for the IPC than any similar period in my experience with this organization.

On June 13th, or June 12th we did not know how many .brand applicants there would be for new GTLDs, we, there could have been four, there could have been 40, there could have been 400, there could've been 4,000. That day we found out the answer, or at least we started to figure out the answer, and it's clearly going to have big impact on this organization.

The new GTLD program is only one of the issues that we deal with but it's certainly an extremely important one, and we now have a number of member companies that are in our organization, lawyers who represent or individual members or who's firms are members who represent new GTLD applicants, companies that are new GTLD applicants, as well as members, as you heard many of our members are associations, and many of the members of those associations are involved in new GTLD applications.

At the same time we also have many members in all the categories I suspect, who are not involved with applying for a new GTLD. So this is a fundamental change, in other words we have people lined up with different perspectives perhaps on one of the big issues that we are called upon to deal with, and we also have people who have both intellectual property interests and non-intellectual property interests in this subject.

So I think it certainly makes our job a lot more complex and we're going to talk a little bit later on in the program about what some of the, some of the other impacts might be. Throughout this meeting already in Prague we've been asked many times, most recently this morning by the ICANN board, to reflect on the impact of the new GTLD roll out on our constituency, on our

stakeholder group, on the GNSO that our stakeholder group is a part of, and on ICANN.

So I think we are starting to appreciate some of the complexities of those, of that question and one thing I think we really need to dedicate some time and effort to in the next few months, certainly between now and the Toronto meeting of ICANN is to try to come up with some answers to those questions.

So that sums up my leadership report, but I would welcome any comments or thoughts from any of the other officers who were, or participants up here at the head table.

Hearing none we'll continue on with the agenda. We ordinarily, and I think each of the last several ICANN meetings we have had a briefing from the Contract Compliance Staff from ICANN, this time partly because the press of other issues we've kind of outsourced that job to one of our outstanding members, Jonathan Zuck, who has been working with, liaising with Maguy Serad and her contract compliance team.

And I'd like to call on Jonathan now to give us a brief summary of what he's learned, what he's still trying to find out about and what else we might be able to do on the contract compliance issue.

And the microphone is right there. Jonathan.

Jonathan Zuck: (Unintelligible) behind the speaker so there's minimum feedback. So yes thank you, my name's Jonathan Zuck again and I've been talking to Maguy quite often since the last meeting about some of things that they're trying to do, they brought on an IT specific person named (Paul Redmond) that is trying to work on their system updates because they were populated by just lawyers until recently.

So just as a brief update from them the (C-tickets) or general complaint system there's been a lot of talk in previous updates, I mean some of you may not be completely up to speed on this about a transition to a three-phase system for complaints and actually coming up with some milestones for the process of complaint management, and so what they're trying to do in the short term is bring all their systems up to date with the three-phase system.

So the (C-tickets), general complaint system is enhanced, went into production at the end of May so they're now doing a parallel tracking effort, manual and system for a couple weeks to make sure that all is good.

What they've been doing is trying to track more substantial data actually for the past three months, and looking into how we can actually see some of the results from that manual tracking, because reporting is a big part of the requirement analysis that we all did for the new system.

So they've been tracking manually data in much greater detail and tracking against this three-phase system manually, at least on the spreadsheet or something like that, which believe it or not is a huge improvement over what they were doing before, at least now for the last three months.

Enhancements are now underway for the WHOIS data reporting system, and that's scheduled to be implemented by the end of July and enhancements are underway in the UDRP tool, which is set to be completed over the next couple of weeks.

There were a lot of things that are scheduled to be completed by the end of June and so I, I just feeling like the end of June would love to see more of that. Compliance (unintelligible) conducting not two or but three feasibility studies to identify consolidated solutions and they say they'll have results by the end of the month.

There's a pilot for the new business intelligence tool, which is the reporting out of the compliance system that we've been asking for, and that pilot will be ready sometime by the end of June as well.

And the audit strategy both registrars and registries is being worked on and then the next set of things that they're tackling are the UI improvements, which is some of what we talked about when we had a call about requirements analysis before, which is just the, what our way into the system looks like and increasing the efficiencies of doing multiple you know entries, multiple complaints around the same TOV, etc., and so that's the next phase.

I have a meeting with Maguy tomorrow, everything seems very out of order in a way in terms of having this CSG meeting before the IP team meeting, etc., so if any of you have specific questions I'm going to be meeting with her for an hour tomorrow to try and get some more detail on some of the things I talked about and see where things stand that really were due at the end of July, June since June will practically end by the end of this meeting.

And I'll certainly send around a paper report of that meeting, but then if you have specific questions I'm happy to take them now or happy to take them via e-mail before 4:00 tomorrow.

Steve Metalitz: Okay. I think we have a question in the back if, is there another mic or we are a one mic room here?

And again please identify yourself for the transcript.

Owen Smigelski: Owen Smigelski, ICANN Contractual Compliance. So yes, I showed up here, I didn't know if there's anything really pressing, I can certainly address any issues to the extent, you know that I can before your meeting with Maguy so I'm available for that if you have anything.

Steve Metalitz: Okay. We now actually have another mic, thank you very much. Jonathan thank you for that report.

It's interesting that in the budget, which I guess was approved on Saturday, there is a big increase for contract compliance and the IPC raised the question of whether the contract compliance function is capable of actually carrying out, I don't remember the exact numbers but it's over 50% increase in their budget from what they actually spent this fiscal year, and are they capable of carrying that out or are they just throwing money at a problem.

I wonder if you have a sense of that or any observations about that, and of course I'd welcome any comments from Owen too. Maybe that's not a fair question to ask at this point before your meeting.

Jonathan Zuck: I concur that it's not a fair question. No. Whether or not they're capable I, it probably wasn't enough of an increase given the increase in responsibilities that's coming under the new GTLD program, that said some of the proof of some of (Redmond)'s work I think will be happening here in the very near term in terms of some of the systems they're trying to put in place.

And I think automation is really going to be at the core of compliance being able to do a more thorough job under the new regime and it's not purely a question of throwing more people at it but hopefully systemizing some of it and storing more information about the complaints as they're tracked.

I think one of the biggest problems that we've had to date is not actually knowing very much about compliance because things like tickets being closed were never actually recorded for example.

So I mean I, the poor amount of historical data I think is part of what makes it difficult for us to even be specific in our criticisms, and so at the very least I think the amount of data that's being collected presently and has been collected for the past three months and that will be collected going forward in

the general complaint system will at least give us a better foundation in terms of volume, average turn around time, etc.

And we'll have a better sense of the scale of the problem and I suspect that the answer will be to go and increase in size that operation over time but at least we'll know about it after, after we're able to examine more of this data.

Steve Metalitz: Okay Owen did you want to, I think you can come up to the mic here or?

Owen Smigelski: Yes I don't remember exactly, (unintelligible) on my own? Okay. I don't remember specifically what the, you know what that break down was but I do know that some of that's going for the, the audit that's planned as well as the systems upgrade and additional staff, there's one more (unintelligible) due to start in July.

There's also two more open positions which they're interviewing for with regards to, you know the different trackings, you know that's one of the biggest complaints that we end up talking to Maguy is that you can't log in and see what is going on in a day-to-day basis.

And we have done some of the tracking the data was in some slides we've prepared for some of the other presentations that we've done, so I think I can follow-up with Maguy and get some of that so you can see those reports that we generated because I know a bunch of time did go into that.

The hope is with the new G-tickets there's some upgrade but that would be more of the automated process and cut down on the things that we have to do, so there are improvements already coming online and with the, you know the improvements in the (unintelligible) the you know UDRP queue as well we expect to have even further improvements for that.

Steve Metalitz: May I ask another question?

Jonathan Zuck: Sorry. Obviously, oh and I mean the biggest challenge of ICANN and the solution to every problem is to throw more people at it and so I think we're all going to be looking forward to seeing real data about what's going on now and real milestones and benchmarks for what improvements are intended, and I think that's really where the rubber's going to meet the road in terms of this groups satisfaction with the client's team.

Owen Smigelski: Yes and so you know to be able to show, you know, much more concrete data from what, since I think we went back to this past trimester and a little bit before then going forward being able to see more but at the same time we're also doing outreach to work and improve it.

So they're already (unintelligible) complaints and things like that that are going to be working in with, you know doing outreach to registrars specifically who have high numbers of complaints in certain areas, you know attempting to reduce that, so you know yes there are more staff, there is more money but we're certainly trying to make things more streamlined so we can focus on you know some other of the problems as opposed to just dealing with the, you know the waterfall of stuff that's coming in.

Steve Metalitz: Thank you. Just to, I did find in the budget, well actually there are two different figures, one of them gives a 59.6% increase over what was spent in the current fiscal year or then six pages later it's 61.9% so 1% per page increase I guess. Anyway it's a big increase and so we're pleased to see that and then I hope we will have more data that will enable that to be spent very judiciously.

The other factor, and I don't know Owen if you're in the position to answer this, and if not please feel free to defer it, and that is one thing that we hope will be happening during the upcoming fiscal year is the adoption of a new registrar accreditation agreement, so one of the main agreements.

So one of the main agreements that enforce, besides all the registry agreements that will be in process, but the RAA may well change, can you, are you in a position to comment on what the compliance staff is doing to prepare for that?

Owen Smigelski: We're not actively participating in that, however we are certainly aware of what's going on and being up to date and to the extent that any changes can, come out they will be considered with us and implemented and you know brought in as how we are currently enforcing the contract.

You know there has been some feedback, I do know you know before there was some feedback from compliance about possible changes and things, you know improvements that we have seen because obviously day-to-day we see a lot more of what's going on with the RAA but we're not actively in that, in those negotiations.

And I didn't know if you did want some of that data (unintelligible) send that to, the metrics of this past trimester's complaints and...

Jonathan Zuck: (Unintelligible).

Steve Metalitz: Jonathan would be...

Owen Smigelski: Okay.

Steve Metalitz: Yes. That would be the best way to do it. Okay. Thank you very much Owen. Let me just see if there are any other questions from the floor or any questions from people on the phone?

Okay if not thank you again Jonathan for that report and Owen for that information and we look forward to continuing to have a very close working relationship with the Contract Compliance staff.

Our next item is discussion of issues at Prague meeting, which if you can't tell there really is a placeholder we put that into not, before we got here to see what we would need to talk about.

