
ICANN77 | PF – GNSO: IPC Membership Meeting
Tuesday, June 13 2023 – 10:45 to 12:15 DCA

ANDREA GLANDON:

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LORI SCHULMAN:

Thank you, Andrea. It's nice to see everybody here. For those online, I am not dialed in yet. I was too busy saying hello to old friends and new friends that I see in the room today. I'm going to switch the agenda up a little bit, and I'm going to start with any other business. First of all, I want to say happy birthday to Owen Smigelski, who's here as our guest, and to Brian Beckham. They share the same birthday. In a nice role reversal, they're going to give us a birthday present today. So I'm going to hand the mic over to Owen, and please take it away. You have about five minutes. You're the any other business.

OWEN SMIGELSKI:

Thanks, Lori. Hi, everyone. For those who don't know, my name is Owen Smigelski. I'm with the registrar Namecheap. Normally not a participant in the IPC meetings and whatnot, but today along with Brian we want to announce that yesterday Namecheap, on behalf of our [name-based alt root—sorry, handshake registry—] our TLD operator, have agreed to use the UDRP via WIPO for all second-level domain trademark disputes that might arise there.

So there's probably a lot of questions, and I probably don't know the answers to those, because we just literally signed the deal yesterday, but we're going to have some more information coming out on how that works and processes, but that will apply to any of the handshake domains that are registered through Namecheap and our other registrar partners, EnCirca, 101, I think Porkbun and others. So there will be more information coming forth, but just wanted to announce that we value IP rights and thought that would be a good thing to do for that root.

LORI SCHULMAN: Happy birthday to us. Thank you. That is fantastic news because we've been talking a lot in around this issue, particularly at ICANN, and I think this is going to really be trend-setting, or we hope it's trend-setting. So anything that the IPC can do to help socialize this or in any way facilitate smooth processes, whether at WIPO itself or inside your consortium, please reach out. People are very interested, and this is really, really good news.

OWEN SMIGELSKI: Okay. Again, like I said, we literally just signed the deal, so we're updating our registry agreement and registrar agreements and stuff like that. The terms are broad enough that we can make them do it, but we're going to explicitly call out the UDRP via WIPO in there, so that's clear. And there will be some announcement stuff both separately and jointly as well, too, that we're planning. So more info to come.

[BRIAN BECKHAM:] And just to add, obviously we're very excited about this. As many of you know, INTA produced a white paper that looked at applying dispute resolution models in Metaverse, Web3 domains, things like this. It gives a very good overview of the landscape if you haven't read it. So we were extremely encouraged that Owen and Namecheap and Namebase reached out to us to apply the best practice of the UDRP that you all know and love. Obviously, as Owen says, there's some specifics in terms of terminology, and so we'll share information in due course on that. But we think this is a really positive development that sort of opens the

conversation with some of these alternate roots, Web3 domain operators, to show that adopting best practices works for the registry, works for registrants, protects IP, and we're really hoping that this changes the conversation with these operators in these new domains. So this is hopefully a good canary in the coal mine in a positive way, if you will.

LORI SCHULMAN: I recognize Nick.

NICK WOOD: Yeah, Nick Wood for the record. Just can you give us a quick preview? How are you resolving the transfer issue, or are you not resolving the transfer issue?

OWEN SMIGELSKI: I was talking about this with Marc Trachtenberg yesterday. I'm not exactly sure of the process. I have, however, when we did approach it, I was told that we can enforce the decisions. That was one thing that Brian did want to ask, and so I don't know all of the technical mumbo-jumbo details, but I have promised Marc that I'll connect him to our tech people there so that we can get a better understanding of that and be able to explain it. But, yes, the decisions will be enforceable.

LORI SCHULMAN: Any other questions? Mike Rodenbaugh.

MIKE RODENBAUGH: Does this apply to all Handshake names or just names through Namecheap? Sorry, Namebase?

OWEN SMIGELSKI: there's a lot of names running around here, so no concern for the clarification. So Handshake is a protocol. Namebase is one of the larger premier registries for that, for creating the TLDs. So Namecheap, we've got a small share, and now we outright own Namebase. Any of the TLDs through Namebase, the second levels for that, this will cover that. And you can tell if you go to Namecheap's website, we have a link for Handshake. I don't have it off the top of my head, but I can share it with Lori so she can disseminate that out. And what that will do is that will list all of the TLDs in which Namecheap resells Namebase domains. So we have multiple registrar partners, like I said, who also are accredited for those as well, too. Yeah, the Namebase registry site is namebase.io. And I think if you go to namecheap.com/Handshake, although somebody could verify that, I think that's where we have our domains listed.

LORI SCHULMAN: Are there any questions online? Any other questions in the room? Well, I want to thank Owen and Brian for their birthday gifts to us. This is really good news. And as I said, we'll continue to work with you, give you whatever support you need to make this program happen. I'd be happy to publicize it very broadly at INTA once this meeting is over. And I really appreciate you calling out our resolution to applying traditional remedies to emerging technologies for IP. This is a great illustration of how it can work. So we're very excited. Thank you.

OWEN SMIGELSKI: Thanks, Lori. And if anybody has any questions, don't hesitate to also reach out to me. I'm available. So I'll email you right after this the link for our Handshake domains. You can just share that with everybody here so they can reach out to me.

LORI SCHULMAN: Okay, and I'm buying you the first drink at the BC event tonight.

OWEN SMIGELSKI: Thanks. Sounds good. I can also tell you how the UDRP is actually responsible for me being at ICANN. So that's a fun story for me to tell later.

LORI SCHULMAN: Yeah. I was going to say this to you, but I want to thank people for coming to our outreach event last night. Everybody seemed to be having a really good time. And I want to thank, again, John McElwaine for opening his offices to us. They were really gorgeous. Even in the rain, they were gorgeous. And to thank Matt Williams for doing the fundraising because this was a bit of a pricey event. We are in D.C. So it was great to have a really nice roster of sponsors. So thank you. And, of course, we're going to thank Perkins Coie for helping organize our outside event. That was hosted by INTA and the Chamber of Commerce. That happened earlier in the day. We also had a maxed out attendance in the room, which was great. And great questions and interest from the

current administration on following up. So this has been a good week for IP and business. So thank you all. It's nice to be in our hometown.

With that, I'm going to move on because that took a bit of time. But believe me, we'll get through the agenda. The President's Report will be brief. There's a Board Seat 14 update. You can see on the agenda the bullet points, the essential points. Essentially, the mediation has been paused. We had some difficulties figuring out mediation parameters. That being said, we've agreed to reconnect here at ICANN.

Paul McGrady has very graciously, in his role as a NomCom appointee to the GNSO, to facilitate a reboot. And we hope that we'll have some progress to report. To remind everybody, for us, the Board Seat 14 issue is the following. We didn't reach consensus on a candidate yet. There's some questions about the 2018 agreement and how it controls. On our side of the aisle, we feel there's some deep flaws in this agreement. We believe they're fixable. However, we are fixing them to moving forward with the Board Seat 14 confirmation, however that works, nomination.

We will be following the 2018 procedures for this round in 2023. I want to make that very clear. What we're trying to do is avoid a bad situation three years from now. We don't want to kick the process down the road. We want the process tied to this process now. So that's where we are. We have some opposition on the other side, which is why we're talking. We have a pending interview with Rafik Dammak. And as soon as we can figure out the way forward, we will move forward. And that's about all I can report at the moment.

