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DURBAN – Trademark Clearinghouse (TMCH)  
Wednesday, July 17, 2013 – 11:00 to 13:00  
ICANN – Durban, South Africa

KAREN LENTZ:

Thank you. Welcome everyone. My name is Karen Lentz from ICANN. I'd like to welcome everyone to Durban and to the Trademark Clearinghouse session. This is a project that has represented quite a bit of work by the community from the time that it was proposed that we should have a TMCH in the New gTLD space to developing what the requirements around these processes should be and building the systems to make it work.

So we've got a long time slot today. We have a lot of information to cover so welcome to everyone. I'd also like to apologize a bit for anybody who – I heard there were some people who showed up at 8:00 this morning in this room. The session was originally scheduled at 8:00 AM and for only an hour which we moved earlier this week to try to accommodate the time that we felt it needed to cover all the information that we had to share. So again, apologies to anybody who didn't get that and was unaware of the change and showed up here.

I would like to introduce the team. We as ICANN are implementing the Clearinghouse with some excellent partners, and I'm joined here today on the stage. To my left, from ICANN, we have Christine Willett and Gustavo Lozano. To my right, we have Vicky Folens and Jan Corstens from Deloitte. We have from Dirk De Bevere from IBM, Audrey [Tembukom ?

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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00:02:20], IBM, Jan Jansen from CHIP and Don Fancher with Deloitte. So look forward to having a discussion with you today.

What we intend to cover in this section, I will give an update on the project status and timelines, generally speaking. The Deloitte team will share with you the status of the verification services which they have up and running. IBM will share with you plans relating to the sunrise and claim services which are in the process of being built currently and then we have a lot of time expected for questions and answers. So just to review for anyone who might be new to this, what TMCH is was proposed as a global database to support rights protection, specifically, and the trademark protection in the New gTLD space.

So it is designed as a global repository. It verifies trademark information from rights holders all over the world. It maintained in one centralized database and then that data is used and distributed appropriately to our registries and registrars who are using it during their startup processes to implement the rights protection mechanisms. We get a number of questions for – this graphic is intended to depict the various functions that the Clearinghouse is doing because it does a few different operations, and it touches a lot of different parties in the ecosystem, we get a lot of questions around who does what and where should I go for questions about such and such.

So we're obviously trying to improve the tools that people have to understand which functions sit where and where to go, but I just wanted to review a little bit here. If you look at the top of the slide here, you have rights holders submitting their trademark data into the Clearinghouse and that happens via the verification service that's currently operated by

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Deloitte. The database there in the middle is the repository of all of those Clearinghouse records, and going out of the database, the sunrise and claims services provide mechanisms for that data to be obtained by registries and registrars to use as they're starting up their TLDs.

So what you see in the middle – the three pieces there that are bracketed – is generally what's referred to as *the* TMCH, and as you see, it has a few pieces to it. In terms of the timelines and milestones in the project, this is, I think, in line with what's been shared elsewhere during the week. The verification service went live in March. The database API for the trademark database was completed in April. There's a test environment to be available in July. We'll talk a little bit about that.

The sunrise testing and sunrise production service are anticipated for August with the claims planned for September. I'll comment on this – these are outside dates, what I'm showing here, and as IBM will share, I think they're aiming to reach some of those milestones sooner. In terms of continuing work that surrounds the basic building of the Clearinghouse systems, one of the things that we're working on is development of what, for lack of a better word here, I'm calling the sunrise portal.

In earlier discussions, there was an expressed suggestion that it would be helpful to have a location to track all of the sunrise information for all of the various teams would be going live. Potentially a large number launching within a specific period of time, and so there are processes for registries to submit with their startup information will be, what the dates are, what the relevant policies and requirements for the TLD are. Where to go for information, etc. So we're working on building that tool.

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We've also have been working on inclusion of previously abused demand labels in the Clearinghouse. This is also sometimes referred to as plus 50 and that is the capability for – in a case where there has been a decision that a particular domain name was abusively registered or used against a certain, particular trademark, so where that trademark as a record has already been verified by the Clearinghouse, and the labels are noted in the decision can be associated with that specific trademark, then those labels can also be included, associated with the record for the trademark claims service.

We posted implementation notes around how that information is verified, what is submitted and how you would go about associating some of those labels with an existing Clearinghouse record. The Deloitte team is actually going to take you through a lot of that today. I also wanted to address the timing on this. I think there was some confusion about some of the discussion about this. I think the confusion is around details of specifically how this system is going to be implemented.

I think that we've made a commitment to have this capacity available for anyone is operating a claims period, and I think we still expect to meet that. Another stream of work that's been taking place is around the RPM. That's rights protection mechanism – RPM requirements. That document is intended to fulfill a reference in the registry agreement which says registries are required to implement these required sunrise and entry mark claims processes according to blank.

So the RPM requirements are intended to have a place where those parameters are contained. We talked about this in a previous meeting in Beijing. One of the considerations or principles that we used in trying to

draft the RPM requirements is that the registry operator should have discretion to implement their startup phases – their startup processes – in line with their own business model, their own operational model, so long as there’s a minimum set of requirements that are met, and so we published a draft version – our first rendition of that before the meeting.

We had some discussion about it during Beijing. We got quite a number of comments. After the meeting, we held an open conference call with anybody who was interested who wanted to provide feedback on that document and ask questions and have a discussion. There were, if I remember correctly, about 70 or 80 people on that call, so it was well participated in, and then there’s also been a team of community members, applicants and others who form themselves as a team that has been in discussions with ICANN on how these RPM requirements can be revised and clarified.

So I’ll mention some of the topics of feedback that we’ve received and discussions that we’ve had. This is not a complete list but some of the highlights; some of the things that came out of this, and a number of them refer to TLD’s that have a particular geographic focus or their cases; sometimes a community focus. So the first bullet there has to do with prioritization among trademarks and the sunrise. The sunrise is meant to provide priority period for rights holders to register domain names in the TLD.

There were discussions about if a TLD has a particular local or regional or geographic focus, do you have the capacity to prioritize and how they allocate among the requests that they get in the sunrise period. There were some proposed exceptions to the idea of priority for sunrise. So

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examples of that that were given were, again, in the case of a geographically oriented TLD, things like public institutions or names of public services that might not be a concern in terms of cybersquatting, so there's been some discussion about a procedure where some limited exceptions to the standard sunrise could be considered and reviewed.

We also got feedback around IDN variance in the sunrise period and how those were treated. Registries now and registries in the future will have IDN variance policies that concern how they bundle or allocate or block different names based on variant characters in a particular script. So the initial version of this document that provided that the registries could continue to implement those policies in the registration processes, but they would need to do it after the sunrise had concluded, got a letter and feedback and questions on that and looked at the issues and considerations there.

The revision of this does permit the registry to continue to apply whatever idea and variant policies it has based on its IDN tables throughout the sunrise period in terms of the allocation. There was a discussion about the 30-day notice of sunrise, so this is a requirement that was agreed on at an earlier point that everybody would give a 30-days' notice before a new TLD was doing sunrise registrations. The draft that we published said that that notice could happen once a TLD had actually been delegated to the group dom.

There were some proposals to revise that to make it at an earlier point. Could there be an earlier point where the 30-day notice of sunrise could be given? So that's been discussed with a balancing of the desire to have certainty and predictability around the dates and when things are

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happening with the desire for people to expedite their launch processes, so there's been quite a bit of discussion on that. The next one – validity periods – had to do with how long certain credentials used in the sunrise and claims processes would be valid.

We got a lot of feedback on this, looked at the operational risks and in considerations in the process and determined that there can be more flexibility here so for the registry and registrars to use their processes so those validity periods have been eliminated. Finally, there were comments around schedule changes during the startup period, so let's say a registry had announced a sunrise or another period, and they needed to adjust or postpone it, or they started, and they wanted to extend it for whatever reason, so we are in the process of revising the draft to provide more flexibility around how that information can be changed or adjusted as the processes continue.

So we have taken the results of those discussions and are working, as we speak, on a new version that we expect to be posted for public comment. Certainly our time is an issue here, so I would say it's our goal to have it posted within a week, and I hope that you'll all review and comment on that. I'm going to turn it over here to my colleague, Gustavo Lozano, here who's going to talk about the test SMD files. This is something that's new, that's available this week, and he'll review for you a little bit about what that development is. Thanks.

GUSTAVO LOZANO:

So basically, we have been working with IBM and Deloitte to generate these SMDs. Several registrars and applicants have been asking for these

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SMDs because, basically, they are very important for you to start doing your integration testing. So it's very important to mention that these files were generated using the same [inaudible 00:19:09] and the same infrastructure that we are going to use in production. So we have four types of SMDs.