And we do mention the informal meetings with new GTLD applicants, and so as the IPC members here all know we did arrange opportunities for new, you know GTLD applicants or the applicant families, the major applicant families if you will, the entities that applied for lots of new GTLDs, to come and meet with people from the IPC informally, question and answer trying to find out more about their overall approach or about questions that had arisen in our first review of the some of the 1,930 applications.

I think we met with six different groups, in no case was there really enough time to get into much depth but I think it was the beginning of a good dialog in most cases, we I think we learned a lot about what they plan to do and I, I was favorably impressed overall, not in every case but overall I was favorably impressed with the awareness of our issues.

The fact that some thought had gone into how best to structure these new GTLDs to minimize intellectual property problems and respond to them promptly, prevent them if possible as there were some enhanced rights protection mechanisms discussed.

So I think it was, it was somewhat reassuring in that, in that regard but we still have a lot more applications to look at and I just want us to emphasize that again as far as I know, and I may well be out of the loop on this, I think the deadline for public comments on the new GTLD applications has not changed and that it's 60 days after the big reveal date, which is August 12th.

Obviously a lot of other dates are changing, the governments are changing the dates of early morning, and this perhaps could, what I just said could perhaps change depending on what's done with batching or sequencing, so there's a lot of uncertainty which is one of our concerns, a major concern, but

if that stands then there really is only about six weeks for people to look at these and if they have a comment to make that they want the evaluators to take into account they need to do it.

So I would encourage you, I don't think there's any, you know there's no way that everyone's going to read, anyone's going to read all of these applications but there is, are a lot of similarities and commonalities so hopefully that's a manageable task if there are problems that you can identify or concerns that you want to bring to the attention of the evaluators who are applying the criteria that are in the handbook this is the time to do it.

(Ellen)?

(Ellen Chenkman):   I just, I'm curious if this was your, (Ellen Chenkman), sorry. I'm curious if this was also your perception but it was my perception from listening to the applicants (unintelligible) one but at least one of the applicants and perhaps more expressed or unexpressed are concerned about that 60-day period, meaning they are concerned that in fact things will be filed about them, and so I don't know what'll be done with the comments but I took that message to be that those comments at least count to somebody maybe, and so really seriously consider them.

The other impression that I got from the meeting was that a number of the applicants have not had sufficient time to really think about what they're going to do with rights protection policies and some other policies and that they're, I don't know what to do with the space, it was really very sincere and talked to us, we really want to hear your thoughts.

The whole application process went so fast that we didn't have a chance to think about all of the ramifications and so I was under the impression that people, at least some of the applicants really did want to have additional feedback.

Steve Metalitz: Yes I would concur with both of those observations. Let me ask you, of the other IPC members who participated in some or all of those discussions any other comments or thoughts that you want to make? (Kristina)? Oh I'm sorry, well Kristina then (Mark).

Kristina Rosette: Just that in...

Steve Metalitz: Can you identify yourself.

Kristina Rosette: Yes sure. Kristina Rosette. For at least a couple applicants it was certainly the case that right to protection mechanisms that they would like to implement were certainly dependent on the structure and operation of for example the clearing in the URS.

So for a variety of reasons, not least those I think it's really important that that gets settled very soon and we should certainly put a marker down in our calendars that once that structure is finalized that we circle back with those applicants to see okay, now that you have the information that you didn't have before where are you coming out on, you know trademark claims perpetually, that type of thing.

Mark Partridge: This is Mark Partridge. One of the things that impressed me in the discussion is that several of the groups that met with us explained that they've, they have enhanced rights protection mechanisms added to their proposal beyond what's required from ICANN. For example one of the groups intended to extend the IP claim period beyond 60 days, another group intended to have an ombudsman to deal with some of the problems before they might go to a, to a UDRP or URS process.

So those seem to be positive steps to enhance what's already there and I guess I would encourage this group and everybody individually to take a look at what those are and to the extent you think they're wise support them in comments.

Steve Metalitz: Thank you Mark, that's a good point, comments don't have to be negative they can be positive and again they're supposed to be read by the evaluators.

Other observations or comments on the discussions with the new GTLD applicants? (David).

(David):   Just really to add to that, I mean I think they're incredibly positive, far more positive than I thought they'd be, and one of the things I came out of as well was the fact that they did say that the, or at least two I think said that the registry would retain the possibility of taking down a domain name, which I think is very positive and useful for the future because we don't necessarily see that.

Steve Metalitz: (Mike), and we need a mic for (Mike), or you can come over there. And please identify yourself.

Mike Rodenbaugh: Mike Rodenbaugh, E-bay, representing E-bay, I'm sorry. Well shouldn't we perhaps take a look through all of the applications and come up with a list of what we consider to be the best practices from all of them and perhaps circulate a document that might encourage more applicants to adopt more of those practices?

(Ellen Chenkman):   Are you volunteering to take the lead on that Mike?

Mike Rodenbaugh: Perhaps, and if this is leadership.

(Ellen Chenkman):   I think that one of the things that was a little bit difficult and I'm curious if you think that it would work, even if you were to take on the task of running with that whole project or with whatever help, and I know that INTA is looking for people to look at the Internet committee is looking for people to help them evaluate, so I think that there's room to share some of that project.

But even on the assumption that it is done one of the impressions I walked away from the meeting is that because a number of applicants haven't quite figured out what they're doing, the language and the application has left room for fuzziness to give applicants time to figure out what they're going to do.

So even, for example, in the rights protection mechanisms they talked about well these are the minimums but we're happy to talk to you about other things that we're considering, some of the applicants even talked, and especially some of the generic, for the generics we're talking about that they were willing to share that with some of the other applicants so that maybe those best practices could be expanded yet further and kind of move the scale.

So I think that it's really important to do it, I don't know how much would come from the language of the applications or...

Mike Rodenbaugh: No not, not necessarily saying tracking their language but just getting the concepts and putting in language that we like and then circulating that around to these various applicants.

(Ellen Chenkman):   I mean one of the things that I would just add, I'm sorry, this is (Ellen Chenkman), to support Kristina's point a number of them talked about whether or not they might even be willing to fund take downs or transfers or anything else, a lot based on how much the clearinghouse was going to cost them because a number of them said that they weren't looking to make any money off of trademark owners to do it, they just wanted cost recovery but they wouldn't even know where to price that until they know what it was costing them and so that information is going to be really important.

Mike Rodenbaugh: Oh yes, I'm not suggesting this is going to be done in the next even month but we have plenty of time to do this sort of thing before TLDs actually start launching.

Steve Metalitz: Well let me ask if there are other IPC members that are interested in Mike's idea, you can comment on that as well, I think (Mark) has the floor now?

(Mark Tractenberg):   (Mark Tractenberg) from Winston & Strawn. I would just point out that as part of that project and just in general for people who want to review the applications a number of those applicants did indicate that their applications were substantially similar, so that would save a lot of time and I think at least one offer to identify the differences in each of their applications to save time and review process, so that's just something to keep in mind for anybody who wants to actually review that.

Steve Metalitz: Thank you. Other comments on the meetings with the new GTLD applicants? Are there other IPC members who are interested in volunteering to work with Mike Rodenbaugh on extracting the best practices from these applications? Well, the offer remains open.

Man: (Ellen) mentioned this briefly but the INTA Internet committee is looking at means to do a cursory review on some of these issues and so Mike I encourage you, you and I can talk about how we can connect that up, and it's going to be a Herculean task in a short amount of time to get that done but there is some effort already in the community there.

          And so if you were to volunteer to help Mike I think you would joining a larger peer group than you think you might be so for those of you who are afraid of volunteering at this time go ahead and take the leap and do it.

Fred Feldman: So this is Fred Feldman (unintelligible) we have a database that we make available to the IPC if they want to use it that has an extract of this, of all the pertinent questions.

Steve Metalitz: Okay thank you Fred. Other comments, and let me just say if there's anybody on the phone that has a question or comments on this topic?

(Fabrice Seff):   Steve it's (Fabrice Seff) from Time Warner.

Steve Metalitz: Go ahead.

(Fabrice Seff):   So building upon this conversation, I think Mike's idea is a really good one and I do think that there is opportunity twofold or the review part maybe what we can do is coordinate with (John McIlwain) who's heading up kind of our effort at INTA to review applications, maybe have the reviewers just at least flag for Mike's group, or whoever the group of Mike is where there are enhanced RPMs that way makes that job a lot easier to actually then go catalog what the enhancements are. And I think that this is really important because there's a real opportunity here.

I got the sense from a lot of the interviews that where there were enhancements, and I think this has already been covered a little bit, the language was left vague purposely so that based on what some of the requirements from ICANN are those RPMs or those enhancements could actually be built out, and to some extent I felt like the applicants were saying we will then look to brand owners or IP owners generally to see what will be satisfactory and to see you know how we could build those things out .

So knowing in advance who those people are and what they're offering, what some of the best practices are will put us in a better position to then make suggestion. So a good example of that would be where I believe at least two or three of the large application houses including donuts have said that they are looking at allowing in case of donuts their donuts protected brands list or DMPL, which is then, you know paying one block, blocks across all of their owned or operated TLDs.

I believe (uni-registry) said the same thing, and you know if we were able to flesh out that multiple applicant houses are doing this why wouldn't you then be able to go to the clearinghouse and say hey, if the majority or high percentage of applications or applicants are willing to do this actually build

into that process something where other applicants can say you know I check off this box that says if someone buys a block or you know, pays for a block through the clearinghouse that it applies to that applicants entire suite of applications.

So I think there's a real opportunity here and I think that we could coordinate to make the job easier for Mike and whoever's team is, and I think it's a great effort. So Mike kudos for bringing it up.

Steve Metalitz: Thank you (Fabricio). Any other comments or questions?

(John McIlwain): Yes this is (John McIlwain) from (Nelson Mullens). I just wanted to also basically saying I think it's a great idea, provide people there to meeting it up state I have sent out sort of an initial e-mail to my sub-committee so I chair the new GTLD sub-committee.

So I've got a number of people who are already starting to work on review, so if we're going to add this extra layer, although there's still a number of other people to pull into the mix we need to do it pretty soon.

Steve Metalitz: Thank you. Before we leave this topic I'll just mention since we've had a lot of discussion about how one IPC member is structuring their review of this, is that the Coalition for Online Accountability is focusing its review on about 45 new GTLD applications that target our members, the content industry such as .music, .movies, .games and so forth, and we're using the enhanced safeguards criteria that we should have circulated in March and we discussed those with most of the new GTLD applicants as well.