I did want to report that the IPC officers had a meeting with the ICANN CEO. We shared with her the progress of the Board Seat 14 mediation.

We also spoke a bit about INTA's annual meeting since it only concluded two weeks ago. And there's a lot of interest right now in some of the thought work that is being done inside of INTA. Owen and Brian mentioned that a significant resolution was passed for INTA, which supports applying traditional and perhaps new remedies for IP protection in emerging technologies. Having UDRP apply to alternative domain names, alternative root domains, is a step in the right direction.

INTA also passed its own new definition of domain name abuse, which we will be socializing. They are included in the IPC-INTA talking points that I distributed for the red line discussions that we'll have later in the week on the RA and RAA. We have an INTA project team that is working on the big issues of how to manage GIs in the DNS. This is a team that is comprised of our Internet Committee and GI committees. So we've got all views, hopefully, represented on this complicated issue. We hope to have a white paper produced before the RPM Phase 2 reviews.

So INTA, in my view, is really kicking it forward. I really appreciate this term's leadership. Our Internet Committee Chair is Margaret Caruso, the Vice Chair is Michael Graham, and they've really pushed in the right direction in terms of policy development. So I do want to call them out, and we share this with Sally.

I want to remind people here that the CSG members' meeting is tomorrow at 1:30. Please come, because we're going to have in-depth discussions about the red lines, and about domain abuse, and all the things we love to chat about.

And then on Thursday, again, another, if you can make this, I know it's in the afternoon, and it's Thursday, and it's ICANN. This is important.

Again, we're going to have a joint house discussion on the red lines. And it's important, very important. And again, our talking points will be the basis for that discussion. Brian King has very graciously offered to lead that. So please show up. We don't want to kill this amendment. My feeling is we really need to see this amendment go through. We do have some concerns, but the story with at least the registry side of the house is that this is a good basis for more community work, a good foundation. So let's not crumble the foundation before it's even built would be my advice from IPC members.

The talking points we're calling tentative, unofficial. They were put together by a group of drafters from the IPC and INTA, and it's clear in the introduction that this is our initial look. There's always time to have the discussions on the list, to get involved on the comment team, and put together a solid, solid comment, which I think we'll need for our interests. So please sign up when you're asked. And again, but let's move this forward if we can. I'd really like the IPC to be seen as cooperative in this effort. It really will do us good in the long run, I believe. Oh, Paul, I'm sorry, I didn't see your hand.

PAUL MCGRADY:

Thanks. One question on that particular topic. Have we had conversations with the noncommercial types on what they're thinking about those red lines? Should we invite one or two of them to that final, that thing on Thursday? If they could sign on to what we're doing and the entire house could weigh in, that might give it some more oomph. But I don't know. If we've had conversations and they're fine with the way things turned out, then they may not be worth the effort.

LORI SCHULMAN: Paul, you raise a very good point. I think we've gotten in the habit of being siloed and not consulting each other, for good or bad reasons. So I think your suggestion is quite good. The facilitated discussion we're having is before, correct? So perhaps we can raise that as a point of cooperation in the facilitated discussion. Yeah, as an AOB. And we're happy to share the points then, or I can share them right after, and we can get that ball rolling. I think that would be appropriate.

I'm hesitant to communicate before we have that opening session with you on Thursday. I think it's good right now to kind of keep it all contained. Yes, and narrow, exactly. Thank you.

PHIL CORWIN: Phil Corwin, guest of the IPC. In addition to INTA's excellent resolution on protecting trademarks and new technologies, I just want people to be aware that in April the intellectual property section of the American Bar Association unanimously approved a resolution coming out of the trademark and the Internet Committee. Brian and I both had input into that. I presented to the IP section council, and it calls on Congress to consider legislation and regulation to address the rampant trademark infringement in the blockchain domain. So the ABA can now lobby on that. It's an IP section position. So it's one more ally on the issue.

LORI SCHULMAN: That's terrific. I think we've got our work cut out for us on the Hill, no question. So this is a great start, and I really appreciate that. Any IPC member, to clarify, the IPC does not lobby as the IPC. We do not

advocate as the IPC, except in ICANN. We do so in ICANN. However, there are IPC members that have strong government relations teams, advocacy teams, and what we like to do is put together coalitions of those teams to move forward on critical issues, which is slightly different in, let's say, how the BC works, because the BC actually has a lobbying component to what they do. It's a difference, but it's an important difference and a nuance with our two constituencies.

If you are an IPC member and you have a government relations team that is interested in these issues, please have them reach out to me directly, and we will work on coalitions to start socializing things like IP protection and alternative technologies, and perhaps our definition of domain abuse if the IPC decides to support INTA's definition.

So there's a list that we can start going down and strategizing here in D.C. We've been good about this in Europe with the NIS2. It's worked very well. We've used our BC colleagues and their connections. We've used ours to really make some progress there. I would love to see that happen on this side of the Atlantic too, particularly as we're in Washington. I think it's worth noting there's not been meaningful activity, and that's hurt us, in my view, and we all should be concerned.

That being said, I will now pass this to our GNSO councilor, Susan Payne. Susan, if you need the full 20 minutes, please take it. If not, we're happy to get it back.

SUSAN PAYNE:

Thanks, Lori. Hi, everyone. I think it's over to the membership as to whether we need the 20 minutes, but we wanted to agenda enough

time for some discussion if needed. I'm just giving John's apologies. John McElwaine is in the closed generic session that's conflicting with this one, but I'm under instructions to ping him if he's needed, and he'll come running down here. So if at any time we need John, just wave at me and we'll grab him.

We have a council meeting tomorrow, I think it's 1.45. Obviously, those meetings are open to anyone. Most of the agenda tomorrow is sort of discussion items and update items. We do actually have one vote, which is a consent agenda item, and so just before we talk about the rest of it, strictly speaking, I do need or John and I do need instructions to vote in support. I can't believe that anyone will object to this. It's a motion to commemorate Pam Little, who we sadly lost. So obviously if there's any disagreement with that, I have to vote as instructed, but I would hope that that was a given.

LORI SCHULMAN: Consider yourself instructed.

SUSAN PAYNE: Thank you. Okay, anyway, back to the meat of things, and I'm going to put Paul in the hot spot briefly, because I know we'll be losing him shortly as he's going to go off to the BC. One of our discussion items is on DNS abuse, and we'll be getting an update from the DNS abuse small team, I think particularly in relation to work on bulk registrations, and so I'm going to pass over to Paul, if you don't mind, because I know you're actually in the DNS abuse small team whereas I'm not. I don't

know if there's anything in particular the IPC members need to know for now or any particular insights we need from the membership.

PAUL MCGRADY:

Sure. Yeah, I used to be the co-chair of the DNS small team, but when I was voluntold to start working on the SubPro small team, and it was voluntold, something had to give. The last I saw was an e-mail from Mark Datysgeld indicating that with all the back and forth and requests for information and things like that, that there did not seem to be enough information at this time that would indicate the board should take up a policy process on the issue of bulk registrations, and so I think that that particular stream of work is likely not to advance, or at least not in the next little bit.

