

Transcription ICANN Buenos Aires GNSO GNSO IGO-INGO Access to Curative Rights Protection Policy Development Process Working Group

Tuesday 24 June 2015

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Philip Corwin: Good morning all. I am Philip Corwin. I am co-Chair of the working group on Curative Rights Protections for IGOs and INGOs. To my right is Petter Rindforth, co-Chair of the working group. It's clear from the standing room only crowd in the room that this is an issue of burning interest to the entire ICANN community.

Let's - is our agenda going to be projected on the screen here?

Mary Wong: Yes. I'm going to put it in the probably on the screen because when we put it in Adobe Connect as we normally do, only those in Adobe Connect can see it. So just give me a few minutes.

Philip Corwin: Okay.

Mary Wong: I had Internet problems.

Philip Corwin: So we're standing by as we - what's that?

Woman: (Unintelligible).

Philip Corwin: Okay.

Petter Rindforth: Yes. Go ahead with the roll call. That's actually a very good idea to go around the table and please if you are not working with anything else, please join us. There are seats over here. So I suggest that when we do the roll call we also just shortly state our interests of being here. And as said, I'm Petter Rindforth, co-Chair and obviously I'm representing IPC here.

Rudi Vansnick: I'm Rudi Vansnick. I'm the Chair of NPOC and also (unintelligible) operation concerns (community) in NCSG.

Berry Cobb: Berry Cobb, assisting ICANN staff.

Mason Cole: Mason Cole. I'm the GNSO Liaison to the GAC.

Steve Chan: Steve Chan, ICANN staff.

Mary Wong: Mary Wong, ICANN staff.

Lucas Moura: Lucas Moura from NextGen.

(John Bizaro): (John Bizaro), Legal Advisor at the OECD.

Philip Corwin: And the audience.

Man: We asked to pay for the back seats.

Philip Corwin: Feel free to...

Man: At the table it's free.

Philip Corwin: ...sit up here if you want. Plenty of room.

Brian Beckham: Good morning. Brian Beckham from the World Intellectual Property Organization.

Mary Wong: And we also have remote participants online...

Philip Corwin: Yes.

Mary Wong: ...including some members of the working group.

Philip Corwin: Okay.

Mary Wong: We have George Kirikos, Paul Tattersfield - George Kirikos and Paul Tattersfield who are not able to be with us physically in Buenos Aires and who are members of the working group. We also have more folks joining even as we speak.

Philip Corwin: Lori, did you want to state your name for the record? We're doing a roll call of those in the room.

Lori Schulman: Lori Schulman, International Trademark Association and IPC.

Philip Corwin: And as previously noted, I'm Phil Corwin and my affiliation is with the Business Constituency. Did any members of the working group have updates to their statement of interest? Hearing none, we'll proceed.

Item 2 on the agenda is the status report to the community on our preliminary recommendation regarding standing to file a curative rights complaint. And we're happy to take questions and answers on that after we give that.

The preliminary - everything I'm saying is a preliminary conclusion. It's all preliminary until we issue our final report and we anticipate - hope to do so prior to the Dublin meeting this year.

Our preliminary conclusion after extensive review of the background materials regarding the relationship of IGOs to trademark protection is that a standing to file for curative rights process protection whether it's in the existing rights protections of the UDRP and URS or in some new CRP that might be created should be based upon filing for protection - filing with the World Intellectual Property Organization for protection under Article 6ter of the Paris Convention.

We concluded that because the Paris Convention is the agreed upon methodology - agreed upon by governments for protecting various rights including the rights of IGOs to seek protection of their names and acronyms of their names in national trademark systems.

So Number 1, it's the recognized route for doing so. Number 2, it's a very low barrier to gaining protection. It simply provides - it requires submitted a notice to WIPO that the organization is seeking that protection. And then WIPO sends out a notice to all nations that have signed the Paris Convention as well as all nations that are members of the World Trade Organization.

Each of those nations then generally accords protection to the names and acronyms of IGOs in the national trademark system. So they're not compelled to. A nation may for whatever reason opt out of providing that protection to an individual IGO although that - so as far as we've been able to find is a quite rare occurrence if ever that such protection would be refused.

And that in fact provides protection to the organization without having to formally file a trademark application in any particular nation. So that's the method the governments have come up for to protect; low barrier to entry.

The consequence of that decision is at IGOs, which have nothing more than a domain Web site at (.int) would not satisfy the standing requirement. But again, we don't think this is burdensome in any way on an IGO under the approach we're taking.

So I'm looking to - I didn't bring my distance glasses. I'm looking at the -
Petter, yes.

Petter Rindforth: (And) just so everybody's on what it's stated there. What we discussed previously was rather than to create the new dispute resolution policy or to make changes in the UDRP, we thought it would be convenient actually to - or make a presentation or a guide.

For instance, WIPO has (OEUEO) WIPO panel views on selected UDRP questions. And we suggest that (unintelligible) regarding the first UDRP element the grounds for filing a case that we could add the text that does the complainant have UDRP relevant trademark rights, either name or (abrogation) of the complainant that has been communicated under Article 6ter of the Paris Convention for the protection of investor property.

And the suggested reply or (suggested working) - suggestion that indicates the complainant is an international intergovernmental organization, IGO, meaning an organization with an international legal personality established by international agreement.

The complainant may have trademark rights in the form of names and acronyms protected under Article 6ter of the Paris Convention for the protection of industrial property that have been newly communicated to the countries or the union through the intermediary of the International Bureau stating that they could claim it even if it's not identical to a trademark but it's - it could be counted as the same as trademark rights - registered trademark rights and thereby be possible to use the UDRP without any further changes in the legal text.