So obvious, I'm sure other IPC members are also taking other steps to review the applications of most interest to them.

Anything else on this topic of the new GTLD applicants? If not I'd like to, we are expecting our first guest in about 13 minutes, which doesn't leave us a lot

of time, but I did want to return as an issue at the Prague meeting to the point I raised in my opening remarks.

I think with the advent of many, several hundred .brand applications for new GTLDs we have a couple of questions that we need to grapple with. One question what's the home, the best home within the ICANN structure for those new GTLD applicants, in particular the .brand, but not necessarily limited to those, to advocate on issues of concern to them.

We've already heard that there's many, many unresolved implementation issues and we're going to have briefings on some of these in a few minutes, so there's a lot of issues of great concern that are, still haven't been nailed down.

What's the best method within the ICANN structure to get those concerns put forward? Is the IPC the place for that? Some of those concerns are intellectual property related and there may be others that are not intellectual property related but that are very important to companies that have made .brand applications.

So that's one of the questions, if it's not the IPC you know what are the other options that are available to those applicants, the registry stakeholder group does not allow voting membership to accept to entities that already have a executed registry contract with ICANN.

I understand they're granting observer status to applicant's, what doest that mean, is that an appropriate approach? Is the appropriate home for this more in the business institute, see because these are businesses that have concerns with the domain name system.

Is it more appropriate to consider whether there should be some temporary or maybe ongoing group dedicated specifically to either .brand TLDs or all pending new GTLD applications?

And finally if the, really no matter what the answers are to those questions what does mean for the IPC?

As I said I think we now face a situation in the IPC where we have a great many more potential conflicts and potential divergent views than we did two weeks ago, at least as far as, you know what was publicly surfaced at that point.

So I think we really have to grapple with what the IPCs role in this ought to be and whether in fact the best role is to remain as a constituency of the GNSO or whether there's a more appropriate role along the lines of an advisory committee, on par with the other advisory committees in the ICANN structure such as the (unintelligible) Stability and Security Advisory Committee, the Root Server System Advisory Committee, the At Large Advisory Committee and so forth.

I think the Government Advisory Committee is kind of in a class by itself, but is that a more appropriate role in something we have discussed in the past but have never decided to take that route.

So I think these are questions we need to grapple with over the next couple of months and particularly for the IPC members, but for the non-members out there who were thinking, and I know some of you are .brand applicants, some of you are not, I don't know what a lot of you are, but this obviously would be an issue for them too.

So I'm, and we don't have a long time but I'd like to at least open the floor to get people's reactions to some of these questions and your ideas about how best to progress a discussion about this over the next two or three months because I think that it really is timely to do that.

So let me ask and (Jay Scott) wants to be recognized, anybody else, (Brian), (Kristina). So let's start with those three and then others may join in. (Jay Scott).

(Jay Scott): Well just so you all know that there was a new organization chartered this morning called the generic top level domain something or other, it's that observer group in the registry organization, they have at least those that have already paid their $500, you have to pay $500 and fill out an application to become an observer at the registry group.

You can't vote in the registry group but you can be a member of this observer group and they've chartered themselves as the at least for those that are currently members, as the voice within the registry constituency, they can't vote but they're allowed to serve on, they can be on the e-mail list and they can comment on any positions that they may take on implementation details or otherwise, so they can't vote or effect the vote of how the registry constituency comes down.

They can also give their own comments and they're still not sure, ICANN staff is of the belief that they have to send their charter to the ICANN board, and there's a sort of a disagreement of whether they need to do that if they're going to be within the constituency and the constituency is willing to accept them, so one group at least has already made a clear choice about where they think they ought to be and they've already moved forward.

So I just thought I'd provide that information to the group today so you'd know that there's already been some movement in that area by at least some participants that are applicants so you'd know that it, we're not, there's already some movement there and this discussion has already started in other places as well.

Steve Metalitz: Thank you (Jay Scott). Brian, please identify yourself for the...

Brian Winterfeldt: Brian Winterfeldt. I think building on what (Jay Scott) said I think we really want to think, and Steve's introduction I think we want to think very carefully about what our role might be and I think regardless of where folks are going to be end up with their voting I think we want to use this opportunity to help educate people, help them become familiar with the landscape.

Because I think all of us know who come to these meetings that the relationships can be very complicated and very overwhelming and I think frankly they're going to get better advice from us than maybe they are from other folks about how their participation can best be used and where their voice can be.

And I do think we need to think seriously, as Steve suggested, about changes we might need to make within our own group and think very long and hard about what, how this (unintelligible) landscape is going to impact the IPC and how we can best support these new members who are coming in to the community.

Steve Metalitz: Thank you. (Kristina) and let me just see if anybody else wants to make a comment.

Woman: And (Mark) (unintelligible).

Steve Metalitz: Oh (Mark), sorry. My peripheral vision is not what it used to be. (Kristina), (Mark) and was there anybody in the audience that wanted to, and (Paul)? It shouldn't just be the head table, does anybody else out there want to say anything, think about it. (Kristina).

(Kristina): You know I made this point earlier today when we met, the CSG met with the board and I think the flipside of it applies to us too, namely I think it is absolutely an excellent idea to be putting together information that we can provide to new participants that want information about the IPC, that want information about how the constituency interacts within the stakeholder

group, within the house and with the other house, but what I feel very strongly that we should not do is make any decisions in terms of how those participants should be allowed to participate, frankly until (unintelligible) actually here.

Steve Metalitz: Mark.

Mark Partridge: This is Mark Partridge. So these new members .brand if you will, have several places where they could potentially participate within the structure, in the, within the registry group, within the business group and with the Intellectual Property Group.

I think it's regrettable that you can only vote in one place but I understand that. I don't think though that we need to say well yes, you can only participate in one place.

And this is my own personal view, I think it would be great if the .brand members of the world would recognize let's participate within the organization in a number of different spots where your interests are affected and help break down some of the silos that end up existing between the different constituency groups so that organization can function perhaps beyond those silos a little more effectively, my personal thoughts.

Steve Metalitz: Thank you. (Paul)?

(Paul):   A couple of things, so I looked at the application for observer status and there is a field, you know are you a voting member of another constituency, which they don't indicate automatically disqualifies you if you're a representative it probably does if you are the actual applicant.

Man: Can't vote in this new charter organization as an applicant observer, so if you're in there charter organization you voted another organization you will have no vote in their organization.

(Paul): Right but that, that goes to the applicant as opposed to the representative of an applicant, right. So they ask a question of the applicant but they also ask it of representative of the applicant, right.

And so I think one of the things that we'll have to do here is to make sure that I suppose there's a non-voting status within the IPC that makes sense, so that for those who represent people in that other constituency that they're able to do that, and we may already have that status, I just...

Steve Metalitz: No we lost that status recently...

(Paul): Okay.

Steve Metalitz: ...under strong pressure from everyone else in, within ICANN thought it was a scandal that we had non-voting members.

(Paul): Okay well then, then there it is.

Man: There it is, so we may have to switch it again.

(Paul): So here we are again, right. So I thought that was an interesting item from their, from their application and that's an issue we have to grapple with, and also since Steve mentioned it, I will get on my soap box about whether or not we really are a constituency, which means that we have warriors out there.

And you know everybody keeps talking about (Kristina), even though she's allegedly retiring here she is, you know people who have committed enormous, I mean thousands of hours (Kristina) has committed as have our other counselors, many hours they've committed over the years and we are in their negotiating over intellectual property rights as if somehow the laws negotiable.

I really would like for us to take a serious look about whether or not we would function better as an advisory committee so that we could advise the board on intellectual property issues so that our person power is not depleted chasing down every possible thing within the ICANN structure, and essentially saying hey guys, here's what the world experts, the collective experts in intellectual property law believes the law is and here I go, vote, you know revise me to vote one way but you know vote the other way by your own peril.

And I think that we would have far less burnout, I think that the quality of work would be great and I think that it takes away this sort of moral equivalency issue as if somehow whether or not you choose to run a business that is designed to confuse consumers is somehow on par with whether or not you choose not to, right, the law is the law.

And so to the extent that we have a serious conversation about this issue I'd highly encourage us to take a look at it and from my point of view I think it makes a lot of sense.

Steve Metalitz: Thank you. Well I see that our guests have arrived or at least some of them have, so we'll take two more comments and then wrap this up, (Jonathan) and then (David). Yes.

(Jonathan): I'll speak (unintelligible).

Steve Metalitz: If you want to identify yourself for the transcript.

(Jonathan Cohen): I'm sorry, (Jonathan Cohen), IPC member. I was, I remarked this morning at the meeting of the stakeholder group that their own (unintelligible) committee made a very strong tips that the business community was the place that, where people should go with the natural, the natural spot for all these new members and that that constituency really was going to become ICANN, which I was a bit taken aback at.

And I wonder given the limited resources of the IPC is it appropriate that we actually try and (prophesize), I mean is there going to be any after to try and suggest to new applicants that this is or should be their home, there going to be any effort to try and raise more money so that this constituency can do more things and put (unintelligible) brochures, etc., as others do or should we do that. I think that's something that should be discussed.

Steve Metalitz: Thank you. And I think (David Taylor) will have the last word on this topic for the moment.

(David Taylor):   Thanks Steve. (David Taylor). Just wanted to say that I think, and as we have said, participation is the key and the importance is going to be for the new voices to be heard and if they're not heard they may not stay around for too long, so I think joining any group as an observer is okay in the short term, but it's not okay in the long term, and joining a group without having voting rights, or having those voting rights diluted shall we say, and we only have two voices on the GNSO council is not okay either, so that's my two cents.

Steve Metalitz: Okay thank you very much. As I said I think this is the beginning of a discussion and I think at this point the best, what we'll probably do is the leadership will put our heads together and propose a framework for having this discussion progress over the next few months.

As those of you who were at the meeting this morning know we were asked by the board to put down on one page how we think the new GTLD roll out will affect us and what ought to be done, so maybe it'll take us until Toronto to write that page, but let's get started on it anyway.

One housekeeping matter, there were two sign up sheets being passed around, is anybody holding them in their hands or is it on the seat next to you or have they disappeared? There's one. Is there another one.