So from my point of view, we now have a small team that's meant to be empaneled pretty much forever that is looking for a problem to solve, and so to the extent that we can feed them a problem that we need solved now is a golden opportunity to do that. And again, this is just the last e-mail I saw that I can remember. Yeah. Thanks.

SUSAN PAYNE:

Thanks, Paul. And apologies, I had forgotten you'd removed yourself from that group. Yeah, I think this is going to be an ongoing discussion. We'll get some update tomorrow at the council meeting, and obviously John and I can come back to this group and share that. But, yeah, as Paul says, I think it doesn't mean it's the end of the discussion. It seems as though there's not a feeling at the moment that that particular topic can get taken forward, but perhaps there's something that we can do if

there's a strong feeling we need to take it forward, then perhaps there's some more work we need to do in feeding more information in perhaps.

Other than that, we will spend a fair amount of time, I think, tomorrow talking about the SubPro timeline. We were asked by the board at the Cancun meeting to basically, as a council, to give them the timelines for work that still needs to be done. So there are 38 recommendations that the board didn't adopt from SubPro. A small team of us, which Paul has been leading, have been talking through those extensively with Avri and Becky and putting them into sort of buckets of how best to address them.

There are a relatively small number, I think, now that we haven't got a really clear path on. A lot of them require some clarification. You know, some of them need a bit more discussion. There are a handful where the board is indicating that they will probably reject them in order to send them back to the council and get them back into the path for some revision or replacement.

So that's one of the areas of outstanding work. And then there are other sort of work streams being handled within the GNSO that are considered as dependencies on the next round. And so one of those is the IDN work. And the other is closed generics, for example, which is going forward. And as I said, John is in that meeting at the moment.

So as a council, we have to discuss and kind of come to an agreement on what we think the timelines are for those efforts to give to the board. I would say there's a strong feeling from council leadership on what those timelines should be, and there's not agreement in the room on what they are, but we will continue the discussion. I think some of us

are concerned that things are being made dependencies that maybe did not need to be or that timing is being plucked out of the air and isn't bearing any relation to the work that actually needs to be done. Oh, do I have a hand? Is that what you're saying? Oh, sorry, Anne.

ANNE AIKMAN SCALESE: No, that's okay. In relation to the SubPro work, Lori talked about the fact that we don't often consult with NCSG for perhaps some good reasons, maybe some not so good reasons, but I can see an opportunity in relation to applicant support because the board has indicated non-adoption of recommendation 17.2, and that is a matter that's of great concern to the NCSG, and I think it should also be of concern to us, in part because it's a final recommendation from the SubPro final report.

So to the extent that—and you know, Paul is leading the small team, but to the extent that we can find ways to, gosh, I'd almost say override or negate that non-adoption of 17.2, but more importantly to work with NCSG to develop perhaps third alternative solutions to try to meet the board's requirements, I think that's an opportunity to build a bridge and build communication that could pay off in the future.

LORI SCHULMAN: Thanks. Anne, I want to thank you for that. I've written it down. It's another thing we can add to the Thursday meeting as potential areas for cooperation. I know particularly during the COVID period when we didn't have a chance to see each other or talk at all, we really developed this very bad habit of siloing ourselves off, only talking to each other

when we absolutely had to, and that usually was around board seat 14 every few years, to be honest.

And there's a lot of questions about this 2018 deal, how it happened, who was there, who was told what, what was what. It's quite frankly a mess. And we're really diligently trying to fix it without causing too many issues, but of course it's caused too many issues. And so if we could find points of agreement, and this is what I've told NCSG in writing and verbally, is I really like to find points of alignment before I focus on points of friction when we discuss issues that we have with the other side of the house.

Because of the timing of board seat 14, we do have some, in their view, urgent friction. I would argue perhaps a little less urgent in terms of what the timing is de jure and what the timing is de facto with that board seat and how it works. So I wrote it down really big on a card. And I will go to that meeting prepared, Paul, as you suggested, as you suggested, and come ready to say we want to talk about these things. We're ready. But let's also talk about the big elephant in the room, and let's move him a little bit if we can.

ANNE AIKMAN-SCALESE: Thanks, Lori. Very much appreciated.

LORI SCHULMAN: Who else had a hand? Oh, Kristina, I'm sorry. And then Paul.

KRISTINA ROSETTE: My comment is on the timeline, so if Paul wanted to comment on Anne's suggestion, I'm happy to yield.

LORI SCHULMAN: Okay.

KRISTINA ROSETTE: So actually, two comments. Well, a question and then a comment, starting with Anne's observation. I think that's an excellent idea. In my historical experience, those conversations tend to be far more productive in a smaller group, in an informal setting. Like, let's just get four people from leadership together for coffee, as opposed to everybody kind of marching into a room, because at that point, positions historically have been solidified. And for one reason or another, generally dealing with internal dynamics, there's less interest in yielding and compromising.

LORI SCHULMAN: Thank you, which is why I have ceded the presidency to you. Anytime you want to walk up here, the seat's open. I get the point, and actually, that's what – so the Thursday meeting, it's going to be our CSG excom and the NCSG excom. And it will be six people max, I think, in terms of who's still in town. The room's kind of small. We're not advertising this as an open meeting, but we have said it's transparent and open. If anybody wants to come and sit, they can watch. But the only people discussing will be those designated as the excom reps, at least for a start.

One of our challenges is, with the 2018 deal, it seems to have been done closed door. So there's very little written guidance or memory about what is said or wasn't said, which has created some complications as well. But this is well noted, Kristina, and this is why I think Paul's agreement to facilitate without the pressure of, quite frankly, the org – I mean, I will disclose to people that I have gotten letters from David Olive. I've gotten letters from JJ about urgency and importance, and if we don't get it together, the whole multi-stakeholder model collapses. I mean, I'm not kidding when I say this. So there's been a lot of external pressure. There's been, in my view, roadblocks put in front of us.

ICANN has an excellent mediator. She's been very open and good with us, but at the same time, she said our view is that you guys recognize that filling the seat is the top priority, and that's part of the contention. If you're already telling me that one of my pain points is a non-starter, then that's, in my view, not mediation, to be frank about it. And this came from ICANN Legal. So there's been a thumb, in my view, put on the scale that was not helpful for either side. So that was the condition one.

Condition two was on all these talks, you, Lori, Julf and— it's all going to be confidential. Everything in this room is confidential. I cannot report it out. Well, how can we lead our constituencies, our stakeholder groups, without reporting it out? That's antithetical to everything that ICANN stands for.

And I'm saying this publicly and recorded because I have found this offensive. And once we solve this on our side of the house, I'm not going to let this go. I really feel that it sabotaged the process from the get-go

through no fault of the mediator. She was given her parameters. She's an employee of ICANN. She has to do what she's told. There's no question. Heather.

HEATHER FORREST: Thanks, Lori. Heather Forrest for the record. Can I suggest that those of us who know the history in this – and we're really, really fortunate here in D.C. to have folks that go back quite a ways on the history, that we me put our heads together in perhaps not an open IPC meeting and think about how we want to take this forward. Thanks.

LORI SCHULMAN: Thank you, Heather. I really appreciate it. You can come back too. We could have co-presidents. It'll work.

HEATHER FORREST: I cede to Rosette as well.