Philip Corwin: Thank you for providing that further information Petter. So let me stop there and see if anyone in the room has any questions about our preliminary conclusions regarding standing and adding the - just to make clear that everyone understands this.

We're talking now about international intergovernmental organizations. Early on the working group decided that international non-governmental organizations did not need any consideration on a process. They are not created by governments. There's no sovereign immunity issue for them.

And if they have filed trademarks with their names or any acronyms with their names, they are - they have standing for any existing dispute resolution process created by ICANN. So we didn't - they're basically private sector entities and not in any way connected to the public sector and there was no need for special consideration for them.

So let me open it up now to any questions from anyone in the room or anyone online who has questions about the standing issue. Go ahead.

Brian Beckham: Thanks Phil. Brian Beckham from WIPO for the record. I wanted to make just two minor observations. And one was with regard to - Phil, you mentioned that respect to 6ter of course it was - the way you phrased it was correct. It's sort of a repository for information about IGO names and acronyms.

But just one clarification, which I think is maybe a little bit important to the work of this group is that you mentioned that states could for any reason or for some reason, I don't remember the exact language you used, choose not to give application to a creation of an IGO name or acronym in the WIPO 6ter database.

The rationale behind that is where the state would determine that such use or registration - and we're talking here in this context of a trademark and I'll just

read the language. Is probably not of such a nature as to mislead the public as to the existence of a connection between the user and the organization.

So I just wanted to sort of remind everyone that the rationale behind the protection granted by the Paris Convention was to prevent misleading use of an IGO name or acronym to the public.

And then Petter, you mentioned the WIPO overview and of course as an IGO, WIPO hasn't been participating in the working group but we have been observing the working of this group. We've been looking at the transcripts and listening to the phone calls.

And when you mentioned the WIPO overview, of course the WIPO overview is often referred to as the WIPO jurisprudential overview. And that by its nature presupposes that there are cases that come before this.

So the current iteration of the WIPO overview in effect takes stock of the tens of thousands of UDRP cases that WIPO panels have decided. So in other words, it looks backwards at the jurisprudence in the cases (rather than) looks forward to provide guidance to panelists.

So it just may be a minor clarification for when you guys are thinking about making suggestions with respect to the WIPO overview and how panelists might look at IGO rights under the UDRP or another type of dispute resolution mechanism.

Petter Rindforth: Petter here. Thanks. And I fully understand what you mean. What we think - think it's this way instead. What we wanted to create was some kind of inclination or clarification. And the overview may not be the right place but to get out some formal information for IGOs that they could as we think use the UDRP (claiming) the registered 6ter rights.

And another addition. I know that from GAC they have referred to their own created lists stating that not everybody - not all - everybody - GAC members (except) the 6ter. But what we understand that list is - there are several others - IGOs on that list that obviously have not signed up formally for 6ter.

So we're not sure - we concluded fairly early that it was better to have the more formal legally reference to 6ter rather than to the list.

Philip Corwin: And just to add to that, there's a policy reason for that, which is that ICANN - while ICANN should generally enforce recognized legal rights, ICANN has no business creating new rights and registering a domain name and (.int) does not create any legal rights. The legal rights for IGOs aside would exist either from a trademark registration or from exercising their rights under Article 6ter.

So there has to be some existing basis in the world legal system for assertion of rights to provide standing. And that's the reason for the approach we've taken. Yes sir.

Rudi Vansnick: Rudi for the transcript. Maybe a small question to clarify my mind. So when they register domain name and don't get it right but somehow it enforces the rights when they own a brand or a trademark is enforcing that right by having the domain name on top of it or is that wrong?

Petter Rindforth: Well, surely a domain name is still just a technical address. But of course there are examples of companies that (unintelligible) a formal trademark and register that domain name and used it and it became a trademark that way.

So yes, you're right in that many companies or organizations have actually made their trademark well known through the use of the Internet. And suddenly the Web address so to speak has become a trademark.

Rudi Vansnick: If I may as a follow up, Rudi for the transcript. Does that fit also for IGOs in that case because IGOs in principle don't have a brand or a trademark but

that's the question and I think for WIPO also that it is important to know what is the right they are getting by registering the domain name.

Philip Corwin: As a general matter you gain no legal rights from registering a domain. As Petter mentioned, if you do business under that domain name for years and years you may acquire some type of rights in it. But the mere act of registration does not confer any legal rights upon the registrant. And I see Lori wants to jump in on this.

Lori Schulman: Yes. I was going to add I mean we're - I think some of the confusion may lie in terms of the UDRP or contesting rights. You know, you have - you buy a domain name. It's essentially a license. And then you can operate that domain name to point to any Web, you know, any Web content you choose.

But under a dispute resolution mechanism where someone to challenge your registration of domain name, that's when the underlying rights come in. So it's layers. So to support the registration of the name to prove that you have a good faith versus maybe not a good faith intent, then you would look to the underlying content on the page.

So as the source identifier for the Web where do you go? There - it's simply a license like, you know, anything else. And when you go to the - particularly the UDRP, it's about the bad faith.

So that's when let's say - I don't know WIPO or just there's WIPO at (.int) and then someone comes in and registers wipo.com and you go and - that's when you would look to the content because if you go to wipo.com and there's some suggestion there of an affiliation with the international organization and they're not the international organization and maybe they're - there's an e-commerce site on it and they want you to buy a certificate of authenticity for something. Then you're looking at profiting off a name.

But that's very different than if - there is a wipo.com and maybe it's the world information of poetry - I mean some other name where WIPO might become the acronym - I'm sorry. I can't think of - so it's contextual as well as just at the base level of the name. That's what I'm trying to get across.

And the UDRP is really only looking at the bad faith part. So there is an invested right per se in the domain as much as it is whether or not you're registering it in good or bad faith.