Active SMDs people, [prebodus MBs ? 00:19:19] signed by our [boca ? 00:19:23] TMB validator and SMDs with invalid signatures. We have provided for the first two types: the active ones and the [bo ? 00:19:32] ones. We have provided that elements in different languages – basically, those that are listed in the presentation – and we also have IDA labels and in the SMDs. We also have provided all this information for you. You can use these files right now, so we have the [trust pancor ? 00:19:53] the unique to verify the SMDs, a certificate revocation list, the SMD revocation list, and obviously, the link to download these SMDs.

We are also working right now on providing you with a learned interface for handbooks, so basically you are going to be able to test the overload file [of the learn ? 00:20:17]. This is very important. This is going to help you to implement and integrate your systems [for the Saunders ? 00:20:26], so if you have any questions, you can send an email to me, or you can send an email to the mailing list, and we are going to help you with any questions that you have.

KAREN LENTZ:

Thank you, Gustavo. For those who don't know, can you share what [alourdin ? 00:20:41] is?



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GUSTAVO LOZANO:: That is the least of registered domain names, so basically, it's the file that the register will upload to the [trainingma ? 00:20:53] database so we can send the certification notice to the holders.

KAREN LENTZ: Thank you. I'm going to turn over next to Jan Corstens and we'll move into the update from the verification surface prospective. Thanks.

JAN CORSTENS: Thank you, Karen. Good morning, everybody. On behalf of the Clearinghouse team, I would also like to welcome you all to this session. I would also like to start with thanking a lot of you who have been working closely with us in the last couple of months and have provided us feedback and suggestions. There's a lot of work that we've been doing in the last, say, four or five months. We have received a lot of cooperation and a lot of feedback from a number of parties, as an example, with respect to how we were going to settle the API and the sessions that we organized around that.

Those sessions were very helpful in listening to you and hearing how we could better do what we were doing. And so I can only tell you that we hope to continue working like that – as open as possible – and implementing based on feedback that we received from the community. I'm handing it over to Vicky to start the presentation as such.

VICKY FOLENS: Good morning, everybody. So we have a couple of things that we want to discuss with you in relation to the TMCH. In the first instance, we just

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want to touch briefly the verification process and the reproduction process, describe a little bit the common areas we're receiving and what we're doing to enable that those common areas don't happen anymore. Also touch point the trademarks and non-Latin scripts. There's been a lot of confusion in relation to this, so we're going to discuss that.

The 50 abused labels, what's new in the Clearinghouse, what will be coming soon in the Clearinghouse. Touch a little bit about customer support and provide you an overview of some statistics. So in relation to the verification process, it's important to note that we do a 4I review process. What does that mean? It's a manual process. It goes to two groups of verification agents. Group 1 looks at the trademark information. Group 2 looks at the trademark information, and if they both agree to a decision, either it is correct or incorrect, then it either gets that status.

When the Group 1 and Group 2 do not agree for some certain areas that they have. There's an inconsistency. It actually goes to a quality assurance group, and they overlook what has been verified, and then they take a decision based on that information. The same goes for proof of use. Proof of use is also looked at twice, and if there's inconsistent information, then it goes to a quality assurance review group. What do we do, what we check?

We check, of course, that the trademark is indeed registered. That all the information is accurate and complete, and we check to see that you meet the eligibility requirements as laid down in the TMCH guidelines. What is also important to note is that our verification agents are located all over the world. It's not just the Deloitte Belgium that is providing these services. We have resources all over the world even in Deloitte Belgium,

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to be honest, our resources just do not exclusively exist out of Belgium nationality.

We have a lot of resources within our offices, as well, so we do work with our global offices. We do work with local trademark law experts to address questions, to address validation verifications.

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And one of the things to note, too, and you'll see this in some of the statistics when we present them a little bit later, but to this point, probably about 45 percent of the trademarks that have been put into the Clearinghouse are from the US and another 35 percent or so are coming from primarily Europe, so at this point in time, the bulk of the trademarks being placed into the clearing house for verification process are coming from North America or from Europe, and so, as Vicky said, that's where you're finding a lot of the verifications to be done, at this point in time.

But as you'll also see, we do have marks from over 60 countries at this point, and we are involving our offices around the world and our resources that have the language capabilities and all of the necessary requirements to perform the verification.

VICKY FOLENS:

Now, my first line, I said either a trademark record is verified or it goes to an incorrect status if something is going wrong. So at that moment, when a trademark receives an incorrect status, a re-correction process is initiated; meaning you can correct your trademark record. We do not correct anything on the trademark record. It is your responsibility to edit

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the information. What we do provide you is we have an external comment field and we actually provide you with the information as to why a trademark record has not been able to be verified.

The re-correction process lasts for a period of 20 days; meaning you have normally 20 days re-corrected your trademark record. We have currently not implemented these 20 days, because we are working with you to help you and assist you in getting your trademark records verified. We note that, especially in the summer months, a lot of people are on vacation; especially, also, for trademark agents working for trademark holders. They can't always reach their trademark holders and correct the information, so that is why we have not initiated this 20-day period to automatically start.

We will be initiating that after the summer, and that means if you do not re-correct your trademark record in 20 days, it will be deemed invalid, and at that moment, you'll need to resubmit in order to get a verified trademark record. The reasons that initiate a re-correction process, I'm just going to go over them real quickly, but it's important. These are the reasons why a re-correction process is initiated. So it could be that the name of the mark is incorrect, the registration number was incorrectly provided, the jurisdiction is correct, the name of the holder is correct, or no documentary evidence has been provided.

For example, if your name has changed for some reason, and you have not been able to notify the trademark office, then you need to provide us with documentary evidence showing that a name change has happened. The address of the holder is incorrect – again, it could be that your address changed; that you have not notified the trademark office. That is

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fine, but then you need to provide us with documentary evidence to be able to establish the fact that the address has been changed.

The registration dates – that is also a reason why a re-correction process is initiated. Description of goods and services. A detailed description of goods and services. Also there and we'll get to them in a couple of minutes, but these are also reasons that a re-correction process is initiated. Sample of proof of use is insufficient. The declaration of proof of use is not signed, and a copy of the trademark certificate is not provided. We're going to go over these in more detail as to what is going wrong and give you some percentages as to how many of these trademark records go for those reasons are incorrect.

So out of the batches of trademark records that come in, about seven percent of them actually are incorrect because the name of the mark has been either misspelled or there was a typo. The general rule is it needs to be an exact match as on the trademark certificate. Now for word marks, that's quite easy; although we do see that there are holders and agents that actually mistype their trademark. For example, if your word mark is TMX with a space, then you do not record on the TMCH that your trademark is TMX.

Why is that? First of all, that is not your trademark. Secondly, if you record it with a space, then you're going to get more protection, because you're going to receive the labels TMX and TM-X, so that is why we send them back to holders and agents. So in the Clearinghouse guidelines, we clearly state no trademarks with a dot are allowed. We have noted that this has provided some complexity and confusion with trademark holders and trademark agents, and we are working with ICANN to be a little more

lenient on that specific rule so that we could allow, in some cases, trademarks that include the dot to be accepted in the Clearinghouse.

We're working on clear guidelines on that. As soon as we get those approved, we can get them in the Clearinghouse guidelines. From our point of view, there are some technical implications, as well, in order to get that done, because, at this moment, because dots are not allowed, is not possible to replace a dot with hyphen. As soon as we can get that, we will be able to replace the dot with hyphen. Trademarks that indicate a source indicator, such as dot com, dot org or any other new GTL, the extension will not be accepted in the Clearinghouse, so that remains the same.

We have trademarks currently in the Clearinghouse that were marked as invalid because of the dot rule. We will be contacting those trademark holders and trademark agents to allow them to the re-correct or re-submit their trademark without an additional fee as soon as we have clear, approved guidelines as to what is accepted and what is not accepted. As for the registration dates, so here again, about nine percent of the trademark records that we get in fail because the registration date has been incorrectly completed.

In most cases, application date is provided, so we request the application date. While application date is not mandatory, you can submit it. We definitely do request and is mandatory is the registration date, but a lot of people get it mixed up as to what is the registration date and what is the application date. The name of the holder – this might be surprising but 20 percent of the trademark records actually get, also, in an incorrect phase because the name of the holder has been incorrectly completed or either

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the name of the holder is correct, but he is not owner, and there is a field in the Clearinghouse or in their interface where you can choose whether you're an owner, licensee or assignee, and sometimes the holder is a licensee.