LORI SCHULMAN: Okay. But that's where we are. And as I said, I'm trying to be as transparent as I can be about why this has gotten to where it is. I can tell you in 32 years of law practice and mediation, I have never walked into a mediation where somebody has set parameters from the get-go like that. I haven't.

HEATHER FORREST: Forgive me, Lori. Heather again. Can I say this? I've had some conversations with Org staff this week, really helpful conversations, and

I can see it is very much the case that they would like to see this resolved. No one wants to see this run through the mud. And my concern is I don't want us to look foolish. I don't ever want us, the tables to turn that somehow we're the source of the embarrassment here. So, yeah, hence I say I know that there's goodwill on the Org side, of course. There should be. There shouldn't be anything other than goodwill. So let's put our heads together. Let's try and come up with a solution and see if we can work on it.

LORI SCHULMAN:

I agree with that, Heather. But I'm also going to say that I believe we are taking a principled approach, and I am not going to back down on a principle that I know is correct, which doesn't mean that we won't proceed with interviews and filling the seat. I have never said that, ever. So we'll move forward on that. I'm going to close that conversation point for now. Any more on the council update? Oh, Kristina, yes, sorry.

KRISTINA ROSETTE:

It was more on the timeline point, and I understand Susan's point about there's some disagreement about some things that Org seems to have flagged as dependencies. As someone who has been blissfully uninvolved for the past four years, where is the IPC on the view of the timeline? I mean, Jeff Neuman made some very strongly worded observations yesterday about the timeline. And while I'm not sure I would have used his delivery, I don't think he was that wrong, to be honest with you. So I was just curious where the IPC is on that. Thanks.

LORI SCHULMAN:

Kristina, I don't know that we have. And if anybody can correct me, because there's been a lot of stuff flying on the list. I don't know that we've ever come out with a strong position on the timeline. I mean, we've come out in support. We've come out saying we support it, provided certain dependencies are fixed.

In terms of when they're fixed, frankly, please correct me, I don't recall that we have in any of our submissions. And to your point, and, again, the chair's open—I think we need to have sort of a closed IPC meeting policy discussion with certain points. And I think this timing issue on SubPro is an excellent one.

I also think, to Heather's point about how do we cooperate, because one of the things in my -- you know, when I asked Sally, what's your priority for this meeting? If you have one priority that we can help you with, what is it? And she said cooperate, cooperate, cooperate. And I think she's right.

And so to the extent that if we could put out a comment on timing that supports cooperation, if we could hopefully find a path forward with Board seat 14 that we're cooperating, however, we're also solving what I believe is a real issue that if we don't solve today, we will see three years from now. And then we'll get the same story again. It's urgent. We can do this three years from now. I'm tired of hearing that, and I'm just not there. We're not there.

You know, the IPC leadership is certainly not there. The IPC membership, for those who've commented independently, is not there. I have received very strong support for the positions that we've taken. Paul?

PAUL MCGRADY: I have to leave in a second, but just on the timeline, the two things that Susan mentioned were the IDNs and the now closed generic framework implementation, or policy, whatever it is. And Donna Austin said yesterday the official story is fall of 2025, but she is optimistic but won't commit to fall of 2024. And so that falls within a timeline that makes sense in relationship to how long staff is saying the IRT is going to take.

The closed generics discussion doesn't fall within that timeline. We heard just in the last session with the GAC from John that it will be 96 weeks before we even begin implementation on that. And as a result, it will literally be the closed generics issue that is the tail on this dog.

LORI SCHULMAN: I'll be retired.

PAUL MCGRADY: Yeah, right. That's the tail on this new gTLD round dog. And there is some sense that ICANN does need to get on with offering the only product it has to offer. I mean, at some point the organization really risks looking really silly. We're already 12 years since the last application round, or about 12 years, 11 years. And so there are things that are being kicked around at the council level about what to do with that particular thing.

So, for example, do we have to buy the bit that closed generics are a dependency for the next round to open, or can we just create a waiting pool for any closed generic application that comes in, pending the

outcomes and the implementation, and then they can decide at that point, depending on how it turns out, whether or not they want to continue their closed generic application or get their money back.

They're looking over the closed generic framework. I don't envision there's going to be a stampede of applicants that want to sign up for that thing anyways if it stays how it looks now. And so that's an example of what has become a very small issue getting in the way of the bigger program.

And so as the IPC decides where it wants to come down on the timeline, I guess part of what you could tell John and Susan are, hey, look for creative solutions on how not to let the program get completely jammed up by some of these things that are arguably peripheral. Thanks.

LORI SCHULMAN:

I agree, because stalling in ICANN time is not a normal stall. So yes, if we could clear out some of the pain points early for those who are interested. I mean, we do know we have .brands that are very interested in moving forward. I feel like it's incumbent upon me to say as INTA's representative to the IPC, INTA is not in favor of a quick new round. We do have some issues as an association. But I think some of those issues can be smoothed out if, to Paul's point, there are creative solutions to some of the more pressing issues. And that's all I'll say and move forward. Do we want to speak a minute on accuracy? And then I'm going to move on here. Sure.

SUSAN PAYNE:

Yes. So finally, accuracy is the other thing we'll be discussing. It isn't a vote at this meeting, but I think at the next meeting we will be asked to vote. There was an accuracy scoping team. They came up with, I think it was three recommendations, two of which were sort of actionable at the time, one being about doing a survey of registrars and the other an audit of registrars about their accuracy provisions and practices.

Council decided just a little over six months ago that because the data processing agreements weren't in place and because there hadn't been any sort of feedback from the European Data Protection Authority, that we should pause consideration of those two recommendations that could be taken forward until the data processing agreement was in place or for six months. So we had a kind of like we'll come back to this in six months and reconsider.

So six months is up and it's therefore back with us to make a decision what to do. Now, Sebastien Ducos, the chair of the GNSO, said just now in a meeting with the GAC that we will extend the pause for six months when we vote on that at the next meeting. That is not something that council has agreed, but it clearly is a signal that that is what council leadership wants to do.

I'm not saying that's necessarily the wrong thing, but I think it would be good to have an opportunity for people to share views and think about this either now or in the run up to the next meeting when we will have to vote on this.

And one thing that Thomas Rickert raised as an AOB item on a previous call, and then we didn't really have time to discuss, was, should council be considering whether some accuracy work does need to be done in

light of NIS 2? NIS 2 refers to industry best practices and to having regard to the multi-stakeholder model. You know, what comes out of the multi-stakeholder model, i.e. whatever ICANN comes up with. And yet ICANN is not coming up with anything.

So Thomas put on the agenda, like, should we be discussing whether we need to do something so that ICANN is coming up with what best practices on accuracy are? Now, it may be that actually the IPC feels that anything coming out of an ICANN process is likely to be less beneficial than what might come out of member states. But some of you guys in the room are much more aware of what maybe is the current status within member states of what is considered to be best practice.

And so, again, I'm kind of floating this now. It's not specifically on the agenda. But if council doesn't talk about these issues, then we won't actually do anything. So, thanks.