Philip Corwin: Yes. I'll jump in on that. I think Petter wants to comment too. Yes. And let me add, we have not yet made a final conclusion on - well we've decided that standing should be based on procedural exercising your requesting of protection under Article 6ter. We haven't decided whether we would recommend any further elements to the decisional part. And let me explain that.

Under the UDRP the UDRP says that allows a complain to be filed whereas there's a (unintelligible) that the domain name that the complaint is filed against is identical or confusingly similar to the name or acronym of the complainant, that the registrant has no legitimate rights in the name they're registered as a domain and that the registration - that both the registration and the use of the domain are in bad faith.

Now Article 6ter provides protection, which is similar but not identical to those elements. So we haven't yet decided whether we would recommend that the standing - that the - what needs to be proved by the complainant would be identical let's say if we decide not to create a new curative rights process.

Whether what needs to be proved by the complainant would be identical to what needs to be proved to prevail in a UDRP or whether we would recommend some slight difference in the elements that need to be proved based on the Article 6ter language if that is the basis for the standing.

We're going to have to come back to that issue. But they're very close and the intent is the same. And to give an example, that one I've been using, the acronym for the World Health Organization is who, which is an extremely common English word.

And as background of course, many entities can have a trademark in the same work. The trademark system is a national - the difficulty applying the trademark system to the Internet is that in each case it's a national system, which provides protection in a particular nation for an abbreviation for a particular segment of goods and services.

Therefore you can have trademarks for United Airlines, United Van Lines, United Health Service. And so they'll have a trademark that involves United but it's all for different goods and services.

So for example, if there's a - if there were to be a Web site who.ninja and it's a Web site devoted to a listing of famous ninjas in history, you would look at the use of the Web site and you'd conclude that there's no bad faith use because there's nothing related to health and medicine.

But if instead it's a - the Web page involves all types of things about the practice of medicine and health, you might conclude that the registration wasn't bad faith. So you need to look, not just at the term but at the actual use of the Web site and the curative rights process.

Lori Schulman: I would say Phil said it much better with the who versus me trying to figure out something for WIPO. But that's the bottom line. It's about context and it's the context that's below the actual use of the name as an addressed identifier.

And that's where I think a lot of confusion comes in quite frankly because trademark attorneys I think are very used to context sub textual analyses and

I think generally the rest of the community has a harder time with that the way I see it.

Philip Corwin: And for WIPO just let's say you had a Web site, WIPO (.edu) and it was for the (Westborough) Intermediary Parent's Organization. It was for a, you know, a parent's group at some intermediate school somewhere. You would immediately go to the Web site and say this has nothing to do with intellectual property rights and there's no infringement going on here.

Petter Rindforth: Yes. That is the same for trademarks. I mean if you're (unintelligible) .com and have (unintelligible), that's okay. But if there is - along these (unintelligible) there are one hyperlink to something that relates to computers or something that's going to get to (data apples) so to speak, then you're - there's a fraud. Please. Mary.

Mary Wong: This is Mary from staff. A couple of things that one, since we started, we've had a few more folks join the meeting. And we have Jim Bikoff on the line. And in Adobe Connect we have Alan Woods, Kristine Dorrain who's a member of the working group and Trevor Little. That's one.

And the other point is I wanted to particularly welcome our NextGen participant because NextGen is one of the new ICANN initiatives for outreach in the region.

The third is - actually Phil I think you made the point that we wanted to clarify from the staff perspective that on the substantive grounds on whether you can win a complaint you first have standing to file meaning you're allowed to file. Then you have to prove the substantive grounds, bad faith, et cetera, et cetera.

And as Phil noted, the working group will have to come back to this point and align its recommendations to the extent it follows through with the 6ter standing issue.

There is a comment from George Kirikos and it is about acronyms and the 6ter database. He talks a bit of - he would like to point out that CPA is in the 6ter database standing for the Permanent Court of Arbitration in English and I won't mangle the French version. Apologies for that but it's probably better I don't.

And his point is that many organizations that are unrelated to this court can use that acronym. And the example he gives is the Composite Panel of Association in the United States that has a registered trademark for engineer word products. He also further points out that cpa.com is not owned by the Permanent Court of Arbitration.

Philip Corwin: In the United States at least CPA is a very common term. That means certified public accountant. Forget whether .cpa is a new TLD that's been applied for. I don't recall. But you can certainly have, you know, (fritzmacpa).com and he's an accountant and that's his Web site for his business. There's no infringement on that IGO.

Were there any more questions on the standing? And if not, Mary, you don't need to put it up but is the next issue the sovereign immunity issue? So any more discussion that people want on the standing issue? If not, we can move on. Hearing none, seeing none, yes. Mary.

Mary Wong: Speaking for George Kirikos again. His comment asks us to close off the last comment you made is that there are multiple applications for .cpa.

Philip Corwin: Okay. I thought there might have been. And clearly - and I don't believe any objections been filed by that IGO against the .cpa applications under the objection processes that ICANN permits for top level objections.

Mary, could you just read the next item in the agenda and then we can proceed on it? We don't need to put it on the screen.

Mary Wong: This is Mary from ICANN staff again. The next item would be a status report to the community on the working group's progress on the issue of IGO immunity followed by question and answer.

Philip Corwin: Okay. Thank you. That's what I thought it was. Now this is the issue - the general disposition of the working group is not to create a new curative rights process for IGOs unless it was absolutely required because of the sovereign immunity issue.

The sovereign immunity issue would arise in the rare case that an IGO brought a complaint against the domain registrant, won the complaint. And this would only be under the UDRP because the URS does not provide for a right of appeal to national court for either party.