They have provided the licensee declaration. That has all been correctly completed, but they forgot to select the type licensee, so they indicate that they are an owner of the trademark while that is incorrect. So those are also reasons why all of the records are sent back to the holders, to the agents, to correct the information. Twenty-two percent have failed verification because the address was incorrect. As I earlier restated, we understand that companies change addresses.

We understand that it's sometimes time-consuming to get it to the trademark office. We also understand that the trademark office doesn't always update within 24 hours at the moment we do our verification. So in those cases, please submit documentary evidence such as the registration form saying that your company has moved. That is fine. We understand that, and we accept those reasons. We accept those documentary evidence, as well.

We have also cases, especially with online databases, that the address of the trademark holder is not always mentioned on the trademark certificate. While we do request the address of the trademark holder to be submitted to the Clearinghouse, copy of the company registration form that provides the address is insufficient. Of course, the name of the holder has to be mentioned, as well, or even a print screen of the website can qualify as to an accurate address of the trademark holder.

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Description of goods and services – so in the Clearinghouse, we have two fields. We have a description of goods and services that constitute out of the different needs classifications with a high level overview of the description of those needs classifications, and then we have a detailed description of goods and services. The detailed description of goods and services – that is what really is on your trademark certificate. As for the description of goods and services – so here you only need to actually select the number that corresponds with your trademark record or that is on your trademark record.

We have actually a mistake ratio of eight percent. In most cases, it's because numbers of new classifications are selected while the trademark is registered in a jurisdiction that does not follow these needs classification. We have an extra field under that box that says, non-applicable. If your trademark is registered in a jurisdiction that does not qualify under the needs classification, then you need to select non-applicable.

For API users, the value is 46. So, again, and there is a list on our website as to which jurisdictions fall under these classifications, which do not. So we provide this information, but we do note that a lot of information is not being read, at this current moment. Detailed description of goods and services – here, again, we have an error rate of 14 percent, so it's quite high; especially if you think that you just need to copy/paste what is on the trademark certificate into the database, and that is still 14 percent incorrect.

For US trademarks, we understand that this happens because on US trademark certificates, sometimes goods and services are provided



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between brackets, and all the goods and services that are provided between brackets actually mean that the trademark is no longer protected in those goods and services, so although, at that moment, a lot of people copy/paste that information, actually everything between brackets should be omitted from the Clearinghouse record, because otherwise, we will give incorrect information to a domain name applicant during trademark claims notifications.

For other reasons – for goods and detailed description of goods and services is because the trademark certificate is in another language than an English language. We actually ask you to provide the detailed description of goods and services in the language as on the trademark certificate. So if, for example, trademark coming from Spain, all the information is provided in Spanish for the description of goods and services. We request to provide that information in Spanish.

If you want to provide it in English, that's not a problem, but then we need a certified translation that the information has been translated. The proof of use sample and declaration you see here – 50 percent has been marked is incorrect. We do believe that this is due to the fact that this is completely new. Proof of use was not always a requirement in previous sunrises. Also, the requirements around proof of use and the sample is new, so we understand that the ratio is quite high there.

We have a brochure on a website explaining what is acceptable and what is not acceptable, how to submit the declaration. Again, we're trying to get these errors out as much as we can. We try to assist all the clients through webinars, providing more information about the proof of use sample, what is important, and when we talk about the use of sample is

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that the name of the trademark as it appears on the trademark certificate needs to be in a proof of use.

So we see a lot of times that, for example, there's a trademark registered with an accent, but the proof of use, they provided without an accent. That does not qualify as demonstrating that you are actually using the mark. So it needs to be an exact match on your trademark certificate. We also see some samples of invoices. Invoices, again, do not show that you use your trademark. Invoices are a way to send or bill a customer, but that is not actually showing that you are providing goods and services on the market.

Print screens with just the trademark and the URL is not accepted, so we also have a lot of examples where they provide a website where it's just mentioned the URL, the trademark, but there's nothing mentioned on the website, as such, about the trademark. That does not qualify as a sufficient sample of proof of use. What does qualify? A print screen of the website does qualify if you can demonstrate on your website that you are actually using your trademark, and even in some cases, when we have doubts, we will actually go and look on the website ourselves and see if we can find more ways that you are using your trademark, and if we still have a hesitation, we can ask you to provide additional samples of use as well.

UM: One thing to note, too, for you mathematicians out there – if you've been adding up the different percentages. Yes, it does add up to greater than 100 percent, because unfortunately, on some of the records, we're

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finding, obviously, more than one mistake, so that would be the reason for that.

VICKY FOLENS:

That is correct, unfortunately. And for the declaration of proof of use – so again, this is also something new. We understand that this provides some more administrative burdens, but just a quick update. The name of the submitting party is the name of the holder, so it needs to exactly match the name of the holder as recorded on the trademark record, and it needs to be duly signed and dated. We also advise everybody to use a TMCH standard declaration.

We have had some clients provide completely other declaration. That does not qualify. So we have put that information out there. It's a downloadable form. You just need to completed it, sign it, date it and submit it. It's normally pretty easy to use. And then, copy of the trademark certificate is not provided – that is the last common error that we're seeing, so you see, we have quite a lot of common errors. On our website, there is a list of all the countries or jurisdictions where official online databases are available.

We also list the countries where there's no official online database available, where we request you to submit the trademark certificate. Nevertheless, holders and agents just submit the trademark record without looking at that list, so the information is out there, and it's quite easy to find under our help section, downloads, online databases, and it's right there, and you automatically know, do I need to submit a copy of the trademark certificate.

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If you need to submit a copy of a trademark certificate, then, of course, you need to do that. Otherwise, it will be marked as incorrect, and we will request you, once again, submit the copy of the trademark certificate.

UM:

Vicky, I'd like to add something to that. So if you look at these percentages – we are not happy with them either. They're quite high. They're much higher than what we had in the past when we helped out with a couple of other sunrises and where we were able to get zero one percent, the error rate. That is also why we have put in place this re-correction process. It was foreseen to do this one time, but I count we've now done this multiple times to help you out.

We've seen that with most of you, it does help, because the error rate then gets lower. There is only one site remark. The closer we get to the first sunrise, we might not have the time anymore to do this multiple times. It was not required, and we're doing this to help you, because you we really believe that the quality of what you provide is of importance, and the higher the quality, the more trademarks you will be able to protect, so please take that into account that by the time we run into September and the volume gets higher, we might not be able to help you multiple times with a record. That just might not be possible.

VICKY FOLENS:

And then, following the next topic, there has been a lot of confusion, or a lot of rumors, that the TMCH does not accept non-Latin trademarks. I can definitely say, and very positively say, we do accept IDNs. We do accept trademarks in a non-Latin script. So no matter the country, no matter the

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script, the Clearinghouse does accept all these trademarks. Currently, we have about 150 trademarks in non-Latin scripts. We are aware of the fact that this number is very low.

We believe that this is caused by the fact that those rumors have been spread out, and we are also very closely working with our PR offices and our trademarks agents to help us out in getting the information across and especially in the Chinese region and the Middle East region, as well, so that the people are aware of the TMCH and that they're aware of the fact that we are accepting non-Latin scripts, but we have no issues in accepting those and no issues in verifying those trademarks.

We have also understood from some agents that they have sometimes issues in setting or in putting the trademark actually in an A-label. So as you know, the TMCH, if you go through the web interface, the labels that are generated on the basis of your mark are done automatically. Agents that are working through the API, this is not done automatically and some of the agents have some hard times in putting that together, so we have actually, as of last week Friday, put a URL in production where you can easily put your trademark in an IDN formats and they will provide you the [pini ? 00:44:53] code so that you're able to submit that to the Clearinghouse through the API.

Our website has not been updated yet to provide this information, but that will definitely happen soon. But as I said, it was only in production last Friday, and we already were currently here so we haven't had time to provide the updates on our website. Following to the next topic, the 50 abused or previous abused labels, UDRP, court case, [strommen ? 00:45:24] model. There are currently a lot of names out there, what this is

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about, so no matter what the name is, I will provide you with some information as how this is going to be set up.

First of all, any 50 abused or previous abused labels can only be added to a trademark record that has been verified. Why is that? First of all, the labels are only considered for trademark names notifications, so we don't want to uphold the eligibility to participate in a sunrise because were still verifying these labels or the UDRP or court cases. Secondly, that also allows all the trademarks that are currently in the TMCH to easily facilitate uploading the information that is necessary to verify and get these labels in there and to get their protection.