LORI SCHULMAN:

Yeah, I'm putting myself in the queue as the lead negotiator for the IPC or the lead representative on the accuracy scoping team. As you know, it was painful. We couldn't even agree on how to scope. And the recommendations are not really recommendations as to even getting to the core of accuracy. It's a problem. So I can see on one hand picking up the work again because the work has to be done. And because we couldn't sort it out last year, maybe now with implementing legislation, we could even use the implementing legislation as guideposts.

But I think this is a weird waiting game going on that ICANN is saying, oh, let's wait and see what the member states are saying. And the

member states are saying and the commission is saying, oh, let's see what ICANN come up with. So, to me, this is a perfect example of where we need public-private partnerships and need to be influencing each other.

And while I personally would not like to vote to dive back into that pool, I'm beginning to wonder if that's what we ought to be doing for that reason, so that whatever we do come up with or whatever is floated out there, at least we can come up with punch lists of ideas that we could share with member states, even if the process at ICANN doesn't work. I mean, why couldn't we be an incubator for ideas?

Now, it's difficult for the community to hear that because anything that's coming out of the EU right now is, in my view, being looked at as interfering with the multistakeholder process. But, in fact, if we spin that and say, well, it's stimulating the multistakeholder process, that could provide some helpful guidance on both sides of the equation.

So I was initially quite opposed to picking up the discussion again. But when I think about it strategically from an advocacy point of view, it may be exactly what we need to do. But I think we should have more talks on this. If anybody has a knee-jerk reaction right now, welcome to hear it. If not, I'm going to move that on to sort of our closed policy strategy discussion. Brian?

BRIAN KING:

Just one thought on accuracy from the NIS 2 standpoint is that it was painfully obvious, I think, just watching the accuracy scoping that nothing good on accuracy is going to happen here. But the European

ccTLDs all have real, pardon the expression, accuracy requirements. And the work in that community has already been done. You know, if you want a .fr domain name, it needs to be real data. And they're going to insist on that. It's just one example. So I might give up here for NIS 2 purposes if they're looking to the community. I think they should, and we should encourage them to just look at the European ccTLD community, which requires actually accurate data, not whatever accuracy means here.

LORI SCHULMAN:

I think that's a good point. Any other? All right, we're going to note this as something we really need to nail down because that's a good point, too. It's like, look, you're right. It works here. It's not in the GNSO. It's in the ccNSO. Thank you. Okay. Anything else, Susan, before we move on? Okay. Thank you for a very good report today, good discussion. Matt Williams.

MATT WILLIAMS:

Yes, thank you. So I guess I'll start with things that we filed recently. So we got good comments in on the renewal of the registry agreement for .net. We circulated those, but if anyone hasn't seen them, I'm happy to send them. Just shoot me an email. We have 57 submissions on that, and then the report is supposed to come out sometime soon. They have June 15th on here, but that's two days away, so I don't know if they'll get that, but they might. So I thank everyone who contributed to those comments. There's also a report coming out on amendments to the NomCom review, and there was an extension on that. So we have not

yet filed comments, but there are comments in the works, and we intend to file them by the deadline.

In terms of open proceedings where we could file comments, they're seven days away from the deadline on internationalized domain names, so the IDN EPDP, and I don't know myself the status of drafting of those comments. Jeff Neuman has been our lead on that group, but I currently don't know the status of those comments. If anyone has an update, please let me know. So we'll return to that and try to get something circulated in time to file comments on that.

It is important, as has been said in past meetings, because a lot of brands, the issue is if people buy new gTLDs, it's the equivalent of a brand name, say, in English, but it's in a language with different characters. For example, people could buy up very big-name brands in other languages, especially with foreign characters, and there would be a problem there for the brand owners. So if people are interested in that, let me know.

Another one that's open right now for another 14 days is constituency charter amendments for the ISPCP. I haven't heard anyone express interest in the IPC filing on that, and as far as I can tell, it doesn't seem like something we necessarily need to invest time in, but if anyone disagrees, please feel free to speak up or send an e-mail on the listserv or to me.

So then there's also an open proceeding with 23 days left to comment on PTI IANA governance proposal. So this is about community feedback on the public technical identifiers bylaws amendment, and those are posted on the public comment page if you want to see the amendments

to the bylaws. They essentially, as far as I can read them, relax some of the reporting requirements or change the deadlines for when reporting requirements need to be made. I didn't see anything in there myself that I thought the IPC would need to weigh in on, but if anyone has a different view or knows more about it, please let me know.

So the big one, the important one, where we have 31 days left to comment, is the amendments to the RA and RAA agreements. I've seen some drafting going on. I know Griffin has provided some comments on drafting, but that's an important one. We want to make sure we get everybody's input on that. And so I'm hoping, since we have a lot of time and they've already been posted, that we can beat the usual seven days in advance circulation of a draft maybe so that we can get the draft out even sooner so we get as much feedback from the whole group as possible because those are key to our issues because they focus on DNS abuse contractual amendments. And we've weighed in on that some in the past. So does anyone have any questions on the open proceedings? Susan?

SUSAN PAYNE:

Yeah, thanks, Matt. Susan Payne. So it's not a question. It's just to flag that there's one other proceeding that I'm aware of that is not on the public comment page, and that's the closed generic framework. That's one of these weird public comment opportunities where it hasn't been put on the open proceedings, and instead it's been published with a kind of send us your comments by 15th of July using this email address.

There's a whole big discussion we've been having over many years about the perpetuation of usage of nonstandard mechanisms for public

comments that never seems to get addressed. So it's one that can get missed by accident because it's not where it should be. Obviously the IPC may or may not want to make comments, but I know some people do have strong views one way or the other on closed generics, but they may want to view the framework and see what and provide input on whether they think that framework, which is seeking to find a middle ground between no closed generics and complete free-for-all, is it workable, does it need changing? Thanks.

MATT WILLIAMS:

Yeah, thank you on that. We can talk offline and then I'll circulate to the listserv some information on where to find that, and then if people want to comment on that, of course, we're open to that. The one non-ICANN comment that at least my coalition COA filed recently is related to the .us ccTLD and whether NTIA will shut down the open WHOIS approach that the U.S. is currently taking and move towards some kind of more ICANN modeled approach. And my coalition took a strong position against that change here in the U.S., the IPC, because as Lori says, we don't lobby as the IPC. Didn't file on that, but if anyone's interested in that, I think the comments should be up now on regulations.gov. It was going kind of slow, so I'd point that out for anyone interested.

LORI SCHULMAN:

Yeah, the comments are up, and I will share that Susan Chalmers, the GAC rep, has said that she's still open to informal feedback, even though the comment period is closed, so this is ongoing. So if you missed the comment period, talk to Susan and see how it worked through that. I'm

going to kind of cut you off if you don't mind because I'm looking at the time. There's exactly 20 minutes left, and we had shifted AOB.

I will say this. I will call a special meeting of the IPC to discuss solely the RAA amendments and our comments, so look for that in the next couple of weeks. Damon, are you ready? What I'm going to ask is Damon and Ariel are both supposed to give presentations. You both had 15 minutes, but we have 20 minutes left, so I'm going to ask you each, and I'm sorry to cut your—oh, 12:15. My apologies. Thank you. 12:15. We're on time. Look at that.

MATT WILLIAMS:

All right. Okay, then I'll just add because it was on the docket, but I didn't get to it. Vicky Sheckler from RIAA is timing off the NomCom, so if anyone is interested in filling that role, please let us know.