Woman: Yes one's over there next to (unintelligible).

Steve Metalitz: (Unintelligible) so there's one with one name on it here. Well two names on it, but I think if this, if this one got?

Woman: (Unintelligible).

Steve Metalitz: There's only the one? All right, well we're going to pass this around to make sure that we at least make an attempt to find out or document who is at this meeting.

                    We're joined now by our briefers from the ICANN staff. We have an order in which they were going to be presenting strings to Trademark Clearinghouse, then URS and then RAA. Is that still how you guys want to do it or is that okay?

                    All right, well let me ask them and apparently they don't have a presentation, any slides. I will let you know there are a couple of people on the phone as well a half a dozen people on the phone as well, so when we get to the questions let's make sure they have an opportunity to ask questions. And let me just turn it over to Kurt, Karen, Aimee. Welcome.

Kurt Pritz: Thanks everybody, it's good to see you again. As Steve said I'm joined by (Bill Yang) who's our consultant from JAS and then Karen and Aimee. These are the team that are leading the work on implementing the clearinghouse. Also attending the meeting way in the back are some of our partners from Deloitte and IBM and so they're available to answer questions too. So we thought we'd give you a status on where we are in the implementation and then answer questions.

                    So I'm going to let Karen do that.

Karen: Okay thank you. Just to provide a high level update on our implementation work toward the Trademark Clearinghouse, I think when we last talked we described how the project really runs along a couple of tracks. One being procurement of service providers who can perform the clearinghouse functions and the other being the development of the supporting processes for the clearinghouse.

So that would include how information gets submitted into the clearinghouse and how it's reviewed as well as how the sunrise and trademark claims processes run. So on both of those tracks we've been able to achieve quite a lot. We've engaged a team of Deloitte, IBM (unintelligible) and provide service for the clearinghouse and a number of those people are here in the room. And then in terms of developing this and then supporting the processes we way back last fall formed an implementation assistance group to collect feedback from the community on some of the key implementation issues.

And that process took I don't know probably three or four months that we raised the issues and collected the input. And we really used that input to form the draft implementation model which was published in April. And so that is currently the most complete status and look at where the clearinghouse is and the processes that are envisioned for it. There's also been comment since we released that model. There's been the IAG continued the comment as well as comments from other sources has been coming in.

So we've been reviewing and considering those. A couple of things that I wanted to address that seem to be key issues in the discussions and in building the model. One of the things that we heard from right holders particularly are those from that perspective was that there was a concern about potential for abuse or misuse of the trademark data or the clearinghouse data during those processes.

The parties that were providing registration services also expressed a concern that, you know, they didn't want to cause a disruption in the middle of what's for them a critical process or be dependent on a third party where they had no control in the middle of the registration process. So we've balanced all of that input and created the model that we have with both of those, you know, principles in mind that we do want to find a way to minimize the potential for abuse or misuse of the data.

And we do want to, you know, enable an efficient and accurate registration process similar to what exists now. And so the model that we proposed or developed does include, you know, several forms of encryption when the data is passed back and forth. And some of the comment that we got from a couple of perspectives, one question whether it was sufficient or question whether it was necessary. There are a few reasons that we think the encryption is useful. One being that, you know, it does create a barrier to easy access and misuse of the data.

And another being that the way it's designed it would be difficult for a registry or another party to accidentally expose data, it would need to be done purposefully. And that's part of the way it's designed. And then some of the comments as well expressed and this is in the model too, but it's not, you know, hasn't been fleshed out in great detail is that there's an expectation that there would be contractual restrictions as well.

So all of the registries and parties that are using the clearinghouse agree to certain sets of terms and conditions as to what sorts of use of that data are allowed. And that creates a framework for being able to pursue cases where there does seem to be an issue. Let's see, in terms of the project plan this is the piece where data is submitted into the clearinghouse, is really the first process that's needed chronologically speaking. There needs to be information in the clearinghouse before people can use it for services.

So this is the piece that we're aiming at for the first test process to be available. And then one other thing that I would add that I think we would like feedback on is that there will be a need for education as to, you know, what can you put in the clearinghouse, how does it work, et cetera and communications around the availability for example of the test phase and, you know, certainly around the opening of the availability of those services.

So suggestions on what education or communications would be helpful, would be appreciated by us. So I think that's a view of where we are and we'll open it up for discussion or questions.

Kurt Pritz: Thank you and just one - thank you Karen and just a couple more points really to highlight what Karen said.

One is as we get closer toward rollout, cooperation or joining in by members of this constituency to become part of the testing and also part of the training for the board internet - board intellectual property community would be very helpful using your contacts; and second, during this meeting during our discussion with the registry constituency they've asked to revisit parts of the implementation model and want to have at least an email list and potentially a meeting to talk about the implementation model and some of the technical aspects of implementing it.

Our implementation model we think is a careful balancing of, you know, intellectual property interest for keeping the database secure and private and encrypted and also staying out of the registry's way of registering domain names and making sure that happens in a timely basis and making it reasonable. So if we see that discussion progressing we might ask you to join an email list or discussion group or even a meeting to ensure if the model evolves at all, you know, it evolves with a discussion among all groups.

Steve: Thank you Karen, Kurt. Why don't we just open the floor to questions about the Trademark Clearinghouse?

(Christina), anybody else? Nobody else has any questions about the Trademark Clearinghouse?

Jonathan, okay go ahead.

Woman: I have a micro question and a macro question. The micro question is that, you know, I'm very pleased to hear that there will in fact be contractual limitation that would relate to misuse and abuse of the data especially sent, you know, and consultant. That might have been you.

Repeatedly said that the only way to prevent misuse inter-abuse by the registry is that it's a contractually solvable problem. The question I have and the point I want to make is that for the past ten years this constituency has been told in the context of registrar abuse that I can only enforce against the contract meaning the Registrar Accreditation Agreement. We have no reason to think that that is not going to be true with regard to registries.

So the question is will whatever contractual obligation be in place, be included in the registry agreement and if not why not? And then the macro point is that I think from what I'm hearing in the trademark community I think it's important that the purpose of this database be kept in mind because what I would very much hate to see is that if at the end of the day after all of this time and money have been put in, trademark I understand have confidence in the security of their data and the pro-record prices to expenses.

They just might not use it and that frankly would be really unfortunate.

Woman: With respect to the - sorry, thanks Steve. With respect to the contract provisions, one thing we already know is that the Trademark Clearinghouse is part of the base registry agreement. And in that regard that all of the registries will be required to follow the processes that are established through the Trademark Clearinghouse.

Whereas the specific requirements that are in the contract between the clearinghouse and ICANN, I don't believe that those will be specifically identified as part of - you know, I don't think that they'll be third party beneficiary rights in terms of - or obligations in terms of the registry that they will be required to follow all the requirements of the Trademark Clearinghouse which will be, you know, implicit in terms of what the clearinghouse can and cannot do with respect to the data.

Woman: So let me ask a more pointed question. Is it the current position of the ICANN legal department that if a registry abuses or violates the terms and conditions of its agreement with the clearinghouse that that would trigger compliance action?

Woman: We would look at every failure to comply with any provision under the circumstances, you know, we can't - I mean I don't want to really sit here in a vacuum and talk about what the circumstances are, but if somebody violates a provision of a contract we will certainly look at that and figure out how best to deal with those situations.

Man: With regard of use of the clearinghouse we did publish preliminary pricing information and so feedback you have regarding that and whether you think it's had a price point where trademark owners would use it would be instructive.

Man: Well come back to that question, I think - Jonathan, did you want to make a comment here and talk about this?

Jonathan: Hi just a quick one. (Tonya), is there any sense now on an update basis if all things went as you hoped when you'd actually be accepting applications? Because quite a few clients are interested.

(Tonya): So the original project plan that we published estimate that the clearinghouse would open for submissions of data in October 2012. That is essentially still our target. I think, you know, the fourth quarter of this year certainly for the, you know, accepting trademark submissions is the target date.

Man: How confident are you?

(Tonya): Well we...

Man: (Unintelligible).

(Tonya): Yes it's - yes but there's nothing currently that looks to be an obstacle toward meeting that date.

Steve: Are there other questions or comments? Claudio, anybody else? Mark, anyone else in the queue?

Claudio, go ahead.

Claudio Di Gangi: Thank you. Karen, is the implementation to systems group still in place? The reason I ask is militant applicants yesterday and one of the issues that kept coming up was that the cost summarized process is being tied to the $7-$10,000 cost estimate for the use of the clearinghouse and I think it's currently per TLD. And, you know, some of the applicants as you know apply for multiple TLD's.

So there was signing for that issue as basically making it sort of impossible for them to ask any, you know, what the cost of sunrise was that there might be some discussion about whether that $7-$10,000 fee is per TLD. So I'm just wondering how that is going to get worked out? Is that through the implementation of system's group this other process you're talking about right now?

Karen: So thanks Claudio. In terms of the status of the IAG, you know, the bulk of the work occurred in the initial period where we were raising issues for support discussion and feedback and having calls and submitting briefing papers and going through that process.

You know, that said they are still - I mean there's been no formal, you know, the IAG is over and we are still continuing to get feedback on the models through that mechanism. And then in terms of the prices, you know, that was never actually something that was discussed in IAG. The pricing information that we published was in response to a number of requests from the community.

You have some, you know, rough estimates or some idea of what the pricing model would look like and so, you know, those were put out as estimates. There's been feedback on those prices at this meeting and I think we've heard that and certainly will continue to work that out.

Man: If I heard correctly I think you indicated that the agreement between the registries and the Trademark Clearinghouse would not provide third party beneficiaries. I guess I would just ask, you know, why not? It seems to me that that would maybe increase likelihood of compliance by registries if there was some danger of, you know, enforcement action by, you know, the trademark owners themselves who would be the one that would be damaged if there were such abuse.

Karen: Well so - I mean at this point obviously we're still - we haven't gotten to the full contractual relationship at this point. So we're still negotiating the full details, but the idea is to have a single contract that the registries take advantage of by a virtue of having the Trademark Clearinghouse as part of the registry agreement that they must comply with all terms and conditions of that.

So there is - in that regard with the registries as it relates to the third party beneficiaries of those who may be harmed with respect to the misuse of data, I think that there's many other avenues including - what? Go ahead.

Man: Is there going to be some agreement between the registrant and the Trademark center?