There is a maximum of 50 labels per trademark record, but that does not mean that you can only upload one court case or one UDRP case, so you can upload multiple court cases, you can upload multiple UDRP cases to one trademark, but there is a limit that you can only add up to 50 labels. So you can perfectly have 25 cases with 2 labels against those cases. That is not an issue at all. For UDRP cases or decisions, it needs to be an ICANN-approved service provider, so there's a limited list as to the decisions from the UDRP providers and for court cases, it's the national court case that will be accepted, so again, no state cases or state court decisions will be accepted in the Clearinghouse for these particular reasons.

We've tried to make it as simple as possible to limit the information that you need to provide and also to limit the error rate that will happen, based on our previous experience. So for UDRP cases, what you need to provide to the TMCH – you'll need to provide the name of the service provider, the number of the UDRP case or the reference number of the

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UDRP case, the language of the UDRP case and the labels. As for the language, this is new. Why is that?

Because we understand that some UDRP providers might provide the information other than English or common or another script or language. We just want to facilitate the verification, as well, so that it goes directly to the correct language skills that can verify that information so that we don't have to lose time as first checking the document and then notifying that it needs to go to someone else. So that's the reason why we ask for the language of the UDRP case.

For court cases, it's a little different because, for court cases, in principle, there are no real online databases available, so the name of the court needs to be provided, reference number of the court's decision. Again, the language, for the same reasons as the UDRP case, but here we ask you to provide us a copy of the court case, and you also need to submit the labels as to what you want to receive the trademark claim notifications on. How will the verification process work?

Of course, we have the general verification. We were going to check to see that your UDRP case is, indeed, the service provider or the court name is correct and that the reference number is correct. What do we check when we check the UDRP case or court decision? We check to make sure that the name of the mark and the decision matches the name of the mark as provided on your trademark record. We also check the registration number or a reference number and the decision against what is provided on the trademark record and we check the jurisdiction or the country of protection in the trademark record and that also needs to match.

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Those three items need to match before you can actually get it verified through the UDRP court case and we're going to check, of course, that the labels are indeed mentioned in the case as well. Important to note, this is something that is only going to happen one time, so this is not a re-verification. So once it has been verified, it is good to go.

UM:

Pricing. We have been struggling a bit with trying to find a right pricing for this. If you think about what we have to do. As Vicky mentioned, we have to do one verification and UDRP case, in principle, doesn't change anymore, so you wouldn't have to do all a yearly validation of that. That's why we had suggested here to have a one-time validation price per UDRP case, \$50 to \$75 US and after that, the UDRP case being validated could remain active for an indefinite period of time.

Then, obviously, per UDRP case, you have one or multiple labels. For those labels, you get yearly services. You get yearly claim services, so that's where we suggest that on top of this one-time validation price, we would charge a \$1 US per label per year. For court cases where we have much more to read and review, we're currently thinking \$150 to \$200 US. Now this is what we would like to do, but this is not carved in stone. So our question to the community, and specifically, the IT community, is let's go into a discussion about this, not very long, of course, but at least provide us your feedback.

Give us an idea on whether or not you think this is logical or not, and then we'll see to which extent we can actually fine-tune this. As you see, most



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of the prices are related to the actual validation that you need to do. But again, we want to go into a discussion on this.

VICKY FOLENS:

I'm going to speed up a little bit, because I want to give IBM sufficient time to go over their slide. But just to give you an update, there are a lot of things that we are currently working on. What has been just recently implemented is a full-blown API test environment for the agents. Weekly notifications are sent out to trademark holders and trademark agents as soon as the trademark record changes status. The SMD files have been made available and we've been putting together monthly webinars, newsletters and our animations of the TMCH has made available in more than ten languages now.

We have other things coming up. Proof of use to be uploaded as a separate document so that, even if your trademark record is correct and your proof of use is invalid, you'll be able to upload that separately and go through every correction process, as well. The SMD file will be made available at the end of July. We still need to implement the 50 abused labels with [strommen ? 00:52:58] model and a couple of other things like transfer of trademark records, updating Clearinghouse guidelines, so we still have some things to do.

Customer support – just a quick reminder. If you're a registered user, meaning you're an agent or holder, please use the customer support tool through our web interface. It's easy to use. There's a memo on this, as well. For nonregistered trademark users, just ask for a general query through our website. Just one important note before we go over to

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statistics. Just a quick reminder – early bird registration is happening now, so you are getting your discounts and even if you register now, your trademark period or validity period will only start as of the first gTLD happening.

UM:

So we wanted to end our part of the presentation with a few numbers so that you have an idea what is currently in the TMCH. As you can see here, the number of holders that we currently have is around 800. We have 132 agents, we have 5900 records representing 62 jurisdictions, and these 5900 records currently present 11,700 labels. As you remember, there were setup some specifics for the special characters and [alto ? 00:54:36] translators, and that is the reason why, obviously, you have more labels than you have more records at this moment.

These are the top countries: US, by far, number one, again. Does it say a lot at this moment? No. I know we are only having over 5000 records. It just gives you an idea where we are at this moment. So the top ten currently is US, France, Great Britain, Switzerland, Spain, Germany, Sweden, Canada, Japan and Australia. And you see that there are quite a number of countries that have shortened things already. For the website, how to connect with us? Vicky, do you want to quickly go over that?

VICKY FOLENS:

Yeah. The website, I think everybody knows, at least in the room, everybody knows our website. We are actively on our Twitter account, as well, so that's @tmchinfo. We provide you with news, updates there and some general questions that we receive through our customer support

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and I kindly invite you, if you have more questions about what we just said or other questions, please come see us at the booth. We're at the hall, so please come.

KAREN LENTZ: Thank you, Jan and Vicky and Don. I'm going to turn it over now to Dirk and Audrey for the next portion. Thanks.

DIRK DE BEVERE: Good morning. My name is Dirk De Bevere from IBM. So on the sunrise and claims, we're not going to spend too much time on this picture. I think Karen explained it in detail at the start of the presentation today. Construct that we have combining the TMCH, the database and the sunrise and claim services which we're going to go into some more detail. The setup that we have is already a picture that we've shown one in Beijing.

It's a triple data center set up with a central data center in Luxembourg. Can you just click once more, Karen, please? Okay. Central data center in Luxembourg and two are data centers. We didn't have the names already known last time, but one is going to be in Singapore and the next one is in Denver. It's a high viability setup with low balancing design to provide maximum performance to the communities. In Poland and at the orange star, you'll have a call center providing all service-related services from a technology perspective to the community.

What we have on the agenda today – I'll quickly go over the status and timeline for sunrise and claim services and then Audrey and Jan will take

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you to the sandbox environment, the sunrise and claims process as a refresher, documentation, customer support and further communication following the Durban conference. So the status and timeline. Where are we on the sunrise and claim services. Sunrise, we go live, as already announced during some meetings prior to this one, go live for the sunrise is confirmed for August 9, so a few more weeks of patience there.

The testing environment will be made available. It is not the sandbox. This is the operational test and evaluation platform for the sunrise services so the testing environment will be made available on July 31<sup>st</sup>. Claims go live exactly one month later, September 9, and the testing environment for claims as of August 21<sup>st</sup>. So where are we today? [Asset ? 00:58:48] and others going to touch on that later in the presentation. The sandbox is operational and details on how to connect to that will follow.

The sunrise production and the operational test and evaluation platform should actually read ended two weeks ago. The performance and security test – the start of the month, we started to test the environment and in the claims platform, tests are also about start. This again is a [foil ? 00:59:18 ] that we presented in Beijing just to give you an update and a slightly modified version of where we are today. So sunrise and claims is behind us.

They installed the circled infrastructure with the central database in a smaller central infrastructure out in Luxembourg has been finalized. Then on the next bit which is the application development and the testing for sunrise, you'll see that the two application releases have been stretched which is a result of changing minor or major changes to the requirements which has put us at the start of this month with application release 2.

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Testing has started at the start of the month, and then, as I said, we've got the ongoing performance and security testing of the production and the operational test and evaluation environment.

Again, the date that we've discussed before the beta testing for the registries will start end of this month on the 31<sup>st</sup>. The green bar with the go live or the sunrise is the one that remained in place where it was, and you'll see that we're at the end of the period that had been communicated earlier on August 9. The claim services – so again, our interested is ongoing. At this stage, again, we starting the performance and security testing start of August and then the beta testing for the registrars as already communicated will start on August 21<sup>st</sup>.

Until then, and this is, again, what Audrey will discuss on the sandbox. Until then, until we get to these days, the sandbox will be in place. As soon as we go into the testing of the operational tests and evaluation environment, the sandbox will be made redundant. The go live claims period that we'd announced in Beijing. In August, we are at the very end and a couple of days after that. Which is September 9.