So let's - IGO WIPO. Someone's misusing the WIPO name. They believe it's some domain. They file a UDRP. They win the UDRP and the registrant files an appeal in a national court that's permitted under the UDRP rules, which would be a court of appropriate jurisdiction based upon the location of the registrant or the registrar.

And so the issue involves does, you know, it's recognized that the concept of sovereign immunity has been out there for a long time. Nations have it. IGOs have it because their organization's composed of governments and established by treaties between governments.

And the question is would that in that rare circumstance where a losing registrant filed a judicial appeal in some national court. Would that violate the scope of the sovereign immunity for an IGO?

The working group to date has not reached any final conclusion on this. We have determined that in the modern world the scope of sovereign immunity is not absolute. There are limitations on it.

And that generally it boils down to whether exposing the IGO to a judicial jurisdiction would interfere with its core functions and not some peripheral function. So in that context the question would be whether the use of a domain name relates to the core functions of the IGO.

Now we've done some research as a working group on this. We got input from one person with some legal expertise on this. But we don't feel that we feel fully satisfied that we fully understand the prevailing consensus view on the scope of sovereign immunity for IGOs in the - in this decade of the 21st century and we are endeavoring with the assistance of staff to obtain some modest funding from ICANN for the retention of a legal expert with expertise in this field to advise us on that.

And we expect to have that approved and to have a list of potential candidates very shortly. So - but just so expectations are realistic, we would have to be - I think we'd have to hear from whoever's retained that exposing an IGO to that very rare circumstance of a judicial appeal by the registrant would so violate their recognized sovereign immunity that we'd need to endeavor to create an entirely new curative rights process, which does not provide an appeal mechanism through the courts but would provide some other type of appeal.

That would be different from the UDRP in that regard. So let me stop there and see if Petter has anything to add on this subject and then we can open it up for discussion and questions.

Petter Rindforth: Well I just wanted to add that the issue is not perfectly new but already in 2002 the WIPO General Assembly adopted a recommendation on amending the UDRP to protect IGO names and abbreviations. And there has also been suggestions on a special appeal system for IGOs that was created in 2003 but not adopted.

So what I may want to just add is that we also had an informal meeting on the morning with some of the GAC members and Thomas Schneider was there. And we didn't bump into any specific (defects) on the topics but we agreed upon that have this limited timeline and we will this way started to have a online communication directly with GAC that we hopefully from both parties can get our questions and replies and work for informal way.

And what I especially noted was Thomas knows that there's a need for a practical solution rather than a legal, which I take is maybe more a way to see if we can come up with some recommendations still rather than creating a new - specific new dispute resolution system.

So even if this was a very informal initial meeting, I think it was quite positive that they know - have noticed our timelines and will work actively with us.

Philip Corwin: And if I could just add onto that. Throughout our process we've invited the - those input and participation by GAC members and by IGOs. We've been completely open. We've gotten some responses from them.

The other thing I wanted to mention here is that to put the appeals issue in context, just as ICANN has no authority to create legal rights, ICANN has no authority to extinguish legal rights. There are two parties to a dispute resolution process. And the registrant has legal rights.

And the - while there's no uniform opinion on whether or not a domain is a form of property or of intellectual property, certainly a domain is generally recognized to constitute some valuable collection of intangible. Be an intangible asset with some value and it can't simply be taken away.

So ICANN - we can't have a curative rights process that extinguishes the right of the registrant to have access and exercise whatever legal rights they have in their nation of (residents) or whatever else they have legal contacts with. So that's the other side of this issue.

So - but we're looking forward to consulting with a recognized legal expert. And then once we determine what the consensus view is on the scope of sovereign immunity for IGOs, we can proceed I think quite rapidly toward completing our work and preparing an initial final report and recommendations for public comment, which we certainly hope to do prior to the Dublin meeting.

I don't think we'll be completely done by Dublin but we certainly hope to have a initial report other there for comment that can be discussed in Dublin. And with that, I'll open it for comments, questions or anything else that folks might want to do in this room or from the online environment. Yes Mary.

Mary Wong: Thank you. Mary Wong from staff again. There is a comment from George in the Adobe room although it's - I think it might have been to part of the prior conversation. But I'll read it for the record.

George says that we know that IGOs have filed lawsuits as well as UDRP complaints including the World Bank amongst others. And I think this is a point that has been discussed by the working group in prior meetings.

What you see on the screen, and we don't have to discuss this. Still I intended for this to maybe accompany a presentation. It is a document that is part of an effort that we have with the GAC where every month the policy staff does basically a one page briefing paper on ongoing projects to the GAC.

And obviously as this is an ongoing PDP, this is one of the projects that we report on. We published the same update so it's not that the GAC gets different information but that this is sent specifically to the GAC and we publish the same information to our community as well.

The last point I wanted to make Phil following up on what you've just said is that as a reminder and actually most folks in the room probably don't need

this reminder. But that when there is an initial report from any PDP working group, it has to go out for public comment. And the mandatory minimum public comment period except in exceptional circumstances is 40 days.

The working group then takes back all the public comments received, reviews it and then prepare its final report based in part on its review of those responses. Thanks Phil.

Rudi Vansnick: Rudi for the transcript. So that means that if we want to get that finished for Dublin, there is a kind of urgency to start having this report - initial report done and send it out for public comment rather quickly. Dublin is there in a few months or 40 days plus the periods that we need to consider for taking care of the comments, which probably is also two-week time. We are close to Dublin.

Philip Corwin: Yes. I don't anticipate this working group being completely finished by Dublin. I don't see how we do that. But I don't see any reason why if we can engage with a legal expert over the summer we couldn't have a preliminary report and recommendations out sometime - at least issue for public comment in September or even early October. And that way it might still be open for comment at the time we discuss it in Dublin.