Karen: Right and the fact that there will be a relationship between the Trademark Clearinghouse and the Trademark quarter when they put the data into the clearinghouse. So there'll be a mechanism whereby there'll be some ability for them to enforce the rights and obligations that they enter into - between themselves.

Man: And how would they be able to enforce those rights against the registry of the agreements between the trademark holder and the Trademark Clearinghouse?

Karen: I'm sorry; you're saying how will the trademark holder enforce his rights against the registry?

Man: Well I thought maybe you just said that, you know, part of protections are the agreement between the trademark owner and the Trademark Clearinghouse, but what I'm referring to is not by the Trademark Clearinghouse, but by the registry that have access to the data.

            So the trademark owner wouldn't be able to really benefit from its agreement with the Trademark Clearinghouse with respect to abuse of data by a registry?

Woman: What - Karen, do you have a...?

Karen: I'm sorry, can you repeat the question? It's just very concerting up here.

Man: Well I think you just said that's, you know, part of the protection that a trademark owner would have would be from the contractual arrangement between the trademark owner and the Trademark Clearinghouse.

Karen: Right.

Man: But my original question was with respect to abuse by the registry. So a contractual agreement between the trademark owner and the Trademark Clearinghouse you're not really providing any kind of mechanism or protection with respect to abuse by a registry which is not a part of the agreements between the trademark owner and the Trademark Clearinghouse.

Woman: Well it sounds like, you know, they're different mechanisms. We were talking about the abuse. I mean we do have the - wait, what Karen? We do have if you're talking about the misuse of the aggregate of the information or the - I'm not sure exactly what misuse you're talking about in this particular instance, what the registry would do with the particular trademark information.

            You're talking about disclosing it or using it for advantage?

Man: I mean it's hard to really know what they would do with it, but there's, you know, various, you know, potentially damaging things they could do with it. Sell it, disclose it to third parties, you know, give it to competitors.

Woman: Right, well you know, it's certainly something to look at in terms of how we can arrange the contractual relationship to figure out a way to make sure that there are as many protections in place as possible. And we're certainly interested in some suggestions. If you have some that would be great.

Man: Well I guess it would be my original question which is to provide third party rights with respect to the agreement between the registries and the Trademark Clearinghouse or abuse of that data.

Woman: Well it's certainly something that as were working through it we can consider
                   that.

Man: I think Emily has a question that came in through the chat room on Adobe,
                   so.

Emily: Yes I have a question from (Michael Graham), one of our remote participants.
                   And his question is, insofar as the actual procedures that are still being
                   developed from the published draft, is there any opportunity for the IPC to
                   assist the contracted service providers, finalize the working procedures prior
                   to rollout that is beyond what's already been provided by the IAG?

Woman: We would always take input as things are still being developed.

Anne Aikman-Scalese: It's Anne Aikman-Scalese and I have a question.

Steve: Okay someone has a question?

Anne Aikman-Scalese: Yes Steve, it's Anne Aikman-Scalese with IPC on the phone. My
                   question is whether what the provision between ICANN and the Trademark
                   Clearinghouse provider - what the contract says about standards for requiring
                   proof of use of the trademark, you know, as that affects the sunrise
                   registration, et cetera?

                   What sort of standards are in the contract between ICANN and the TC
                   provider with respect to proof that will be required to demonstrate use of the
                   trademark?

Woman: So if I understand the question it's about what standards will the
                   clearinghouse use for evaluating proof of use which you mentioned the
                   contract and I think it's really not so much a contractual issue as establishing,
                   you know, the process and guidelines that are used.

You know, proof of use is required only where, you know, the rights holder is asking for that to be performed and because they want to register in a particular sunrise. And so the model does have a list. Essentially the proof of use would consist of a signed declaration from the rights holder or the submitter and one sample that's evidence of use and the mark.

We have in the model kind of a list of options as to what some of those samples could be and there are - they're kind of divided in yes/no and maybe, so these things would always be okay. These things would never be okay and these things might be okay and that actually would be a good area for input from all of you I think because, you know, the goal is to move everything out of maybe into yes or no so that it is a standardized and well-understood process.

Steve: Okay I think J. Scott had a question. Let me just see if there's any further questions in the room. Let me just ask also is there anybody else on the phone that wanted to ask a question?

                   J. Scott?

J. Scott Evans: I just had a sort of broader question not necessarily specific to the Trademark Clearinghouse although I think it's one feature that is dramatically affected. And that is as you begin to look at the contractual provisions and the registry agreement, how they relate to some of the implementation details and some of the RPM's that have been requested or are being implemented.

                   Has any thought been given to the fact that there may be RPM's that might not necessarily be applicable let's say for instance to a single user, single registrant/registry in which they are owning all their own registration? So why should they have to register their own trademarks and pay a fee because they're only registering to themselves. I mean has there been some thought

into thinking there might be an exclusionary model that doesn't mean that each RPM is necessarily applicable to that model.

Now the subject of course there being proving that and if they do it'd be a representation within the agreement that that's the model that they're going to run and be held to that standard. But is there any thought to that?

Man: I'm sure, but it's difficult. When we were just in the registry constituency and when we were talking about pricing they asked about pricing for different types of registries, certain you know, brand owned registries might only register names internal to its company, so why should it conduct a sunrise or some other issue like that.

And the discussion is pretty much along the same lines we had when we discussed different categories of TLD's in all the gTLD program and whether there could be like a sort of dot brand. And the discussions became complex because even some - and I hope you don't mind me just calling them dot brands. But dot brands might be for its employees only or for its customers only or for its agents or vendor base or for company infrastructure and inventory.

And, you know, a company as owner of a TLD may evolve and decide to let, you know, just employees and now employees and consultants register. So where do you draw that line and how do you administer effective compliance program? And then when you - if a registry transitions over do you then have a sunrise process because you've changed the type of registry? And so while there were complaints that $7000 is too much to conduct a sunrise, it seems to me that it's, you know, a small percentage of the cost of applying for and operating any type of TLD.

And it's better for ICANN to be able to effectively have a compliance program to at least initially treat registries the same so we can make sure, you know, we make sure all registries should have a sunrise, are having a sunrise even

if some registries don't need a sunrise. They go through the process in some way. But, you know, it's an interesting discussion and we want to refine the model and take into account they're from different models and make it cost effective and not make registries do stupid things that they shouldn't have to do.

And I hope that's helpful in some way. You're nodding, but - you're agreeing. Yes, yes.

Steve: We're going to need to wrap this up shortly, but I wanted to come back with the issue of pricing. Certainly we heard in our meetings with the families, you know, some of the entities that applied for many, many gTLD's. Let's put it that way. A lot of concern about the $7-$10,000 or whatever that fee number was particularly if you were applying to - if you were planning to run - let's just take - this is say 307 registries.

Would you have to pay $7000 for each even though there obviously could be some economies of scale there? So we did hear that from the registry side. I'm just passing this along. You probably already heard it. But on our side I think it would be interesting.

I mean we sort of threw it out there, but in terms of the pricing per trademark that you would want to register per item that you would register in the clearinghouse - can I just ask for a show of hands of - are there any people concerned that that price is too high and will discourage use of this facility?

Okay so there is definitely some concern there.

Woman: (Unintelligible)?

Steve: Pardon me? I saw about a dozen hands or something go up or something like that and I see Nick Wood standing up and he's really exercised about it because he's standing up or he wants to speak. Which is it?

He wants to speak. Okay thank you and I'll repeat that since you didn't have the mic. It's also a concern about renewals so you don't really know the total cost of ownership of a clearinghouse registration. And just for those not in the room I'd say about a dozen hands went up or so or people expressing concerns and I think one of them is being handed the microphone right now.

So (Laura) could you briefly address that??

(Laura): Sure I just wanted to throw out and this sort of goes again more to implementation, but there's been some discussion amongst some of us who are brand owners and also happen to be applicants that if we must participate in something like this then why have a 60 day window there? Why have the 60 close period?

It could be a permanent thing without the need for renewal and that sort of thing. And as J. Scott says if, you know, if at some point your model changes, you're no longer the single entity whatever, but you're still forced to have forked this over. At least you're only going to do it once.

Steve: So let me just ask if any of the staff want to respond to the pricing concerns and other concerns that were just raised or not?

Woman: So no just thank you for the comments. With regard to renewal I think, you know, I don't believe what we published gave numbers, but it, you know, estimated that it would be some percentage or, you know, lower on that on an annual basis when it's renewed.

Also when we do have an annual, you know, reverification requirement which is pretty lightweight, but it is, you know, a step that happens every year along with the renewal fee.

Steve: Okay I think we have one last comment from the floor before we move onto the next topic. So please go ahead. And yes someone bring you the mic.

Tom Barrett: Hi, Tom Barrett from EnCirca. On the pricing question have you thought about offering a claims only price versus claims plus sunrise? Some trademark or perhaps only care about sunrise claims and won't participate in sunrise?

Man: So there is a difference in price because sunrise requires proof of use which is an additional inquiry.

Steve: Okay before we move to this topic I know we had a lot of people in the audience I seem to recall from the introductions that were with IBM or Deloitte and I just wondered if any of them have any comment? And even working on this project maybe they're here for some other reason and have any comments to offer. We'd be glad to take them.

                 I don't see any hands going up. I'm sorry, here comes somebody and the mic is right there. Thank you.

(Jan Carstens):   So we have a lot of talking about the clearinghouse, just put some faces on the people that were going to work on this. My name is (Jan Carstens), I'm a partner with Deloitte and I'm the overall project owner for the clearinghouse and (unintelligible). I'm thinking of the project manager. We have quite a few people here today, people from IBM and Deloitte. Perhaps they can stand up so you see there is definitely a number of people that are working on this already as you see.

                 The biggest frustration I think for us was that it's normal and you have to understand is that up to now we haven't been able to interact with any of the players that will be working with us. And that's something that we definitely want to change. I mean this morning during the registry session there was an

idea of setting up a working group that would be able to work with us. We have the same people who we want to do this with this community too.

Actually if you would come to our session tomorrow you would see that we actually have this already in our plan. But different levels of testing that we have foreseen and during those levels we would definitely interact and get feedback. Pricing has been a major discussion, we've heard that too. At the time when we were asked to publish some pricing obviously a lot of things were unclear for us too, so we published the maximum pricing.