UM:

Thank you. Good morning. My name's [abital ? 01:01:39 ] and I just want to quickly go over the sandbox environment. Gustavo has mentioned that already. Right now, the sandbox environment which we have put in place to support all of you with a preliminary testing of all the communication [toois ? 01:01:59] platform. It is up and running, and it's reachable on the URL which we put out here. The actual connectivity will be communicated by Gustavo and as he said before.

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Just reach out to him in order to get that access. As Dirk mentioned, the sandbox environment will be available up until the actual operational testing and affiliation platform will go live and that will be on or before the go live of sunrise. So from that moment onwards, you will have the ability to [inaudible ? 01:02:40] in the LTD platform full swing. Where the sandbox environment will give you still very, very limited possibilities. It will verify for you the [inaudible? 01:02:54] as Gustavo explained and it gives you all the feedback normally during the upload which you normally expect from the system to respond to you if things are not in order.

KAREN LENTZ:

Audrey. Audrey, I'm sorry to interrupt you. I see in the pod that the remote users cannot hear you. Could just speak closer to the microphone?

UM:

Yes. Okay. No problem. I hope this is better for the community. So from that point of view, the documentation will also be handed out. Will be available to you, how to connect and how to access. So that's for the sunrise and claims.

JAN JANSEN:

Thank you, Karen. Jan Jansen, here. I would quickly like to go over the sunrise and claims process with you. We had a lot of questions about this. Going back pretty much about one year, Deloitte invited the registries and registrars to Brussels to have a little conference on talking about sunrise and claims. We were introduced to the community consensus model by President Jeff, thank you. And there was a bit of back and forth between

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ICANN and the community, Gustavo, thank you, Gustavo, introduced us to a specification of what the sunrise and the claims flow should actually be.

This was documented on the IDF side, and you can find the URL on the slide here. For all registries and registrars involved here, I recommend to read this. This tell you all the nitty-gritty details that you need to implement this process. I'll be just scratching the surface here and briefly introducing you to it because I think a lot of abbreviations have been used here and I'd just like to explain what these are. So let's have a look at the sunrise process for starters. Thank you, Karen.

The sunrise process starts off with a mark holder actually having registered a mark, and that has been verified by Deloitte as we heard earlier by Vicky producing a signed mark data – an SMD file, as we call it. This SMD file can be introduced by the registrar to the registry. The registrar can verify the contents of this SMD file. It's structured in such a way that it can be verified off-line, so at all points in time, a registrar can verify if the content in there is correct and if this SMD file is valid.

If that's the case, he can send it to the registry. The registry will take the SMD file, as well, and will verify actually four different things to see if he can register to the domain name for the registrar that provided this SMD file. He will check the label in there. Is the label actually in the SMD file? Is this a valid SMD file, meaning does the signature in there, does that match? Is this SMD file still valid in time? So there is timestamps in there and last, but not least, is this SMD file not on a revocation list.

Gustavo earlier said that this revocation list is available for testing purposes, so from a point of view of the registry, you can start

implementing sunrise process up until this point. So you have SMD files that are available that you can use to start building with and start building your [suffer ? 01:06:39 ] against. You have a revocation list that you can verify these SMD files against. Of these four tests, flag that this domain name can be registered.

This label can be registered in the gTLD. The registry can go ahead and he has to actually notify the TMCH again to say, okay, this label has been registered using the LORDN file – list of registered domain names – so that file goes back to the TMCH and the TMCH will eventually send out notifications to the holders of the marks that are linked to those labels. Basically, that's the claims process. I know this slide has been shown to you many times, but I just wanted to go over it quickly.

Claims is a little more complicated because actually we go up and down the tree twice, so at some point, the registrant wants to register a domain name. He goes to his registrar and says, look, I want to register this domain name. The first thing the registrar does is verify if the label is still free. So he goes to the registry, asks, is this label still free? If the label is still free, the registry comes back to the registrar and says, yes, it's still free, but be warned, there is some specialty with this and you get the URL back from your registry.

It allows you to get all the claims information that is linked to this label from the TMCH. This is called the CINS service. So you'll get a little XML document. These are static files, actually, on the server somewhere so you can just pick them up there, and you have to visualize this to the registrant. The registrant has to confirm that, based on the information



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that is visualized in front of him, that he still wants to continue the registration. Goes back to the registrar.

The registrar says, okay, look, this registrant still wants to register the domain name, and he informs the registry of the fact that the registrant has read this claims notification, and he still wants to proceed. The registry will then register the domain name and, using the same LORDN principle as was discussed earlier, will introduce the fact that the label was registered into the TMCH. The TMCH will again notify the mark owner.

So these are the two processes that are in place. How does the registry know which information has to pass to the registrar? There is a domain name label list available for the registry in the claims process that the registry can download which will actually tell him which labels have a tag on it and what the URL is and where the CINS file can be retrieved. That's pretty much the two processes that I wanted to describe. Thank you.

UM:

Okay. So information, as Jan explains, for these processes are out so be encouraged to have a look at it, read it and make sure that you're familiar with it. Furthermore, on the sunrise and claims infrastructure, we will provide you some manuals to the community. Those will be available in both HTML formats as well as in PDF formats and they will be for each and every environment. It will not be a duplicate of the information, which is already there. It will reference it so you can use both in combination.

Each user manual will have a section with a Q&A's in there which will be giving you more background if you have certain common questions and provide you answers on that. So from that point of view, the sections will

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come on the websites. For sunrise and claims, the first release documentation is available and all the others will come very soon, so from that point of view, you can read those documents already if needed. If there are any questions, you can direct them, obviously, to us.

Dirk was mentioning also the support desk. We provide for sunrise and claims infrastructures. It's not just only the sunrise and claims part, right, it's the complete infrastructure you're going to use for a TMCH and that constitutes parts from ICANN, from the validation provider – Deloitte in this case – and from IBM. They each will work on their own entity, obviously, where we try to align the desks and make sure that we all know how to communicate with each other.

After communicating with each other, we still have our own duties and obligations, so ICANN is for all detail questions, non-technical, no mark validation, registration-related questions. Obviously Deloitte, as Vicky has mentioned, is there for all the TMCH marks, validation and registration questions and IBM for all the technical questions related to sunrise and claims infrastructure. Again, all the best work independently, but we try to synchronize and make sure that if you direct your questions to the wrong desk, that we try to inform you and give you some advice on where to go.

We are working currently together to make sure that these processes are in line and that we inform one and each other of the desks, as well, to ensure that you get the best support as possible. Together with ICANN, we are currently working on an on-boarding welcomes package for sunrise and claims where instructions will be given on how to register and how to obtain support and also from the IBM side. As you can imagine, IBM is a large organization.

We do have some procedures to make sure our desks are not flooded, so you have to register yourself onto an IBM website prior to getting support. That is all documented and will be documented in the onboarding's package so that there's no question there on how to do that. We will provide a self-service portal and a service desk with a phone number, so we encourage everyone to try to use as much as you can the self-service portal, but obviously, if you cannot get the right answers, you are free to give us a call, if you have been registered and we will provide you with the support needed as good as we can.

We have tried to give everyone as much flexibility as we know. That is, not just one person in each organization who can and who will handle all the issues. There is no one who would be available 24/7, so we provide for each and every organization a maximum of up to five persons who can register themselves onto the IBM website. That is our preference. If you have less, that's okay. Hopefully, we will not get flooded with questions and to make ten or twenty persons register.

Last, but not, least we are currently working to make sure that you get all the information centrally available so you don't have to search the Internet on where do I get the support? So we are working currently with ICANN and with Deloitte to make sure that the information that's available, all the links on one or two webpages, what we will provide you links for later on. It's not there yet, so we're working very hard on that, but we will get there and make sure that that's on a very friendly location where you can put your questions out.

Okay, self-service portal – just to give you a flavor, as Dirk said, 24/7 available out of Poland. All the support will be in English so please provide

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your questions in English, also, on the web portal. You will see here, already, a contact [DL ? 01:15:28]; a number out of Belgium and a number in Poland. The mail address and the URL for the self-service portal. You see on the left-hand side, the login page. If you have registered yourself at the IBM website and you are provided with a username and password and that's where you can use it to login.

It will provide you with a service request screen later on, once you have logged where normally it will pop up all your credentials already which the system knows. What is unknown, we ask you to fill in and make sure that your question is being put out very clearly so we can follow up very carefully. Okay. Communication – we had a lot of discussions and heard a lot of discussions over the past days and in several sessions. We will offer webinars to the community which will have a predefined part for the first couple of sessions and, obviously, a Q&A part.