LORI SCHULMAN:

I'm going to chime in. The NomCom role is super important, and if you're looking for a way to get involved, I mean it's a little weird because you're cloistered, and you spend most of the ICANN meeting with the NomCom, and that's about it, but at the same time you're here, you really learn a lot about ICANN processes. It's funded. You can get to an ICANN meeting through funding. You put in the time, and you will get funded.

And I think almost every veteran IPC-er here has done their time, so we certainly welcome new people who might be interested in this opportunity to please apply, and if there's any veterans who miss it, want to come back, please let us know. And then from there, my

apologies to Damon and Ariel. You have plenty of time plus an extra three minutes. So we'll start with Damon, who's going to talk about INTA's new definition of domain abuse. And then I want to—Hector's been part of the IPC. He was on the IRT a few years ago on trademark RPMs, remedies for brand owners, huge contributor to the IPC, still contributes, still on working groups, coming a long way from Argentina. He was one of the recipients of our grants for travel, and we're happy to have him. And he'll be talking about domain practice trends in Latin America. I think it's important. We have also some where we need improvement is making sure that we represent the geographic diversity of the practices of our members, and we thought it would be a very good time, particularly having Hector here with his expertise, to brief the IPC on these trends. And we're going to start with Damon, and we'll lead right into Hector.

DAMON ASHCRAFT:

All right, well, thank you very much, Lori. I just wanted to put a quick plug in for the NomCom role as well. That's how I really got started at ICANN. It's an excellent opportunity, and I would encourage folks to apply for it. So it's a good opportunity.

On to INTA's definition of what is DNS abuse. This is a project that the Internet Committee worked on and that I had the privilege of helping to work on a team on as well. And basically, we proposed the definition. It's up on your screen, and it was adopted by the INTA board at the meeting in Singapore. And I want to say that's significant that the INTA board actually took a resolution to adopt a definition because my understanding is it's not common that they do that. So there is the

definition. I'm not going to go ahead and bother to read it since you've got it up on the screen.

The key thing about it is that it makes it very clear that DNS abuse includes intellectual property infringement. Some of the other definitions and things that we have seen that other groups have adopted or other positions people have taken certainly include illegal activity, but it's either murky or clear that they don't include intellectual property infringement. And as we know, many times intellectual property infringement is used to conduct illegal activity.

So we thought that was really important. We had a very good event at Verizon yesterday where this definition was discussed. I think it's gotten really good support so far. It's brand new. And that's pretty much it. Also, I should mention it was intended by design. This happened sort of late in the editing process to include Web3 domains as well, and it's sort of the digital identifiers aspect of it. Does anybody have any questions about the definition of DNS abuse? Yes, sir.

MICHAEL FLEMMING: Forgive my ignorance, but INTA adopting a definition for domain abuse, what kind of weight does that carry outside of the INTA or in other organizations or places?

DAMON ASHCRAFT: Well, I mean, I think it's as much weight as INTA can give it. I mean, INTA is a leading organization for trademark owners, and it is adopted. You know, there was an entire session yesterday where there were probably 50 or 60 corporate leaders in a room where this definition was

discussed. It was supported. And so it's not law, certainly. It is a trade organization's definition of what it is, but I think it's a significant definition as well, and it's been discussed quite a bit at this meeting as well. Marc.

MARC TRACHTENBERG: I think the answer is what weight does it have in ICANN? Zero, at least right now until we can make it have some weight, because right now all there is the alternate definition or not the alternate, the accepted definition from the voluntary framework, which seems to have been adopted by the Org and Board and everybody else. And so unless we can have some success in getting some buy-in on this as an alternative definition, then it's meaningless. You know, personally, what I've been advocating for to contracted parties is that I don't think that it's right to focus so much on having a narrow definition of DNS abuse. I think it's better to have a broader definition of DNS abuse, but then have everyone acknowledge that the same response is not appropriate for all different types of DNS abuse. That seems to be a more reasonable approach, and people seem to be somewhat receptive to it, but it's easy for them to be receptive when their definition is the de facto definition.

LORI SCHULMAN: I'm going to chime in here because there's two elements to this. There's definitely the internal ICANN structure, which I agree with Mark. Right now it doesn't carry much weight at all. Although I don't want to say zero because it does demonstrate that our side of the, at least on the INTA side, which includes many of the IPC and BC members, have given some thought to this that go way beyond identifying modalities. I think

one of the big problems that we have with the voluntary framework, not that it's bad, but it describes modalities in a way that don't accurately reflect the broad universe of domain name abuse because the voluntary framework fits into this definition very well. This encompasses the voluntary framework.

So we're not doing anything sort of against the framework. We're, in fact, creating a bigger umbrella that, in my view, creates a more realistic approach to what abuse is. And yesterday [Fab] used an analogy that I thought was great. What's the difference? Why can't we just say the voluntary framework is a baseline? It catches a lot of the bad actors, which is what the contracted parties house say, and they're right, and why don't we just get the low-hanging fruit and move on? Because there's a lot more to this problem than the low-hanging fruit. There's also a huge potential for the modalities to shift as technology shifts. So we think it's extremely important to have a flexible, broad enough definition to accommodate for that and not have to do anything on the back end because we haven't thought far enough down the road.

So while it may be uncomfortable for some to look at this so broadly, in fact, it does what it needs to do, and in terms of the broad language—so, for example, let's say there's a statute on the book that says if you pick a lock to break into a house, it's illegal. Somebody says, hey, I don't have a pick. Hey, but I've got this crowbar. I'm going to take this crowbar and I'm going to smash the window. But the statute only identifies lockpicking, not crowbars. Should we not be prosecuting the crowbar?

I think it's a great analogy. I have adopted it for our talking points, so thank you, Fab, because people get it. So that's what we've done. We're

expanding the language to account for modalities. That's inside of ICANN. Outside of ICANN, also equally true, but then some.

My experience as an advocate on this issue, whether it's been in the U.S., Europe, Asia, it doesn't really matter the region. I haven't done much work in Latin America on this, but I have in U.S., Asia, and EU. And I'm constantly asked, well, what's your definition? And then I have to go back to, well, there's some stuff in the PICs. There's spec 11, but ICANN doesn't recognize it as enforceable. Oh, yeah, and there's something proposed from the BC.

That doesn't help the case because when you talk to government officials about a problem, the first question they ask is, what is the solution? This is the solution. So I think it's critical that we have this language. It's essential. And in that sense, it adds weight. It adds thought to the advocacy work that we do outside of ICANN. And with that in mind, we absolutely plan to socialize this to D.C. area associations.

We just had a meeting in Singapore with probably 15 or 16 international IP associations, including the Japanese Trademark Association. And there is very positive feedback. We want this to become the business community, the IP community's fallback. This definition, voluntary framework, is fine. Go ahead and sign it. It's a floor. It's not a ceiling. Fab.

FABRICIO VAYRA:

Yeah, the only thing I just wanted to say, you can't really solve any problem unless you can define what the problem is. And I think we're in

a better spot today than we were a month ago because of this definition. Is there a tremendous amount of work to do? Absolutely. For sure, 100%. So I'll yield back.

LORI SCHULMAN: That's why they pay me. And that's why I bother you, because we're going to socialize this. Just saying.