And we're looking at this, we have an idea already. We want to facilitate the principle will be for us to if we have to do work and obviously we need to be paid for it. Then that's clear. If you think about the pricing for a trademark to be entered into the clearinghouse we all know that there are trademarks where you can find information online.

We all know there are trademarks where that is not the case, though in this case we have obviously for an average price where everyone will pay the same. If that is (unintelligible) the principle then we follow in the past and we believe in that principle.

Are there any questions at this moment?

Kurt Pritz: Kurt, if I moved to the last batch can I have a free sunrise?

Steve: Thank you and can you just remind people when that session is tomorrow?

(Jan Carstens):   It will be at 11 o'clock and I think it's in the same location - or next door.

Steve: Next door, next door. Okay well thank you very much and thank you for introducing your team. I'm glad to see that ICANN is investing heavily and stimulating the European economy. I think the Eurozone is safe, I'm really glad.

(Jan Carstens): Okay we're all here so if you still have questions please feel free to ask.

Steve: Thank you very much. We're going to move onto the next topic which involves many of the same people, maybe all the same people, which is the URS. So let me just ask the ICANN staff who would like to kick off the briefing about the URS, Uniform Rapid Suspension?

Man: Thanks Steve, very briefly the issue for URS is this and there's a session to discuss this tomorrow and Karen can give us the time of the session. URS was, you know, conceptive and partially designed by the IRT with the goal of being a faster, cheaper version of UDRP for clear-cut cases of rights infringement and included in the design aspects and safeguards for registrants after the IRT design.

There was broader community discussion about it, then the GAC discussed it too. And I don't think too different from the original IRT model, but nonetheless different as we saw to implement the URS we consulted with potential providers of the URS service and, you know, preliminary, but you know, certainly the cost - all aspects and targets of the URS can be met except for the price which is a very, very important part of it.

And so has been quite a hub bub about how I can introduce this issue, but we introduce this issue for the purpose of utilizing either reconcept the model or portions of the model so that we can get some of the costs out. So the idea is with the session tomorrow to kick off an effort and intensive effort over the next couple months to redesign aspects of URS to reduce the costs. But retain safeguards so maybe some methods of safeguards for registrants who might lose their domain names or changed.

But amend the process in some way in order to cut the costs of it. So that's essential. Go ahead.

Man: Okay we'll take the queue for questions.

Steve: (Ellen)? (Christina)? Can you start with those?

Woman: Thank you (Craig). Are you prepared to share what's making the price here because I can certainly speak with to what the IRT originally designed was. Some of the things that were later added I would imagine were things added to the costs. So have you been able to drill down on what are the things that would in fact make it cheaper again?

Man: Well I can mention three things. One is, you know, one is the overhead associated with maintaining an appeal process; second is the overhead associated with maintaining a loser pays process; and third is the - and there's experts here that are better than me - and third is the cost associated with doing substantive review in every case including default cases where we've, you know, fairly certain that that's not necessary.

Woman: (Unintelligible).

Steve: You didn't hear any of the - well I'm going to ask our people to make sure that we've got speaking coverage back there.

Man: Right, so I'll speak louder. I'm sorry. I hear myself fine so I think everybody's okay. (Ellen) asked if we had an idea what the cost drivers were behind the current model of the URS that drove the estimated costs above the target? And she - (Ellen) also mentioned that there were administrative items added to the clearinghouse after the IRT designed it that would tend to drive the costs up.

                   And I agree that the three cost drivers I saw in there, there maybe more, is the overhead associated with maintaining the appeals process we think would be very lightly used at the end of the day. The overhead associated with maintaining and operating a loser pays mechanism. There's not one of

those in the UDRP; and third is the cost of a review on the substance. So in cases where there's default and clear-cut cases of abuse we always have to do review work or can we let it go.

If we eliminate that review on certain cases by panelist, you know, could we develop some other safeguard that would protect registrants and satisfy those, you know, who would argue for a substantive review.

Steve: Thank you, is that better? Good. (Christina), I think you had...

(Christina): It's time for audience participation by our friends at NAF and WIPO. I'm about to put you on the spot. I'm curious to hear from you all as current providers in UDRP to the extent that you've given any thought as to what would have to happen to get administrations that the URS down to the 300-500 range? And if you have if you're in a position to share that with us?

Brian Beckham: Hi, thanks (Christina). This is Brian Beckham from WIPO and I think we'll probably cover this in much more detail during tomorrow's session, but for us the answer's becoming obvious that the way to meet the stated price point is to move to a default base model where a panel would not be appointed if a registrant did not respond to notice of a case against it.

Man: We're doing a session on this tomorrow at 12:30-2:00 and I just want to say that if this is something you're interested in you damn well better show up because I can guarantee you the parties that don't like the faster, cheaper, more efficient model are going to show up in droves.

And you need to stand up and you need to speak up because if you don't the staff and the board don't hear an opposing view. They hear someone drowned out your concerns, so you've got to stand up and you've got to speak up and you've got to support those ideas that you hear tomorrow that you believe you can stand behind it. I know everyone that's in this room that's

a member of an organization; a lot of the things you're going to hear tomorrow are not new.

They are not radical. They go back to where we started in March of 2009 and I just encourage you to show up because I see people who have been involved in this process all along shaking their head. Don't take it lightly; don't think it's something you can go to lunch instead. You need to be there tomorrow at 12:30.

(Christine): (Christine) from the outside, I just wanted to agree which is (Brian) said all the biggest probably cost driver for us is the fact that the - this is default cases, but I wanted to answer (Christina's) second question also and say that we have not run the numbers to figure out what specific pieces would have to go to absolutely get it down. We just know we can't do it, you know, the way it's currently sent out.

Woman: So just to follow up with the two speakers I'm hearing that in fact the biggest cost cuts can come from going through the default loser pay, but the default not having to have the review. I'm not hearing that the loser pay model or adjusting the loser pay is the place where it's getting costly. Is that fair?

Woman: This is (Christine) again, I just want to say the biggest cost driver for us is the default, however a loser pay is more expensive. Our system is not set up to easily do refunds. You collect money from one party and hold it. So the development of a system to sort of hold money there as money escrow, money in order to take money from one party and give it back to another is going to be a cost driver as well.

Steve: Thank you let me see if there are other questions about URS. I guess Emily, is that somebody on the chat that wants...?

Thank you, thank you for the reminder. (Fabricio), did you have a question?

(Fabricio): Yes mine is more of a comment. And kind of linking back to (Christina's) earlier point when we were talking about Trademark Clearinghouse. We need to be really careful and look back at what the IRP had recommended here. I mean the whole purpose of all of this was to make sure that brand owners had a more streamlined system.

And what we can't have and unfortunately what I'm hearing develop is that brand owners kind of continue to pay and continue to pay and prices continue to escalate. You see this with Trademark Clearinghouse where now a dot brand will have to pay for sunrise it doesn't use and then it will have to pay in sunrise for whatever the registries have to pay for the Trademark Clearinghouse.

So your standard will have to pay to be in the sunrise and the Trademark Clearinghouse itself. And then likewise now we're beginning to see this rollover in URS. I mean the real danger here is that you make this expensive; people aren't going to use it. So my comment would be to simplify the URS as follows. Make sure that there is no substantive review if over 70% of the cases that are broad or clear-cut and usually there's no reply, make them default.

If someone really does want to fight make it a pure loser pays so that anyone who does want to actually respond has to put up the money and I assumed that that would then answer the partial loser pay to uncomplicated the loser pays system. All that put in together should easily bring down the price and I will say the following.

During yesterday's interviews or meetings with different applicants, even those from minds and machines said we don't understand why it is that ICANN is having problem finding a vendor because the vendors and people they've spoken to said that they can identify clear-cut case fairly easily and could very easily do this for $300. So this shouldn't be rocket science and we

shouldn't kind of get into something and toil around and make it more complicated than it needs to be.

Look back at what the IRT said, let's make sure that this is fit for purpose and let's make the mechanism meet that purpose. Thank you.

Steve: Thank you (Fabricio), any responses or comments that the staff wants to make?

Man: Well I think this and to echo what J. Scott says, I think we should approach - or I think we need to approach this as ICANN. So ICANN, us, all of us made a comment to implement URS as one of the new trademark protections and new gTLD process and we are under obligation to make this work.

And so to those who would speak out against changing it in order to reach cost targets, you know, I would challenge those others that would come to meeting and say this is an obligation that ICANN has, so you need to think of a way to make it work. I think - I don't want to make it an outsource as them and I think for this group, you know, along the lines that we just heard we can I think create a process that's cheaper. So then I would challenge us to say, so what - how can we protect registrants in some way that doesn't add cost?

What sort of recourse would they have if there was defaults? What's some ideas for them? And I think if we draft - well we've got a good idea to protect you, you know, if there's a default. There won't be a hearing on the merits and we'll make it full loser pay just to protect you. I don't - that's not going to resonate with them.

So there are some ideas for, you know, if there is a default they have a certain amount of time to come back. You know, if they're on vacation or out of touch for a while or something like that. So what other low cost administrative additional protections can they have to replace the one that cost so much, you know, substantive review of every case?

Steve: Claudio, I'm going to put myself in the queue. Is there anybody else that wants to ask a question or be heard on this? And before you start Claudio is there anyone else on the phone that has a question?

(Fabricio):   I'd like to do a follow-up if possible, it's (Fabricio).

Steve: (Fabricio), we'll put you in the queue after me.

Steve: Claudio?

Claudio Di Gangi: Thanks Steve, I just had a question in terms of next step. I know there's the session tomorrow. There's been discussion of having a summit meeting and some sort of, you know, live meeting on this issue. Has it been brought to public comment to see if there's consensus or just on the comments that come in or just how might we forward it after that meeting in Prague/

Man: We don't want to give it out now, but there's going to be some adjustments tomorrow and the only reason we don't want to give it out now is because some ideas may come up tomorrow that could affect the suggestion and how we present it. And so rather than getting rice stirred up now and think that there's a fait accompli and there are no - it's open to all ideas.

                   We have gelled around a possible suggestion for the community so that's all it is and we're open to everything. And we're going to present it at a time that there will be follow-up for the community to sort of comment on whether it's something they can live with or not.

Man: But wait there's more.

Man: Okay I have three questions and one of them may have been answered. First one was about the URS summits and the budget that - well I won't say in the budget that was approved Saturday and the budget that was up for approval

on Saturday - God only knows if there were changes. There were two summits, one was supposed to take place this fiscal year. In other words before Saturday.