Then we will allow you to submit questions on the forehand which we can answer during those sessions if the layout of the webinars needs to change and then we obviously are open to discuss and feed us with the information so that we can support you as good as we can and give you the ability to use the system as quickly as possible. We plan to have the first webinar in the first week of August, and a communication will come out very soon on that part so look out for that on mainly the ICANN website. You can make sure you are updated on that.

Also yesterday, I overheard a couple of sessions where there were a lot of discussions on communication between registries, registrars and IBM. There was one question whether they could do additional webinars there. We will review that over the next days and make sure we come back to

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that as a potential supplement to the webinars so that we get an interaction between each other and, hopefully, enlarge the experience and get the system up and running as good as we can.

Also, a suggestion came out to do some [blogfests ? 01:17:51] sessions. We have not yet defined how to do that, what to do and if we are going to do it. It's something we need to discuss with ICANN. We will seriously consider it to ensure to support you with getting your systems up and running as quickly as possible, so there'll be [short ? 01:18:12] on all the timelines the development of the back-end systems. So we will come back to that as soon as we can on that part. and we will communicate that to you all later on.

Dirk you had some additional things? Oh, sorry. Thank you, Karen, for reminding me. The upcoming webinars – we had a slide on that part, as well. We are currently planning the one webinar a week. We like, every two weeks, set up another webinar. We will start off with the general sunrise and claims information, and we'll go slowly into what we call master-class sessions on the different topics from sunrise to claims and, further on, we all came together, as I said before, to discuss what you want to see in the webinars.

If you don't have any topics, we will, obviously, try to bring up topics ourselves and probably repeat these sessions, as well, because I can imagine that new registries and registrars will come on board, and they want to have the same information we provided earlier, and we try to balance, every other week, the timing of the webinars, also, so that people around the world, in different time zones, can additionally attend the webinars.

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Obviously, we cannot accommodate all the time zones, but we try to balance that as good as we can, so that if you are early in the morning or late in the evening or somewhere in the middle of the day, you can attend the webinars. Thank you.

DIRK DE BEVERE:

Yeah. Just the last comment, that you saw on the [foil ? 01:19:51 ] and Audrey discussed and spoke to on communications. We've added two elements that weren't on the [foil ? 01:19:57] at the start of the session. One is the interactive sessions to enable and facilitate a very open, direct and bi-directional communication between IBM, on the one hand, and registries, registrars, back-end operators on the other. Second, the [blogfest ? 01:20:14].

It's just ideas and suggestions that were made to us during this conference. If there's any other thoughts, we obviously welcome them, and we are more than willing – as long as it's feasible and doesn't get in the way of the project – more than willing to consider and facilitate, if at all possible. We'll be, for the remainder of the conference, together with Deloitte and Chip, at the TMCH booth, so feel free to address any questions to us directly. Thank you.

KAREN LENTZ:

Thank you, Dirk. Thank you, Audrey and Jan. We covered a lot of topics. I expect there are a lot of questions, so the microphone is open for any of those. We'll try to alternate between the questions in the room and the remote questions, assuming we have some. Many. Okay. So let's get started. Amadeo?

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UM: There's a first NTL measure that you tried this with him. Thanks a lot. I have some questions: one for IBM, one for Deloitte, one comment to ICANN and one general request to all of you. I start with a general request.

UF: Amadeo? Since we have a limited amount of time, could I suggest that we limit it to one question so we can get through the queue. So start with one question and then you can get back in line until we have to cut off the line. Is that okay with you, Karen?

UM: I guess that's a yes. Okay. Regarding the question, everybody but Vicky said something about testing and when the testing is available, and I got that the SMD 5's are available and some other things will be soon or in July. Can you clarify for me, for registries and registrars, when the complete sandbox environment is available for testing? Because I think you mentioned different things, but they haven't got the complete details.

UM: Yeah. The complete production and the operational testing and evaluation environment for sunrise will be available on July 31<sup>st</sup>.

UM: Okay. Thanks.

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UM: You're welcome.

UF: There were 17 questions in the queue, and they're in order of how the presentations went, so the very first one was: Is it possible to insert a list of strings – let's say [wine ? 01:22:54] geographical location, as an example here – in the TMCH and offer special procedure to unlock the names?

KAREN LENTZ: Thanks, Carol, for the question, or thank you, remote participant, for the question. As I understand it, the question is around, is it possible to create a facility or a procedure where geographic indicators or other types of items like that could be deposited in the Clearinghouse with relation to some type of procedure for either blocking or registering those names. We don't have that, currently. That hasn't been discussed, as a functionality for the TMCH. It's something that could be considered in the future if it was agreed and developed.

UF: Great. I'm just going to ask the next one, because it's a short one. It's from Tobias: When will Trademark plus 50 be ready?



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KAREN LENTZ: Yeah. So at the beginning, I mentioned that we don't have the specific date but that we will have that ready. Expect to have that ready before any of the registries are offering a claims period.

UF: Next.

UM: Hi. My name is Yoshi [inaudible 01:24:14]. I recently got a brochure from Konac, and it says Konac is operating with organization by ICANN and also trademark information exchange system which is TMCH is operated by ICANN, and they are the unique organization that can register, simplify Chinese trademark on the TMCH. They provide, and we are confused whether this is true or not, and I was wondering if you are aware of this?

KAREN LENTZ: Thank you. So currently, as I had described at the beginning of the session, the Clearinghouse has a few different functions. One of those is the validation function for how trademarks are submitted by rights holders and how they're verified before being included in the database. Our verification service provider for that function is Deloitte, the team that you see sitting here. We currently have not approved any other validation providers for the TMCH at this time.

UM: Thank you.

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UM: Reuben [queue from dot br ? 01:25:34]. It's a question for Deloitte. Deloitte mentioned in the presentation that EGR procedures from ICANN and accredited EGR providers would be accepted as proof of trademark [plus taste team ? 01:25:51 ] claims service. I would like to ask if that extends to ccTLD disputes, which are done sometimes by providers that are also ICANN-accredited dispute resolution providers?

KAREN LENTZ: Thank you, Reubens, you directed it to Deloitte, but I'll answer it and let Vicky add something if she wishes. So the question was in terms of documenting a label as having been previously abused according to some decision proceeding. Currently, that extends to the UDRP which is applicable to all names in the gTLD space and to decisions that have been rendered by a court in a particular jurisdiction. We haven't extended beyond that to processes that several ccTLDs have that are similar for arbitrating those types of disputes.

There are, as far as I understand, several of them, and I think we would need to look more closely at what their range of all of those was to consider whether they would be appropriate for the gTLD space and for the abuse labels.

UM: Thank you, Karen.

UF: The next one is from Connie [hone ? 01:27:34], a remote participant. Question 1: According to Specification 7 of the Applicant Guidebook, all

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New gTLD registries are required to set up a working arrangement with the TMCH in providing registrations for trademark domains during sunrise periods. For registries operating closed TLDs that are not going to offer registration services to the public and are only registering domains during sunrise periods for own use, are they still subject to uphold this arrangement with the TMCH?

UF: Thank you. Currently, Specification 7 in the Registry Agreement is applicable to all gTLD registries who sign that agreement. The rights protection mechanisms of sunrise and trademark claims were agreed through the development of the New gTLD program as minimums that we wanted to ensure across the board that were offered by everyone, and so there's not currently a mechanism to carve out or exempt anybody from that. It applies consistently.

UF: Stephanie Duchesneau, FairWinds Partners. We've noticed inconsistencies in the number of opportunities that a holder and an agent has had to correct its record before it has to resubmit the record entirely and pay the associated fees, and we've also noticed inconsistencies both in actually conducting it and what we've heard from Deloitte on this. Do you have a final, set, official, across-the-board idea of the number of times that this can occur before the record has to be resubmitted?

VICKY FOLENS:

Thanks for that. So in principle, there shouldn't be an inconsistency. That's incorrect. So if that is happening, then we will definitely immediately take a look at that. The guideline is one correction process, but we are trying to help everybody out as much as we can, so in the event that we receive a customer support ticket to trademark holder/trademark agents saying, please, we have the information. Can you help us out? We tried to facilitate that as much as we can.

Also, for all the trademark records that are currently marked as invalid, we are reaching out to them in August – all the trademark holders and trademark agents – to see if we can help them again before September comes up, because we do believe that we're going to have a big rush in September, and we want everybody to be as much aware of what's going on and how they can correct their information and get it right.

UF:

Thank you very much.