But it will be - hopefully it'll be at least the initial report and recommendation will be out there. The comment period might still be open. But I think that's fine. You know, that's - and that would prove an extra opportunity if it's open for people to ask questions about it and provide input during the Dublin meeting. And that would still allow I think our full work, you know, final report to be delivered prior to the end of the calendar year.

Lori Schulman: Hi. I agree. I don't think we're going to be done by Dublin. But absolutely by Marrakech I would imagine. I think it will also depend on what types of answers we get regarding the immunity question because I have a feeling the immunity question's going to be quite complex. And I don't think the answer is

going to be as straightforward as maybe we would hope to write a very clear line in their report. Just to add that as a thought.

Also to those who are listening today from the community who haven't been part of our ongoing meetings, there's something I want to know because it was curious to me but is maybe typical.

This community sent out questionnaires to several members of the GAC or all members of the GAC. I don't remember Mary who got our questionnaires. We sent questionnaires to the GAC and to IGOs asking questions to help guide us in terms of what systems were available for redress, about IGOs are treated within certain jurisdictions and just to try to give us some general guidance about how dispute resolutions may be handled in the wider world beyond the UDRP.

And it was - we heard - we got very, very low response. And I actually found it quite surprising as a member of this working group because this was an opportunity for members of the GAC as well as IGOs to really weigh in and have true substantive input into the process of the group.

And I just have to say as a member of the group I just find it disappointing that we didn't get the kind of answers we were hoping for or volume of answers we were hoping for.

Philip Corwin: Mary, why don't you respond and then - oh, let's go the gentleman at the end of the table.

(John Bizaro): This is (John Bizaro) from the OECD. I just want to say that we did provide pretty lengthy responses to the first set of questions that was provided to the GNSO.

With respect to the second set of questions, you know, we felt that they were phrased in such a way that, you know, the questions were in fact trying to get

precisely the set of answers that you were looking for and actually repeated a lot of the content that we thought we had already clarified in the first set of questions.

So just sort of in the interest of moving things along rather than getting stuck in a debate that didn't really seem to be going anywhere, we decided to sort of rest with our first set of responses. But we remain, you know, available to answer questions informally, help try to clarify things. But it's difficult for us to just sort of rehash the same issues over and over again.

And we had hoped and were a little bit disappointed that the answers to our first set of questions didn't really appear to have been taken on in the best faith possible.

Philip Corwin: Well, let me say...

Petter Rindforth: What (his thinking) is that we will not get a formal response but you're open for kind of more informal speech on this if we have specific issues that we want to (spell out) with you.

(John Bizaro): Exactly.

Philip Corwin: Let me just say as co-Chair that I'm sorry there was any perception that on our second round of questions we were trying to ask them in a way that would predetermine the answers. We were sincerely seeking further clarification. And if there was that perception, that was not in any way our intent.

(John Bizaro): Well noted. Thank you for that.

Lori Schulman: Yes. I was just going to follow up. And I don't recall reading the response and my apologies to that. Was that issue raised in the second response or you didn't respond at all? It's late in the week and I apologize.

The only reason I'm asking this is because I think that's a fair issue. And if that was the perception, it certainly would have been up to this group to clarify questions or rephrase questions in a way that didn't appear leading or whatever the specific issue was.

I mean we are absolutely 100% to Phil's point open to really what you have to say. This was not a fishing expedition in any - for a specific answer at all. We really did feel that the guidance was warranted because I don't think we would have taken our time or wanted to waste your time quite frankly.

(John Bizaro): So the - first of all I appreciate in sharing your fatigue. It is late in the week. We're all exhausted. The issue that I was talking about that were repeated were the - were all, you know, all these immunity issues. And we, you know, they had been brought up in that first set of questions.

We gave pretty extensive responses, tried to break them down as clearly as possible because, you know, as our roles as experts in international law and sort of talking to people who might not have the same day-to-day experiences that we have in discussing these issues.

And we spent a lot of time working over these issues with a select group of IGOs to sort of give the most complete and clear responses that we could. And then it seemed to us that the same issues were coming up over and over again in the same questions about the extent - the role of our immunities and their importance to our functions as IGOs.

And it just appeared to us that that wasn't at all sort of taken onboard in the second set of questions, which appeared to repeat a lot of that same content. Thank you.

Mary Wong: This is Mary. And again, speaking for George Kirikos who has a comment in the chat. His comment is that it should be pointed out that the PDP, the

working group I think he means, was seeking data that is to say facts and not just position statements.

Philip Corwin: Well, we're still on the subject of sovereign immunity. Are there further questions on that? And I might ask, you know, that we have someone from the OECD. Do you have any views on the relevant scope of sovereign immunity that could assist us in this?

The specific question is, you know, let's - let me give you - you can choose to answer or not answer. But if the - if someone registered OEC.ninja, you know, and whatever the content was, you know. I'm not going to speculate. And you brought a - OECD brought a DRP against it whether it's in the, you know, UDRP, URS or some new process.

If the registrant chose to appeal, would you view - to a national court if it was a UDRP, would you view having to respond to that appeal in a court as violating the scope of the OECD's sovereign immunity?

I don't want to put you on the spot but you're here and this is the basic question we're trying to figure out.

(John Bizaro): Yes. The IGOs have been clear over and over again that our immunities are integral to our ability to function independently. They're crucial to our mission, so. But I also want to point out that the OEC will never prevent someone from registering OEC.ninja because we don't set policy in martial arts.

Philip Corwin: Let's say no - let's just say a...

Lori Schulman: Wait. Wait.

Philip Corwin: ...Web site...

Lori Schulman: (Unintelligible).

Philip Corwin: ...an OECD...