And the other one next fiscal year. Are there going to be URS summits? Yes, no or maybe?

Man: I don't know if you'll find this an amusing story or not, but - see it is amusing. Just about the time we were drawing the conclusions about this issue and how we weren't hitting the cost targets we were also putting together our budgets. And so I was sitting there and said, "Heck we need a placeholder in the budget to be able to have some money allocated for this effort." So we can bring people together, pay for some travel.

I don't know exactly what form it's going to take, but we want the community to meet and to solve this issue. And so I wrote a paragraph send it to finance, say this is the justification why I want this much more money in the budget. That got published in the budget with the head of URS summit and then it was published and then there was quite a stir and, you know, among certain people saying, "What the heck is this and how come I'm not invited?"

Some sort of secret thing. So really it's a budget placeholder to allocate funding for this effort and I think tomorrow we might hear of uses to which that money could be put. And I was hoping to have this sort of meeting before July 1, but you know, we couldn't get a meeting together that people could attend before this meeting. So it looks like it'll be after or, you know, actually starting tomorrow.

Man: Thank you, my second question is I was told that there's a similar type of rapid resolution service that's offered by Nominate for dot UK. Did you approach Nominate about whether they would be in a position to offer this service?

Man: Yes (David Teller), a panelist is on the panel tomorrow. And so my understanding is that's subsidized though that service, so that's how they hit that cost target.

Man: You anticipated my next question. So this has been sold not just within the IPC, but within ICANN as a whole and in a larger world. As one of the key elements of the new TLD program one that really will give trademark owners greater protections and this is why they don't need to be worried because they have a new tool they don't even have and legacy TLD's.

            And since the board approved the dot com renewal without concluding it, there's not even any commitment for the largest TLD to even consider doing anything like this at any point in the next six years. So but I digress.

            This has been one of the key selling points and if in fact and I don't know whether this is (unintelligible) or not, but if in fact it's not possible to bring in the program that came through the process at the price point that the process wanted, why shouldn't ICANN provide a subsidy for this program at least for the first couple years so that trademark owners will be incentivized to use it on - and if it becomes successful, then I think you could look at adjustments.

            Why shouldn't some of the $350 million that ICANN has collected over the last few weeks be dedicated, you know, perhaps a very, very small portion of that to subsidizing the cost of URS so that it can meet the price point that was contemplated?

Man: So ICANN is a not-for-profit and it's a zero sum game, so if we have that discussion we should have it with the idea of where, you know, a source of that money. So would we do it with registry fees or registrar fees?

Man: Well...

Man: And...

Man: ...I suggested a source of it.

Man: What's that?

Man: It comes from the application fees. I would - if you took 30% risk factor that was calculated based on 500 applications unless you think your risk is four times as much because there are 2000 applications. I don't know what the figure would be and someway have to figure out what would be the level of subsidy needed not to pay for the program, but to bring the cost down to X and $300-$500 that was contemplated.

                So I agree with you, you got to identify it. But is there a resistance in principal to doing that?

Man: No like I said it's not just an ICANN staff discussion, it's a broader discussion and it should be had. It'd be really interesting to try to predict the volume of URS cases if you think about the volume of UDRP cases and how many there would be if, you know, it was significantly cheaper.

                So then we knew if we were talking about, you know, a couple million dollars or a couple tens of millions dollars. It'd probably make a difference. Some of those amounts ICANN could handle within what might be auction fees or something like that and or some you'd know if it was a really big number or not.

Man: Thank you, I appreciate that this is all very in the sky at this point. But I'm glad to know that it's at least potential for consideration. Are there other - oh yes (Fabricio), thank you for reminding me. (Fabricio), did you have a follow-up question? And then I think we have one or two more questions in the room, but go head (Fabricio).

(Fabricio):   Yes I'll be quick and even quicker since one of my comments was your subsidization question, so thank you for that. And Kurt, you know, one of the things when I mentioned default judgments and (unintelligible) or pays model simplify you'd come back and said, "Well how do you protect the registrant?" And I think that's a very valid question.

And nothing for you to answer or for the audience to answer, but something to consider or think about between now and tomorrow is if you were to change the model to where it was full default and was full loser pays you may see - and something for all winners to consider, a simplified process now could actually add a week or so for the registrant to respond and still generally keeps them in the same timelines. Because if you looked at some of the grids that people were building timeline-wise to compare to the UDRP, a lot of the time spent was things like how long appeals processes were out there, et cetera.

Instead of having long appeals processes, if you instead built in an extra bit of time for people to answer, you know, speaking personally I can tell you that if you had a default judgment, a full loser pays model for those who responded, would I personally care if instead of, you know, a 14 day decision I added five more days for someone's reply the answer would be no. But I can't speak on behalf of the community, so something for people to think about because the model would substantially change and may actually change for the better for everyone involved.

Steve: Any response to that? I think we have one more.

Man: Two more.

Steve: Two more, thank you.

Rudy Gaines: Hi, Rudy Gaines with Marksmen. You know, I'm a relative newcomer to this and I guess from the way it sounds it doesn't sound as if this is close and I'm

just trying to get a little perspective on the process and when this first gets started. I mean maybe that sounds like a rookie question, but I'm just wondering where it started and now where it is I guess?

Man: I can answer that. It started in June of 2009 when the IRT put out their proposal. Then they went to the board as the IRT recommendations and they sent a letter to the GNSO regarding URS and the Trademark Clearinghouse I think. Is that not correct? The GNSO set up a special trademark interest group, STI, and they then went through a process and with regards to URS they layered on many things that we're not included.

And when it went to the providers there that's when they said, "Well it's not going to work, but it grew a great deal from the seed that was planted with the IRT to a much heavier process." I think the providers would agree that heaviness that has caused some cost concerns and we probably made a mistake.

I'll admit it as a member of the IRT is we should have brought in technical advisors from the providers initially so that they could like the registrars and registrees did sort of have told us when we were bumping up against unrealistic expectations for what could be done within the systems that they have in place. Hopefully now we can do some recalibrating. We got some time, so but that's sort of a historical track that where we went.

We went from lightweight suggestion to heavy implementation and then went to price out and they said, "Well we can't meet that based on this."

Steve: Thank you. Emily, you had a question from the chat.

Emily: Yes just the side of a few of the questions or comments. Because the URS is required as an RPM for all new TLD's does that mean that no new TLD can be delegated unless the URS is in place?

Man: So that's a good question. You know, I think we've come to that. Of course that originally came to it.

Steve: Okay thank you. Anything else on URS? We have one more topic that our hard working staff members have agreed to brief us on and that is the Registrar Accreditation Agreement. So why don't I just - obviously there was a plenary session on this yesterday I guess.

            Thank you to the departing staff members. Are you bringing reinforcements? Thank you, thank you very much.

Man: That's right. Okay so let me - and again you don't have a presentation - I mean you have a presentation. Just ask the staff if they have opening points that they want to make.

Woman: Hi, I'm (unintelligible). I'm senior counsel with ICANN and I'm one of the members of the negotiating team. And so you know prior to this meeting we posted draft contract language of a full proposed RAA and so what we tried to do even though it's not a negotiated position we tried to put the various requests that we had for the RAA into contract language so that people could see it and start reacting to it because it's not a finalized version. It's not up for public comment, but it is up for public consultation.

            We have it up on the Wiki where you can put in comments and we laid out a series of questions that we were hoping to really get a lot of specific input into focusing primarily on the issues Whois verification and data retention obligation. And we're at the place now where we need some community input to help us figure out where the appropriate negotiator position may be on those.

Man: So where we are in the negotiation and the kind of tricky position is this that I think almost everybody here knows there were 12 very specific requests from law enforcement representatives to amend the agreement and some others

from the GNSO ALAC working group. And we've made, you know, even at the last minute we said we made substantial progress, but now we've hammered out the language on just about all of those.

But on two of the - you know, and we've identified the most important of those and on two of the most important of those were not adequately met and those are the verification or validation of Whois information and the data retention requirements. So on Whois validation, law enforcement's requested that validation takes place before a domain name is allowed to resolve. Registrars don't want to do that, you know, domain names resolve right away so they don't want to make that change.

And the other validation requirements are manual so it would significantly be them or, you know, increase the price of the domain name. So that's the kind of rub there. With date retention registrars certainly to retain I think all the data elements that law enforcement asks, but there's a difference in the amount of time, so whereas law enforcement wants registrars to retain that data through the life of the registration plus two years, on some data elements registrars just want to retain it for six months, not for the lifetime of the registration just six months.

And they claim that's because of privacy laws especially here in Europe. So we think both of those issues - first of all the registrars are asking us for concessions in the agreement. We're asking them for additional enforcement tools and we've agreed to this other language, but so we don't want to make concessions in other areas of the agreement until we win or get to an agreement on this Whois verification because it's so important.

So we're kind of at an impasse, but you know, we don't want to move forward and we think because of the implications of how domain names are registered and the timing and the cost we think that's a broader community discussion. So we think that's our broader community discussion, so that's why we brought the issue here and had the RAA negotiation session

yesterday, the public session to discuss it. Because we wanted to get input on other the community things that there should be verification of Whois data before domain names are allowed to resolve and invoke these extra costs.

And so, you know, we'd like your opinion too specifically on that issue. And then we think if we resolve these two issues and get the language, you know, we're going to make - you know, agree to some of the registrar (unintelligible) and we think the rest of the agreement will fall out pretty fast.

Man: Okay thank you. Let me - I'm sorry.

Woman: We had another aspect of the request with regard to Whois. It's not just initial validation at the point of registration; it's also annual validation for all records. So, you now, that's another kind of rub on the registrar side of the cost of doing that every year for all registrations even if nothing's changed. And so that's another aspect, you know, it'd be useful to get information from you guys on.

Man: Thank you, that's very helpful. Let me open the floor to just first any questions or concerns that people might have and then I have a couple of comments. Or somebody - there's one in the back there. Could someone pass the - where is the mic?

So please stand up and identify yourself.

(Marty Schwimmer):   (Marty Schwimmer) from (unintelligible). Can you elaborate on that delay with regards to - how much of a delay does the validation take upon the resolution because public policy aspects of validation seem fairly obvious making some dents in counterfeiting or phishing or other crime? The public policy cost of the delay that a domain doesn't resolve very quickly does not seem as apparent, but is that also a register of cost and if so what kind of additional register of cost are we talking about in the delay of resolution?