UM:

Okay. Amadeo Abril, CORE Association. This is especially for Vicky. I heard the same rumor that you said that TMCH was not accepting IDNs. We asked and we got the answer. The other rumor I heard and I haven't spread myself is that unfortunately the TMCH is quite invisible in some areas like Middle East or for our Abacus group or [ligus ? 01:30:56 ] group and many other non-Latin groups – perhaps with the exception of China and perhaps Japan – nearly everywhere else where non-Latin scripts are used. This is worrying not only because of the natural things and not only

because we have three IDN TLDs but because of the nature of the ICANN priority list, the [sandwisis ? 01:31:16] will start precisely with the scripts.

I would like to know whether you have created statistics, for instance, on which number of Arabic scripts – any language, whether Urdu or Arabic or Farsi or whatever – are in the TMCH and would be between 0 and 5? Or in Cyrillic, I would say, within 0 and 20. In any Cyrillic script language, Russian or Belarus or whatever. The question is here a request to you and to ICANN to help organize or something to raise awareness about that in these areas because, I repeat, they are the first ones coming in time. They will be there in September, not September 2015, okay? So we need to do something here.

VICKY FOLENS:

Yes. Thank you for that. We are aware of that, so we currently are translating the Clearinghouse guidelines in Arabic and other languages, as well. We have our website set up to facilitate multiple languages, and we are working with a PR agency that has connections throughout the world, as well, to get news articles, press releases – all that information – out in different regions; specifically facilitating the IDNs so that people are aware of what's going on. But, of course, we also struggle with the fact that even though we can make awareness about the TMCH in those regions, they're not always aware about the New gTLD program, as well, so we know that we are going to have to start again from scratch in those areas, and we will facilitate that in the next coming weeks.

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UM: We also have identified a couple of groups or individuals that we would like to work with in specific regions like in Israel, like in the Middle East, like in China. To be honest, we are running as fast as we can. There was just a lot on our plate and, yes, we know that this is very important, and we will pay more attention to it. For instance, for South Africa this week, we had our PR agency focusing on the press here. We've succeeded in having one or two articles in the local press to at least create some turbulence. The world is big, so that's difficult to do it everywhere with the same pace, but we will definitely invest more in the next two or three months in those emerging markets.

UF: Another question from remote participation, again. From Connie [hann ? 01:33:45]: Many trademarks, in themselves, contain mixed script. Taking apart these trademarks to register them by scripts can sometimes render the trademark label generic or meaningless. TMCH has mentioned that mixed-script trademarks will not generate labels and, therefore, no protection may be rendered. Is just a technicality that cannot be altered so as to make script trademarks meaningful in their use of domain name registries?

GUSTAVO LOZANO: The answer to that question is basically what we have defined in the ICANN IDN Guidelines. So, basically, in Section 5, it mentions that all code points in a single label will be taken from the same script as determined by the Unicode Standard 24, so basically, that's the answer. Maybe you want to read those guidelines. In Section 5, it mentions that specific.

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KAREN LENTZ: Thank you, Gustavo. This is Karen. The answer to that lies in the DNS guidelines or requirements that are in place for second-level domain name labels which have a sort of a general prohibition on mixed scripts within the same label. So while there are valid trademarks, certainly, that contain different scripts, transferring the mark to a domain name, it would not result in any legal domain name; in which case, there's really nothing to protect against since no other registrant could possibly register that name either.

UF: Thanks. There's a next question which was from KOM and it says: To avoid user confusion, some IDN gTLD applications, as part of the allocation plan, intend to reserve/allocate matching domains for existing, current, second-level ASCII gTLD registrations. How does this impact the TMCH process? The guidebook isn't clear on this conflict.

UF: So if I understand the question, it relates to a proposal that existing domain name registrations in a TLD could be given some priority in terms of registrations in a new TLD. That's not something that's provided for, currently, in the guidebook or any. As far as I'm aware, it hasn't been discussed much in terms of how that would work and so forth. I think it's something that would need to be reviewed on what the actual details are and to fully respond.

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UM: Alex [Meyerhoffer of ATM ? 01:37:03], back-end operator for a couple of TLD's. My question is, what are the administrative contractual requirements in order for us, as a back-end operator, to get access to the [old tndn ? 01:37:14] testing interfaces provided by IBM? Do our applicants need to sign a conflict with TMCH before we can actually do integration testing, and the second very short question, maybe for Gustavo, is what is the status of the Internet drafts that we see out there? Are they final? So stable that we can really depend our implementation on that or are they going to change?

UM: Both are actually timing issues.

UF: Sorry. Just to clarify, your first question was what administrative or contractual requirements are in place for access to the testing environment?

UM: Since we are not an applicant, we can't get into contract [utsms ? 01:38:08] ourselves.

UM: The contractual arrangement will exist between the registry and ICANN and the registry will pass on the IDN passwords to the back-end operators.



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UM: Okay. So that means as a back-end operator I can't access the testing environment before our applicants sign a contract, you are saying?

UM: You will be able to access it based on the credentials provided by the registry.

UM: Okay. Thank you. And the second short point about the Internet drafts?

UM: So basically, regarding the drafts, we have a little feedback from the community and this draft has been for a long time. I consider the draft as stable. Basically, we have been using that draft to implement all the solutions, but obviously, if we find something that is incorrect, we will fix it. My plan is, once we have the Clearinghouse operations – maybe four months or six months after that – we will work to create an [arosen ? 01:39:10] based on the draft.

UM: Okay. Thank you.

UM: Hi. John Berryhill. If I'm a trademark owner who hasn't been paying attention, and I find, several months from now, that new TLDs are launching, and some unauthorized party has submitted my trademark information to the TMCH in order to qualify for sunrise registrations and

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obtain an unauthorized domain registrations, is there a mechanism for me, as a trademark owner, to remove an unauthorized entry from the TMCH?

UM: First of all, there shouldn't be an unauthorized party.

UM: That's what they thought with domain registrations, too, but if I have an email address and I can sign a piece of paper, I can get an entry in the TMCH and write a check.

UM: No. It's not that easy. I think we were doing quite some validations and verifications on the authenticity of the person that submits a trademark, and there are a number of checks. During previous sessions, we've gone into detail on that that we do. Will it never happen? I assume not. No. But there is a process in place to dispute a decision made by the Clearinghouse. That's correct. So you can go to the Clearinghouse and dispute a certain decision that we've made. The question is, obviously, how will you be aware of that if you're not in the Clearinghouse? Let's say, if you're also in the Clearinghouse and you had a similar trademark, then you would know immediately as you would get claims on that specific trademark, if it would happen there during a claims period.

If you're not already in the TMCH then probably you need external procedures to find out which is not part of what we are required to do.

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UM: Okay. All right. I didn't know about the identity confirmation checks that you...

VICKY FOLENS: If I can add to that for the trademark record, when even third parties submit on behalf of trademark holders, they always have to provide the private email address of the trademark holder, and we do sample checks, as well, on the basis of different criterias to make sure that the trademark holder has indeed provided the authorization to the trademark agent to actually submit that trademark record, as well.

UM: So if [sally ? helped 01:41:43] emails, too. If we felt that we couldn't identify the connection between the email address and the trademark owner, for instance, that we don't accept it. That's the general rule and then we've already reached out to some of those to find out more, what are you doing?

What we've seen, for instance, was that some of them tried to register as a holder but act as an agent, and we've stopped that immediately, so we are doing those checks. We are actually thinking of even further improving it but with additional features where we would do potential checks on identity cards. It is not required, so we're not doing it immediately, but we're really looking into that so that whenever we have doubt, we could potentially do additional verifications.

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UM: Okay. Okay. So there's this check in each instance whether or not someone purported to be an agent is actually an agent through some channel by which you find the actual trademark holder?

UM: You may not know this is one of the first things that we do with any trademark holder or agent or any individual that comes in is that we do a check with the [ofac ? 01:42:46] list, so if we find matches there then there is already not an immediate activation of their account.

UM: Okay. Thank you.

UF: Okay. The next remote participant question from Connie [Hahn ? 01:43:04], #3: Could you specify who should certify translations in order for translations to be accepted by the TMCH?

VICKY FOLENS: Certified translation is only by a certified translator. However, due to the fact that we are working with local resources that understand both languages, it is sufficient to provide a translation from the trademark office, for example, or the trademark agent, as well. I believe they can provide the translation, as well, because we can actually make a match due to the fact that we have the correct people working on it based on the language.

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UM: So the answer is not that it has to be like a certified translation, as such. We believe that our resources, because of the fact that they're all native speakers for whatever language, should have the capacity to make that translation and make sure that it's a one-on-one and again with the re-correction process that we have set up, if we feel that it is not a one-on-one translation then we will reach out.