Lori Schulman:edu I think we - oh no, edu is a...

Philip Corwin: Let's say some Web site, OECD dot something was registered at some top-level domain. And there was content at the Web site having to do with economic development where you felt that it was infringing, you know. So forget the Web - you bring a UDRP because that's the only thing available.

Nothing new has been created. And you don't want the expense of litigation. And you win and the registrant thinks the decisions by the experts been incorrect and they appeal to a national court.

I hear what you're saying. You're saying that any judicial process violates. But that's based on the scope of your activity. So again, I don't want to put you on the spot but I'm trying to understand how being involved in trademark related litigation on what a particular domain would in any way interfere with the actual functions of the Organization for Economic Cooperation and Development.

It wouldn't - the result of the dispute would in no way interfere with any of your actual activities in the world.

Brian Beckham: Can I answer that please? I think we're really getting lost here. What we have in front of us is advice from the GAC to the Board, that protection of IGO names and acronyms is in the public interest. And this working group is also looking at that issue in parallel.

In the April 29 reply from the GAC to this working group, and I'll just read it because I think it's really not particularly helpful to talk about would waiver of immunity in this particular situation or that particular situation be something that an IGO could take onboard.

What the GAC said to this working group was - in response to this precise question was the GAC notes that the IGOs and their communications here of 16 January 2015 have advised that they considered a claimed immunity from national jurisdiction to be fundamental to their role as international bodies.

There are non-judicial means to ensure due process such as arbitration, which the GAC believes should be considered in more detail. And frankly I don't see why there's a need to go beyond that statement from the GAC and looking at the broader public policy interest that the GAC has expressed to the Board that this working group is ostensibly also looking to address.

Philip Corwin: Well with due respect Brian, we do think - the members of this working group think there is a need to go beyond that simple statement because we have determined that the prevailing world view in the world today is that sovereign immunity does not provide absolute protection against all judicial procedures.

And there's ample precedent for situations in which both nation states and IGOs have not been protected from court proceedings, in particular, that's just the fact. We've completely committed to - the members of this working group are completely committed to providing IGOs with a reasonable means, rapid and low cost means for protecting their rights and the domain name system to protect their names and acronyms from abuse by domain registrants.

But that doesn't mean that, as I stated before, they have rights but domain registrants also have rights. And absolutely depriving domain registrants of a right to go to court when they think a valuable asset is being taken away from them is another consideration that this working group must take in view of when - before reaching final recommendations and conclusions.

So I mean just saying we are IGOs and therefore we can never be subject to any court proceeding is not consistent with what goes on in the world today.

Lori Schulman: (To even) look at it in another way - Lori speaking. To look at it another way too it's, yes, registrants presumably the defendants in these situations have right of appeal under UDRP. But I think we have to look at the (unintelligible). You know, the right of appeal of the IGO.

You know, if the right of - if we decide or we recommend or we're instructed that this appeal right it's done, that the IGOs are not going to be subject to any sort of civil appeal in a court or jurisdiction, then what is the remedy? Does it stop at the UDRP?

And I think that's a kind of an odd question or maybe that is the question we're going to end up asking. I mean there's no right of appeal in the URS but the URS has different remedies.

You know, we're talking at the UDRP level, the extreme remedy of transfer, which we don't have in the URS. So, you know, look, the way you frame it - the right of the registrant I get it. But can you even take that registrant right argument away and just say stop it at a level of - there may be a time, and I don't know this, that an IGO in this proceeding may actually be the defendant. I don't know. You know.

I mean we have to look at all possibilities. So I think we have to look at the question a little more broadly than that and just basically say if the right of appeal goes away because of this immunity issue, what are we - what are we left with?

And is that a situation then where we've got to figure out some creative way around that or we just decide the UDRP is the end of the day - and it's the end of the day and that's the type of amendment to the UDRP that we would - we might suggest at some point.

I don't know. So I don't want to really - I guess I would - I think you're completely right on the procedural end of things. It's probably at the end of the day definitely more about a defendant registrant's right to appeal. But I'd like to see it discussed a little more broadly than that. That's all I think I guess I would say.

Petter Rindforth: Well frankly the URS may be more convenient for IGOs than the UDRP as it is. I just wanted to also remind about even if this was more of a country codes discussion back in the 2003 but (unintelligible) proposal, the number of countries expressed reservation about the process like Australia, Canada, Japan, the U.S.; everything from the (unintelligible) of such a process. I'm talking about special appeal process.

What I wanted to sight is the comments from the U.S. delegations that was also supported by Japan. Let me summarize. An arbitral appeal mechanism would contribute to eliminating the four most important view of process safeguards of the UDRP.

The possibility of broad court review, the limitation or the procedure to (narrow) courses to action, the limitation of available remedies and the limitation on trademark rights for which there is a firm basis in international law. The delegation expressed concern that this might undermine the legitimacy of the UDRP as a whole.

So - and I think that's - it's interesting that this was actually coming from let us say GAC members at that time. And now we're talking about country code names.

Philip Corwin: And to add to that, Petter raised an important point, which is that individual nation states - the courts in international nation has often determined the scope of sovereign immunity to judicial decisions.

When someone brings litigation against a nation or an IGO within their jurisdiction and they - there's usually a motion to dismiss on the sovereign immunity issue and they decide that the U.S. - United States passed a law regarding the scope of sovereign immunity for nation - for other nations operating within the U.S. I forget the name right now I think.

But the legislator has addressed it. And we did find a communication from the U.S. State Department and (unintelligible) - I think it was in 2002 to the U.N. office - (I mean) the U.S. office at the United Nations where they were specifically asked how does a foreign nation protects its national trade, you know, trademarks its registered in the U.S.