FABRICIO VAYRA: Yes, I just wanted to throw in, this question comes up a lot what's the relevance of that or what bearing does it have on ICANN? And Marc's right. I mean, the answer is none. Except when an organization like INTA, which is at last count, at least when I was a board member, was the largest organization, brand owner holder organization in the world.

LORI SCHULMAN: Still true.

FABRICIO VAYRA: Every large company, not in the United States, in the world, is a member. And that organization then passes a resolution on what they define as abuse. It's no different than asking what does NIS 2 have bearing on ICANN? None. But the problem is it should have. Because what my fear is, and we talked about this yesterday, is that if ICANN takes the position constantly that none of these things have any bearing on them, the reality is they end up in this isolated bubble where they have a schism between them and reality, them and the world.

And what happens when that schism gets bigger and bigger that divide gets bigger and bigger, this organization, what we're sitting here doing, has less and less relevance. And more incursions are going to come in from NIS 2 and others. [inaudible] making no bones about it. They're going to go to the government and they're going to tell people. They're going to go to NTIA. They're going to go to the Hill. Because the membership is so broad, they're not going to just shop it here. They're going to go to Brussels. They're going to go everywhere.

And so if we want this thing that we keep showing up to and spending a week, a quarter, feeling important about what we do to actually have importance, the bearing is huge, actually, that they pass this resolution. The fact that NIS 2 comes out is huge. And the organization needs to take hold of that and actually start sort of, I'm not saying follow everything to a T, but actually understand that the bearing is massive, the relevance is massive, and that we need to somehow find a way to bridge that gap because eventually other people will just step in when we're not following common sense.

And why I love the crowbar analogy, we've been saying this for quite a while. If someone breaks into your house and steals something, it's still robbery. The definitions we have today is, but only if they pick your lock. If you use a crowbar, it's not robbery. Even though they got into your house without permission and even though they stole something, we're saying it's not. And I think we need to start looking at things from a common sense perspective of, what are we trying to stop? We're trying to stop the harm. Then you go backwards from that. Not we're only trying to stop the harm if they do it in the way that we think it.

So at the end of the day, I think this question of what is the bearing on ICANN, we need to start thinking it's actually the bearing is really huge because everything outside of our little bubble is speaking to us, and we're just ignoring it. And eventually this erodes and doesn't become anything that's worth coming to.

LORI SCHULMAN:

I want to thank you for that support, Fab, because I will at some point, as my INTA hat on, not today, by the way, ask the IPC to throw its support behind this definition. But I think that's something that we need to discuss. I think there are – not think, I know that there's a lot of people in this room who wear many hats. I think Michael's question is absolutely relevant. I know [GMO] has kind of probably a different perspective on a lot of this. That being said, that's the discussion we need to have inside of our constituency.

But in terms of my role as staff and Russ and Fab and Michael and all the INTA people here and Damon who put incredible amount of thought and hours, we had input from everyone, large firms, small firms, platforms, small businesses, corporate registrars. The committee that put this together was the multi-stakeholder model. We even had academics looking at this.

So I think that it absolutely will be taken seriously. And it goes to the point, ICANN is saying, "Let us solve, let us solve, let us solve." They haven't solved. The commission stepped in, INTA is stepping in. We're going to step in. And hopefully it's received in the spirit in which it's offered is, okay, you're saying you can't resolve something? Okay, we're going to give you some help.

MICHAEL FLEMMING: Thanks. I just wanted to state for the record that I'm not doubting anything. I just wanted clarity.

LORI SCHULMAN: Yeah, no, it's a great question. Michael, it's the perfect question. I am not doubting the question. And I think coming from where you're sitting, it's completely appropriate. So it was actually a compliment. It may not have sounded that way, but it was intended as a compliment.

DAMON ASHCRAFT: And, Michael, I view it as a compliment, too. And just so folks know, I mean, the development process for the definition within INTA took place over, I would say, over about 18 months.

LORI SCHULMAN: Yeah, it was a long time. This was not quick.

DAMON ASHCRAFT: You know, and we came up with the draft. We go through a few different rounds within the leadership of INTA. I was on several different phone calls where I was shaking my head saying, why are these people being so picky and giving me a hard time? But that's kind of part of it. And, like, the Web 3 thing was a latecomer to it. I mean, that was something where we were revising it late in the day to get it in there. So I think what Lori said was absolutely right. You know, it did go through lots of different eyes before we saw it. And somebody buy a Fab a crowbar.

LORI SCHULMAN: Yeah, and questions. I mean, we got the same questions from our board. We were even asked, which I think is a fantastic question, is a digital identifier a social media handle? We didn't envision it that way. And if you read the report, you'll see that. I really encourage people. The resolution is on the INTA website, very easy to find. Go to INTA, in the search, type DNS abuse, the full report comes up. I have sent links to the list. There's a link, I think, in the last update I sent to the IPC. If you need the link again, I'm happy to. Or if somebody wants to throw the link in the chat, I would be most appreciative. And are there any other questions?

MICHAEL FLEMMING: So I just actually had one additional question. Is the definition for DNS abuse or domain name abuse?

LORI SCHULMAN: Domain name system abuse. I left the system out in the agenda. Thank you. I can fix that.

BRIAN KING: Lori, I wanted to congratulate Michael on another great question. I don't know if you should, because I think we're playing somebody else's game here and even getting into what DNS abuse is, because I don't know what it is. I don't know why we care what somebody else wants to call this, because the contracts before two weeks ago required registrars to respond appropriately to all abuse. So I don't know why

we're going along with the carve-out when we think that we had sufficient contractual language to compel response to all abuse. So this is somebody else's game. We're helping somebody else win and narrow down what we think are already enforceable broad contract terms. So I don't want to play somebody else's game of trying to define what this carve-out is.

LORI SCHULMAN: That's a good point. Marc?

Marc Trachtenberg: So what do you propose then, Brian, if you want to play their game? I mean, they're going to sign these amendments soon. So that's going to happen. So the options are, I guess, to do nothing and let them carve it out, which it's not even playing their game. It's playing their game and then not participating in the game and losing. Or the alternative of trying to at least have this discussion of the broader nature of DNS abuse. The reality is that we're not going to change the definition. That's the reality. If anybody thinks differently, I think you're delusional. At this point, the ship has sailed. They're going to sign what's in there. That's it. It's a public comment period. I think it's not a real public comment period, and that's what it is.

But I think there's still some value in having the conversation of having this discussion about the broader definition of what DNS abuse really is. And, again, my view is to frame it as look, we have to all acknowledge, and SSAC did too, that DNS abuse is broader than just these four categories. These are four categories that, as Lori said, are a subset of

DNS abuse. But we all know that it's greater than this. If you're saying that you want to have specific obligations to only action these types of DNS abuse in the contracts, that's one thing. But you can't say that DNS abuse doesn't exist in other forms, including incorporating IP infringement.

LORI SCHULMAN:

Right. And SAC 115 proposes no definition, which I find very interesting. But, in fact, from an advocacy perspective, and our job is to advocate, you have to have a point. You have to have a response. If you say the definition is no definition, that's not a response, in my view. So this concretizes the point. Is the point going to get adopted in three weeks in the contract? I swear to God, if it does, I'm retiring that day. But it won't, and I agree.