Second question , you have to ask, where is it important? Any description, for instance, of goods or services should be an exact match with whatever supporting documentation that we have. If agents or specific parties wish to also include, for instance, the description in English – a translation in English – because they know that potentially the registry might not be capable and the registrar might not be capable of doing all of these translations, then we're obviously not going to be that strict. The translation needs to be the same, but what is most important for that specific record is that in whatever script the goods and services are, that it is an absolute exact match with any supporting documentation that we need to verify against.

UF: Great. Thank you. Here's the next remote participation from Christopher and [IEMI ? 01:45:16]. For proof of use in regards to figurative marks, does the proof of use sample have to show an exact match of the [full mark ? 01:45:26]; i.e., colors, graphics or can the proof of use show the primary words and characters in the mark?

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VICKY FOLENS: We know in some cases it's not possible to provide if it's a figurative mark depending on the proof of use that they're providing that there can be a brochure where it says the trademark as a word mark is mentioned so, in those cases, we do accept those cases, but we do look, at first, to see if we can find the figurative mark.

UF: Great. Thank you. This one is from Lucy Seufier. How does Deloitte know the decision is not being appealed. When you were talking about court cases, this question came up, and it says how does Deloitte know the decision is not being appealed?

VICKY FOLENS: To be honest, we don't, at that moment. We do the verification on the basis of the information provided. If that third party is in appeal and as soon as that appeal decision has been made, then they can always file a dispute against our decision based on the appeal.

UM: We obviously do some checks again on that documentation. If it comes from a court case, then the local people need to obviously recognize the court as such so it can't be just something that has been made up.

UM: Michael [hellog ? 01:47:08], lawyer in Germany. Just a question of clarification of the Plus 50: if my client has registered his trademark in ten different countries, can he apply for a Plus 500? Ten times plus 50.

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UM: If you would have registered the same trademark in multiple jurisdictions, then you can submit it each time for that jurisdiction and at 50. That is a possibility. Yes.

UM: Okay. Thank you.

UM: Alex [Meyerhoffer ? 01:47:39] dot AT. My question is regarding integration testing of the TMCH. As a back-end operator, do I need to repeat integration testing for each and every TLD I'm operating, or do I have to pass once as a back-end operator, and then I'm certified for all the gTLDs that I'm operating?

UM: No. You do not have to repeat yourself over and over again once you have gone through the process. You're ready to go.

UM: Thank you.

UF: The next two remote participation questions – this one's from Connie [Hahn ? 01:48:17]. Is the OTE environment ready? Since it's release two weeks ago, the TMCH agents have not been able to access it yet.

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VICKY FOLENS: So the OTNE environment for agents accessing TMCH has been made available, and we have multiple users already on the system. If for some reason, it's not connecting with the person, then they just need to create a customer support ticket, and we will look into it immediately.

UF: Thanks. This one is from Jane Chiao from dot Asia: Does early bird trademark submission end on August 9<sup>th</sup>, as well, or does it end in September this year?

VICKY FOLENS: It will end when the first gTLD actually launches at sunrise.

UF: Okay. The next question from Thomas [arlins ? 01:49:23]: Who will receive a notification once a domain name has been registered in a sunrise?

VICKY FOLENS: The notifications are sent either to the trademark holder or trademark agent depending on who contracted with the Clearinghouse. If it's an agent, they have to submit it to their holders. If a holder went directly, then they receive the notifications from our side.

UM: Hi. James [sing ? 01:49:51]. This is in reference to the discussion that has been made prior about mixed script and the acceptance of mixed script.



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It's true, in the guidebook, it says that all [code ? 01:50:05] points in a single label will be [inaudible 01:50:05], but it's also written in the guidebook that the secondary [bus ? 01:50:14] supposed to be implemented under the ICANN implementation, and that is [accomplished even ? 01:50:20]. There are exceptions to the rules and the rules allow mixed scripts in the second label so you do need to look at implementation to allow mixed scripts in certain cases especially Chinese and Japanese.

UF: Thank you, James. So you're correct. There are exceptions noted in the guidelines, and I was speaking to the general case, but you're correct that there is a specific notation that there are certain cases where there are exceptions permitted to that where there are established rules around how those are used, so we've given the full IDN Guidelines to our partners, Deloitte and IBM, with that as the basis of implementation.

UF: There are five more remote participation questions. The next one is: Could you please let us know how many registrars are implementing or plan to implement the claims process?

VICKY FOLENS: How many registrars plan to implement the claims process? I don't know. The registrars who wish to support New gTLDs and to provide those services to registrars who want to register during the early periods of a TLD, I would think, would be interested in that.

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UF: Thank you. The next one is from [Bennie Samuelson ? 01:52:03]. Question: As revealed yesterday, the trademark plus 50 will be delayed and increasing cost. How will this affect the first TLDs going live with sunrise?

VICKY FOLENS: Sorry. Can you repeat that?

UF: Sure. As revealed yesterday, the trademark plus 50 will be delayed and there is increasing cost. How will this affect the first TLDs going live with sunrise?

VICKY FOLENS: So this shouldn't affect anybody from going live with sunrise at all. First of all, the plus 50 additional label only applies to the trademark claims process not to sunrise so that should not be a delay. Additionally, it's not intended, in any case, that implementation of that functionality would be the delaying factor to any TLD from going live.

UF: Great. This is one from Maxim. Will it be possible to transfer client cases between IBM, Deloitte and ICANN and, in parentheses, it happens, but I don't understand what it meant by client cases?

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VICKY FOLENS: Thank you, Carol. I believe what that question relates to is what Audrey was describing in terms of the service desks and a user of the system who has a question may have directed it to any of the three of us. The question was Audrey went through was how we're coordinating with each other to make sure that the whole range of questions is covered by someone, first of all.

Secondly, that we have mechanisms so that if – as the question alludes to – if the question ends up in the wrong place, that it doesn't get dropped or lost. That we have communications channels in place to make sure that it does get routed to the right place.

UM: To add that the case will be redirected in each individual service desk to avoid ghost support questions. We will try to communicate with the end-user to make sure they are redirected properly and that the other desks will be informed as well so that's the process we're looking into to ensure that we will have the right information at the right time and the client is supported as good as we can.

UF: Great. Thanks. And then this one was from [Tom and lenz ? 01:54:46] and I think it's tied. It said, wouldn't it be better to implement one customer service center where experts from the three parties will work together for their customers' benefit?

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UM: Yes. Sure. If that will be possible, yes, we obviously would've done that. We obviously are a couple of large organizations trying to incorporate as good as we can, and if we see feasibilities to implement that we will sure do, but currently, that is not the case, and as we need to use the cheapest possible support, our part, to keep it all affordable, we are trying to align the service desk as best as we can at this moment in time.

UF: Great. Thank you. The other one is the same related question so that's all I have. Is there another? All right. Okay. Two more questions and then we'll close to get ready for the next session.

UM: This question is from Lucas [ball ? 01:55:51] and it's for Karen. Is there anything that stops a registry operator to charge \$1 million a domain during the TMCH sunrise? And then, implementing another sunrise and charge \$10 thus rendering that TMCH sunrise useless in practice?

KAREN LENTZ: So none of ICANN's agreements with the registries have any regulation in terms of pricing. The registries, I think, are expected to assess that with relation to their target market – the services that they're offering, etc. – but there's no stipulations from ICANN on charging.

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UF: Last question from Angus [Richardson ? 01:56:56]. Could we please have more color rendering regarding the prioritization of trademark records by regional gTLDs?

KAREN LENTZ: Sorry. What's the question? Can we have more what?

UF: More color.

KAREN LENTZ: More color?

UF: Yeah. Regarding the prioritization of trademark records by regional gTLDs.

KAREN LENTZ: Sure. So that was a point that I mentioned in relation to the RPM requirements for how registries implement the sunrise and claims processes. There was interest from some applicants that had a regional or a local or a particular geographical focus in allocating the domain names in the sunrise in a priority order according to those that were closest to the region or had ties there. So the Clearinghouse verification process provides verification but an entity has met the sunrise requirements. There may be many – and this happens in any registry – there may be many eligible [rights ? 01:58:17] holders who want the same domain name and so, in that case, all registries would have allocation processes.

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So the proposal was around the ability of the registry operator to establish a priority or prioritization in the allocation in relation to the purpose and focus of the TLD. All right, I'd like to thank everybody for spending their two hours of lunch hour here with us. The next session will be the URS demonstration in about 15 minutes.

Thanks. [applause]

[ END OF AUDIO ]