Man: So of course that's - that's answered by the registrar's ears but I'll provide some information that could be false. But not intensely false. We just had the honor at ICANN of having (CONAC) and (CNIC) visit us and it's where the ICANN office is.

And we met with them and during that discussion, you know, you might be familiar with air validation process. So I asked them how long it took to validate whatever they call their registration information from the time they get a request for registration from the time it starts to work and they said three to five days typically. And they have cases that go longer than that, but the answer in delay is three to five days.

And then, you know, the registrars have done some back of the envelope costs and I certainly haven't and were very rough, so I don't know if the price of a domain name might double or something like that, you know, $6 or $10. Could be more than that, but still to me those aren't huge costs, but they do really change the whole nature of how domain names are registered. So that's why we need to talk about it and not just agree to it.

Steve: Other questions?

Man: Let me start on the verification issue. Well first of all I should say we did once again invite the registrars to come to this meeting and present and once again of course their stakeholder group is meeting at exactly the same time and so they declined our invitation. And so we're still hoping to have some chance to chat with them here.

I'd like to say on behalf of the IPC that we really appreciate the work that you guys are doing on this negotiation and we think it's very positive that you put out a complete text understanding that it's not been agreed to and you may not be 100% clear on what has what hasn't been agreed to in that language, but we can go through that. But I think it's very useful to have actual language to look at rather than sort of concepts or any degree in principle to do this.

So I know there's some unhappiness about that from some registrars, but I think it's very positive. And I think it's also you have - it's clear from my review of it that he's made a lot of progress on some very important issues. One question I had and this was raised during the plenary session and I'm not quite sure where it ended up and I hope you can clarify it has to do with the interface between the verification requirement and proxy/privacy or service accreditation.

So I guess my question is if, you know, your version of the agreement went into force, what would be the requirements if any to verify contact information on a customer of a proxy or privacy service particularly if that's a service run by the registrar. Would there be any or would it be the same as if that person was applying for registration without a proxy service or just what would it be?

Woman: It's not fully clear how this fall out or how it falls out and it's one of the items we need to continue discussing. As we've been going through the negotiations we find points such as this and such as reseller and how the obligations fall through and we find the areas that we need to discuss.

If you look at the Whois SOA that's attached to the agreement it does require different Whois output than is required today. And one of those items is registrant - like actual registrant information in more detail than we require today. And there are also registrars who understand that this would impose a requirement on them if it was a registrar operated privacy service to perform the same validation over that information. But I'm not sure that that's a universal understanding among the registrars.

So on the base of what's written we know that if it was an external privacy or proxy service there would be no requirement immediately for validation of that underlying information because that would be subject to a privacy/proxy accreditation service that has not been yet created. But if it's a registrar operated one I think we have some additional work to do to understand

where the lines of that may lie because I think that there are differing understandings within the registrars about how that - what the provisions that are currently in draft agreement mean.

Man: Okay so just to clarify, in that latter case, there's a problem that there's ambiguity about what constitutes a registrar operated service or is there ambiguity about if you are a registrar operated service whether you have to verify?

Woman: I think it's more on the second point.

Man: So can you tell what's ICANN's position on it? I mean if there's ambiguity then obviously that needs to be cleared up, but what's the right answer from ICANN's perspective? If you're at liberty to say that.

Woman: I'm not sure that we have a formal position. As you may appreciate as you start actually getting into discussions like these they've been very helpful. We've actually identified a couple points during this week that we didn't understand or appreciate some of the touch points that were within it. And so the conversations have really kind of brought out some of these ambiguities here.

Woman: And to some extent that's the reason it's dealt with through this accreditation program to be developed because there was a recommendation that there be, you know, positions related to privacy and proxy, but not detail as to what the community was looking for in that regard.

So that's something like reveal, you know, or how much verification. It's always issues that haven't been fleshed out yet, you know, we couldn't just throw them in the contract without understanding what they meant and where the community was on it. So hence that was the approach saying, you know, get an agreement that there will be a proxy accreditation program with details to be developed. Build that into the contract now and then get the rest of the

provisions, you know, agreed to and getting this warm and then, you know, consult with the community on what the aspects of that program should be.

And you really get, you know, agreement on both aspects that you could just - no way to do that at this point in the negotiations.

Man: Okay I understand that especially with regard to relay and reveal, but with verification there's going to be something in the contract for verification and the question is, you know, how does that apply in the case of the proxy services. And I think if you look at the GNSO/ALAC priorities this is extremely important one. It's in the high priority list in several different ways and it has to do with relay and reveal as well.

But it also has to do with verification and without this I think - frankly I had my doubts about the value of the verification protocol that is on the table now. I don't think that if it doesn't take advantage of a lot of commercially available services then I think registrars should be required to use. But whatever its value it would be really undermine because it doesn't apply in the proxy area because it's just a roadmap to say, "Well, you know, we're back in the status quo if you use a proxy service even one provided by the registrar."

And that can't - I just think that could be the right outcome, so I just I would encourage you to try to clear up that ambiguity and resolve that, but as the chair of that GNSO/ALAC drafting team I can tell you that was a very important aspect of this and we don't want to see that put off entirely to a accreditation process.

I guess - did you want to say anything more on that because I have a couple other questions? I'm sorry. Just two other - one is to ask what would be the best - you know, there's always been a lot of concern about the transparency of this negotiation and, you know, you heard even yesterday some people thinking it's fundamentally flawed because the parties that will be heavily affected by this are not at the table.

But leaning that aside, what is the best way now to give input to the very detail, you know, pretty detailed language that you've put out. I know you have a - what would be the best way for the IPC to give input on that? And on what timeframe I guess?

Woman: So the sooner the better which isn't always helpful for cases. One of the reasons that we - there were multiple reasons that we did not open a specific public comment box on this and instead went to a Wiki comment format. We did not want to be in a position that we were not able to go to the table meaningfully for the 45 day period of the public comment.

And so we want to be in a position to receive input from the community and we are - we heard you, you use that comment box that's on the Wiki if you'd to submit it in more formal - I'm not sure that the comment functionality allows for attachments or anything, but we'll figure it out if you send us a letter, right? We'll figure that part out, so we will be monitoring that. We'll be continually looking at it.

We have really tried to - hearing your concerns we're acutely aware to make sure that we're updating the Wiki as we go along and it's going to become far more key now that we're actually I think for conversation on the Wiki and encouraging it. So we're committed to looking at that.

Man: Okay and last point I guess, it's probably a contractual negotiation point, but partly it's more of a ICANN process for me. Assuming that a lot of questions are kicked over to an accredit for on the proxy/privacy issue or kicked over to an accreditation process. We've proposed that - we obviously have a very serious concern that that could be a very open ended process and there are parties at the table let's just say that don't have an incentive to resolve them quickly.

So how can we best deal with that? Our one proposal we had was to say, you know, there shall be an accreditation process and if one isn't completed within X months then ICANN shall have the authority to issue the accreditation standards until that process completes or something like that. Is that a viable approach or is there a better approach or is there reason to think that this won't be dragged out for a very long time?

Woman: One of the things that you'll also notice in the contract language about the privacy/proxy accreditation is that there's language in there developed by ICANN I believe it's commercially reasonable to registrars. And so the intent of that was partially to address your concern Steve that if we came to a point where were not really progressing, but if we developed - and we're not clear - we haven't set out the past yet.

We've been so focused on the negotiation that we haven't set out the past for what does ICANN developing that mean. It would of course whatever form it took involve community input of some sort, but the development of that program we wanted some opportunity to say we believe that this is commercially reasonable to provide, you know, an opportunity to test that, but not require a three year process to get to it.

Man: Thank you; are there any other comments or questions about Registrar Accreditation Agreement either in the room or on the phone? In the room or on the chat?

Emily, can you - can someone pass a mic to her?

Emily: Thank you, just I guess as a combination question and comment from the chat which is why not offer incentives through domain pricing i.e. refund, lower price points for verified and open to lose? If there is a sufficient difference this will hugely reduce the number of hidden and unverified Whois record.

So I'm not sure who that pricing incentive would go to, we specifically do not set pricing in our registrar agreement. We do - it's not clear to me who that refund would (unintelligible) to if it was back to the registrar to the registrant. I mean we are - I hear that this is more about providing incentives to validate Whois separate from the idea of providing incentives to get onto a new agreement once we have it which is probably thinking about incentive.

You know, it's something that we can go back and consider, but to the extent it would be setting in a sort of pricing or we'd have some trouble getting into an agreement.

Man: Other questions? Well I'd just like to thank all of you and again thank you for all the work you've done on this. And I think this is such an important project for two reasons. One, you know, today June 2012 the number of people who are registered in new gTLD's is zero and the number of people who are registered in gTLD's that are subject to the RAA is 100%.

So in terms of the impact on registrants this is key today. And secondly I think just on - since a lot of this revolves around Whois, not everything of course, the fact that in the view of the IPC and we've expressed this several times ICANN has not been a good steward of the Whois resource. It's an incredibly valuable social input and resource and it's degraded on ICANN's watch.

So this is really a very positive step to try to turn that around in our view and I think we've talked a lot today when we met with the board about perception of ICANN and the ICANN model as a responsible means of internet governance. And I think there's very few things that would do more to promote that than having a good strong agreement and getting it into place quickly. So whatever we can do at the IPC to help with that I think we stand ready to do that.

So I hope you will call on us when you think it's necessary and we will be, you know, on touch with you on these issues. Any other questions on the RAA? If people haven't signed up to the - on the sign-up list and want to let us know that you're here we'll have the sheets up here. There were a couple of people who said they were interested in joining. You can go to ipconstituency.org and find out information about that.

I want to thank the hard working ICANN staff that just went through 90 minutes on the hot seat and we really appreciate it. The next IPC meeting is tentatively scheduled for Tuesday, July 10 at I think it's 15:30 UTC. It's 11:30 Eastern Time by telephone; we will not be meeting in person on that date. So if you are an IPC member please watch for information about that.

And I want to thank everybody here for their participation and help, (Paul) for scribing and unless there's any other business to come before the group we'll declare the meeting adjourned. Thank you.

Coordinator: Thank you for participating in today's conference call. You may now disconnect.

END