But we are on record saying what we're saying, and that's important. Because, again, when there's legislative action, we told you. INTA told you. INTA's telling you. And a lot of other organizations will be, too. I'm really hoping this picks up. But we'll see. I'm going to close the discussion now, because we're at the top of the hour, and we have two. We have 15 minutes more to go for Hector Ariel Manoff. Hector Ariel, I keep switching his name. Hector, please, yes.

HECTOR ARIEL MANOFF:

Yeah. Well, my name is Hector Ariel Manoff. I say Hector and Ariel, because some of you know me as Hector and others Ariel. Well, as you know, I am from Argentina. Yeah. I will try to give you, even that I am only from Argentina, I will try to give you a point of view of Latin

America. That is, sometimes we don't know that Latin America is really very – there are many, many countries, like 28 in Caribbean, 7 in Central America, and 13 in South America. Each of them have a different country code domain name.

The problem with all this region is that when they began to deliver the DNS in each country, Postel delivered to universities, to states, and even to private parties. And today the situation is that one-third of the [registrant] are universities, one-third is countries, and one-third are private parties. For this reason, it's difficult to elaborate an entire theory about Latin America. But I will put an example from Argentina.

In Argentina, for a long time, the domain names were for free, have no cost, and no renewal. For years, Argentina had millions of domain names without any use, because they belonged to the state. Who was running the system was the Minister of Foreign Affairs.

That produced a lot of problems for trademark owners. Basically, along the years, the problem was fixed. These days, in Argentina, we can say it works in a normal way, because you have to renew every year, you have to pay.

Now it's not more for free and forever, how it used to be in the past. But if you have a complaint and you have a dispute between a trademark and a domain name, who decides the dispute is basically the government, because you have to file in a court. It's an administrative dispute, and if you don't agree with the outcome, you have to appeal to the state and later to the federal courts.

That means that the system of, we can say, enforcement of domain names is totally different. I believe that ICANN should take note about that. In Latin America, really, the situation is different than in other parts of the world. Because in each country, the domestic domain name is really important.

In Argentina, every company uses .AR, even international companies use .AR, because they feel that this domain name gives more local presence. And the same is in Brazil. In Brazil, it's a society that is very, we can say, nationalistic. In a good way, but people like to feel that the presence is there, that an international company has a .br means that they are there and they can give a warranty about the product.

And my feeling along the years is that lawyers, business and companies, they don't really understand the system of domain names in the international way. And for this reason, I believe that ICANN and the IPC have a lot to work educating.

And for me, the best way to educate is through the ccTLDs. Because this is the main structure that have each country to manage the domain names. And even that are very local, very domestic, the approach of Latin America is that everybody knows that the economy, the technology outside Latin America have more possibilities. For this reason, respect a lot the opinion of experts outside Latin America.

For instance, the GDPR have an immediate influence in Latin America. Basically, because the lawyers and the domain name specialists think that if Europe in some way develop this practice, it should be good. And basically, we have to take this data to manage the situation. Because there is no discussion about this. This is the law. Even that only three or

four countries in Latin America adopted the GDPR regulations, the consensus is that this part of the law.

We should work from this point of view to work in the future policies considering that this is a consensus in the region. For this reason, yesterday I was thinking what was the influence of the GDPR in the dispute between domain names and trademarks. Because really in Latin America, the professionals think that they are domestic law. Even that they know. But they feel that they have to fulfill the law.

LORI SCHULMAN:

I have a couple of questions to some things that you're discussing. One is, even though only four countries have adopted GDPR-like laws in that region, have the CCs closed down there WHOIS data? I mean, is it basically redacted in the CCs all over Latin America? Or can you still get some information?

HECTOR ARIEL MANOFF:

In general, in the '90s, almost all the important countries, the big countries, we can say not important, but the big countries adopted all the regulations about confidentiality, about data. With this first trend, the NICs are providing not a lot of information. After the adoption of these four countries, they are really more conscious to not give any information. But the rest, you can obtain at least a name, basically the name of the owner. This is not difficult in the other countries.

LORI SCHULMAN: Thank you. Brian King has a question. Oh, we have four minutes left. I'm sorry. Go ahead, Hector. I just wanted to clarify that. I wasn't clear.

HECTOR ARIEL MANOFF: Yeah. Well, regarding the new, the future new gTLDs, I believe that the IPC and ICANN should consider that in Latin America only were requested not less than 10 gTLDs. I believe that this is a lack of promotion. I believe that we should promote more because it's a way to promote also the intellectual property rights.

When [I leave all] the process of the IP to implement the new gTLDs, it was very difficult to explain in Latin America what is going on about the new gTLDs. I believe that we need to work more to promote in Latin America all our activity.

In my case, I teach in the University of Buenos Aires and I have every year 100 students, lawyers, that I explain basics about ICANN. Really, they are very interested, but I noticed that for them it's the first time that they know about ICANN. They are lawyers and specialize in IP or in IT. That means that the lack of knowledge is really big.

LORI SCHULMAN: Thank you, Hector. Does anybody have any questions for Hector? Yes, Fab.

FABRICIO VAYRA: How does it feel to be a World Cup champ?

LORI SCHULMAN: Important question.

HECTOR ARIEL MANOFF: But now the [inaudible] have Messi. I hope that we will have a big show here.

LORI SCHULMAN: I want to thank Hector. I think it's important. We've been talking so much about policy at a very broad level. Reminder that we've got representatives here in the IPC who come from different regions with very different agendas and knowledge base in terms of the practitioners and users. We shouldn't forget that in terms of our policy making and messaging. The messages should be universal and you're right, but in some regions, I think we have to think a little bit differently about how to do that. I want to thank you, Hector.

HECTOR ARIEL MANOFF: Thank you. And thank you, the IPC, for inviting me.

LORI SCHULMAN: You're welcome. I want to thank this group for hanging in there. It's only day two. It feels like day 20, but hey, whatever. Susan, you can do one AOB because you have two minutes.

SUSAN PAYNE: Oh, I was going to do a 30-second AOB. So, statements of interest, all of our favorite topic. It's being dealt with in the CCOICI. Can't remember what that stands for. I've just recirculated on our mailing list the

compromise proposal or the... It's not a baked out proposal, but there was a compromise proposal that we include the exemption and people can't participate in working groups, but that if there were a consensus call, the chair could exercise a discretion to exclude those who haven't disclosed who they're working for.

We have a meeting on Thursday. I think the hope is that people will coalesce around that suggestion. I've no idea if the contracted parties will, but if there's vehement opposition to it from this group, please share it on the mailing list. Thanks.

LORI SCHULMAN:

Heather?

HEATHER FORREST:

Absolutely unrelated to what Susan just said. Can we say thank you to our friends at Nelson Mullins and MSK and INTA for the fabulous reception last night? It was a great way to bring all kinds of really lovely old friends together. Well, thank you.

LORI SCHULMAN:

Yeah. Thanks. That's a very nice way to end the session. So this open meeting is now adjourned and we look forward... There's two more folks, two more. CSG members tomorrow and CSG with CPH on Thursday. And we have gone out of our way to have different agendas at each meeting. Gone are the days where you go to all three with identical agendas. Not happening here. Okay? Thanks.

[END OF TRANSCRIPTION]