And the advice was bring a proceeding in the U.S. trademark office or in a - bring a court proceeding. So they were - the U.S. response was if you got - if you think you trademark - if you're a nation state - if you're some entity that has sovereign immunity and you think you trademark rights are being violated in the U.S., your remedy is to bring a court action in the U.S.

So, you know, nation states have varying views on the scope of sovereign immunity for other nations. So it's not - there's no simple view here. And I don't know -even if we were to recommend creating a completely new process, which had no right of appeal, so only for IGOs with no right of appeal to a national court, that would not stop a losing registrant from going to court and seeking an injunction to prevent the transfer of their domain if the court had jurisdiction over the registrar or the registry.

So there's only so much we can do here. And ICANN can't extinguish legal rights or prevent the exercise of rights by legislatures and judiciary. Yes.

Rudi Vansnick: Rudi for the transcript. Just to keep my memory cleared up, I always hear we are talking about IGOs. Would that also apply for INGOs? Or as I have seen the INGOs have been scratched away from the debate or is that incorrect?

Philip Corwin: No. Really in our - this working group early on in its proceedings determined that there was no need to address standing or sovereign immunity for INGOs because they are not in any way related to governments. They're private entities. And as private parties, they have the same standing as anyone else.

If you have a trademark in your name or an acronym and you believe it's been violated, you have the option of either suing or using one of the dispute resolution processes created by ICANN to provide a more expeditious and lower cost means of protecting your rights.

Petter Rindforth: And adding to that we in fact also went through a great number of - (two or three) cases - U.S. cases with INGOs and we found that they have won each case except for I think it was one for the Red Cross. And the reason for that was they completely (unintelligible). So we made that conclusion that there's no need to create anything new for those.

Philip Corwin: OECD. Go ahead.

(John Bizaro): I just think it's important to remind everyone so we don't lose sight of this that, you know, whatever solution is ultimately recommended out of this - out of this process, it doesn't necessarily have to entail - we're not talking about denying someone right to appeal.

We're talking about the mechanism to which someone might be able to appeal a decision at the UDRP, which could be achieved through arbitration, some of their sort of administrative means of dispute resolution. It doesn't have to involve a national court.

Philip Corwin: Yes. We recognize that. On the other hand, a registrant - the existing DRPs, UDRP and URS are not substitutes for a domain registrant's right to protect their domain or a complainant's right to go to court. They're supplements to it.

And as I said, we can create - we could create a new CRP with no - with an appeals mechanism that had no relationship to any judicial system but that wouldn't prevent the domain registrant who loses in a decision and is going to lose their domain from - if they having standing under national law. There's an applicable law of going to court to seeking to stop that transfer.

So there's really - there's a limit to what ICANN or any working group within ICANN can do on this subject. Lori and then Mary. I'm glad to see we're having a good heated exchange on this.

Lori Schulman: Yes. I support what you say but with the caveat that - I don't know - and again, playing devil's advocate or maybe the angel's advocate. I'm not even sure at this point.

Do we care? I mean as long as there's a mechanism for IGOs to assert their rights and there is some reasonable - we agree that for due process purposes that a appeal mechanism whether it's administrative or goes beyond administrative into civil courts is is it the right way to go.

I mean we all have to acknowledge that there are different legal regimes in every single jurisdiction. I mean the U.S. has a very strong regime particularly with the consumer - with the anti- cybersquatting act and some other remedies that are available in the U.S. that aren't available anywhere else in the world or at least to the same degree.

So to - the first point you say is yes, I agree. There's a point where we have to stop. But at the same time, I think there's also a point where we have to be fair and recognize sort of what the playing field does look like. And the ideal is to balance that.

And I agree. I mean anybody anywhere in the world can avail themselves of a administrative system and depending on what the rules of that system are,

they're always going to have a right in their or mostly - presumably have a right within their own national systems to assert a claim.

Whether or not the other party will actually be able to be legally bought into that claim is another story. And I - and again, maybe we don't care. I mean maybe that's the level where we stop. That we've done the best we can within the administrative construct we have and then we're done.

Philip Corwin: Let me respond to it. I wanted to first comment on - you said - earlier you said there's no right of appeal under the URS. I'm not sure that's correct. I believe within the URS you can - there's no right to appeal to a court.

Lori Schulman: (Unintelligible).

Philip Corwin: Yes. There is a right...

Lori Schulman: Sorry. My apologies. There's two rights of appeal.

Philip Corwin: Yes. There is - but there is a right to ask the URS provider to reconsider their decision; essentially to review their own decision.

Lori Schulman: But that's not independent review. I'm sorry. Are there rights - you can educate me on this because I'm mixing up the rules in my head. But is there a right of independent review?

Philip Corwin: No. Well the other thing is...

Lori Schulman: All right.

Philip Corwin: ...a losing complainant in a URS has a right to file a UDRP, which has the...

Lori Schulman: That's not an appeal though. That's a different...

Philip Corwin: Well, but it's...

Lori Schulman: It's not an appeal.

Philip Corwin: I'm defining appeal broadly. You lose the initial decision. You want it reconsidered. I know in the URS there's a right to ask the dispute provider to reconsider their decision. There is an internal appeal if not to an independent, it's to the same body that made the initial decision.

Lori Schulman: All right. I want to clarify my frame of reference. When I...

Philip Corwin: Yes.

Lori Schulman: ...say appeal, in my mind - we legalistic...

Philip Corwin: Right.

Lori Schulman: ...mind, I'm thinking a right of an appeal to an independent body that looks not to the decision maker, not to the UDRP but just - to me those are different. If you're asking somebody to reconsider a request but it's not independent review -- and I'm just again to clarify where my points are coming from -- that there's an independent adjudicator involved.

That it isn't going to another mechanism within the UDRP, which is - would be going to the UDRP, which would be the second mechanism under the URS or asking the URS provider to re-look at their own decisions. Those are re-looks. But I'm thinking extremely legalistically.

Philip Corwin: Right. Well I think within your - I think they label it appeal. I'm going to just speak on this Mary and then let you provide us with the facts, which is probably what - but I know that whether you call it an appeal - what I'm calling an appeal more broadly is either the complainant or the registrant is unhappy

with the initial determination of the expert and want it reconsidered - reopened.

And under the URS I know they can ask the dispute provider to reconsider it. I also know that the complainant if they lose the URS can file a UDRP, which has a lower burden of proof because they might feel well, I couldn't prove it was a black and white case but I might be able to prove on preponderance of the evidence. I believe the registrant also has a right to take it up to the UDRP if they lose the URS.

But let's let Mary jump in or Petter here.

Petter Rindforth: You can correct me here but I - just quick (is that is) normally three steps. And the first one is a very quick decision that you normally don't have any replies for the main holder. And then there is the specific (byline) when the domain holder of - that had lost the first sometimes very, very few cases the initial decision is that it's not - should not be stopped.

And then there is some kind of a fee but there's still a single panelist. And then the third step with three panelists. That's also the only step where you actually have a more (wordable) decision where you can actually read about what conclusions the panelists have done.

And then again, I've also seen the same cases where up to the first step the complainant has lost it and then turning to a UDRP case instead often asking for the panels to decide upon it. So - but it's the URS in this case I think it's - it works somewhat in a good way but also difficulties with it.

Philip Corwin: Mary. Enlighten us.

Mary Wong: Actually I had my hand up earlier for a comment from George. But let me address this particular point and then if I may go to the comment from George.

So the - maybe using the word appeal since different people are using it differently. So just to confirm some things that folks have said that the URS does not preclude going to court and filing a relevant proceeding.

The URS does not preclude a proceeding under the UDRP. And if there is a URS decision, what some folks I think are talking about an appeal in the URS is phrased as a de novo review meaning a reexamination of the case. It - and Kristine Dorrain from National Arbitration Forum who's in the Adobe Connect room and who is one of the providers for the URS concerns that even if it's the same provider, it would go to a different panelist.

Philip Corwin: Yes. There is that - I believe the URS provides the registrant with up to a year to request a de nova review by a different expert. And just Lori, you said, what does it matter.

We have the working group we have and there's quite a number of registrants and registrant attorneys and they believe based on experience that preserving the registrant's right to access a national court of relevant jurisdiction is extremely important to them. So we have to - it's the working group we have and we've invited participation by GAC and IGO members and there's been just about zero participation by them as participants in the working group.

Lori Schulman: I want to clarify what does it matter. I don't mean that your registrant really don't matter. That was not the intention.

Philip Corwin: I know. I know.

Lori Schulman: The point is that here is a degree of review, whatever you want to call it, that stops at a certain level. We recommend that it stops at whatever that level is. But there is always going to be a remedy in your home jurisdiction to some degree. That's my point.

Philip Corwin: Right.

Lori Schulman: And we can't know every jurisdiction. We can't know every remedy. So the what does it matter isn't about that the remedy doesn't matter. But there is a point - and I think we completely agree here Phil maybe a thought that there is a limit to what we can recommend.

Philip Corwin: And that's exactly the point I made. We could create an entirely new curative rights process with an appeals mechanism that does not include - that does not involve judiciaries and that could not stop a losing complainant or a losing registrant from going to court if they're unhappy with the decision and the appeal result and seeing further redress.

Lori Schulman: Plus one.

Philip Corwin: Yes. And I want to again put this in context just to remind everyone that the majority of UDRP and URS cases are default cases that get no response from the registrant. So it'd be extremely rare - unusual to have a default registrant filing an appeal.

And even in those cases where the registrant has responded and the - about 2/3 - and not only the UDRP - about 2/3 of the cases get no response. Of the remaining 1/3 that get a response, the results come out about 50-50 for complainants and registrants.

So in that 50-50 situation the registrant lost, in the majority of cases they never file an appeal in a national court. So we're talking about a consideration just to put the discussion in context.

An appeal by a registrant would be a very rare circumstance and there's not a lot of - there may be more cases brought by IGOs once we finish this if whatever we come up with is accepted. But there still probably wouldn't be a

whole lot of cases brought by IGOs in the context of total UDRP and URS cases.

Mary Wong: There's some discussion in the Adobe Connect chat about the narrow scope of the URS. But specific to this point, a point of clarification that's confirmed by Kristine Dorrain of NAF in the chat as well that when we talk about the ability to file for up to a year, that refers to the cases of default. And in those cases it goes back to the same person or panelists.

In terms of the de novo review that we spoke about earlier, which, like I said, most folks consider the - an appeal, that does not go to the same panelists. But that is limited to up to 15 days following the initial decision.

Philip Corwin: Let me - unless - we've spent - I think it's great we spent a lot of time discussing sovereign immunity. We got real engagement here. We have 15 minutes left in this session. Unless someone - I haven't even asked my question yet Mary and your hand's already up. And what was I going to say? Let's see how you powers of precognition...

Petter Rindforth: Please proceed.

Mary Wong: Such a test Phil. And it's all right if I fail it. But I did want to say that maybe the burning comment or some equivalent that you might perhaps be asking people to raise in the last few minutes that there was a comment from George earlier on that at some point prior to ending if I may be permitted to read it out.

Philip Corwin: Why don't you read it out and then I'll tell you what I was going to say.

Mary Wong: And I suppose I might end up owing you a drink or two. Thank you everybody. Thank you for...

Philip Corwin: Well you can just take that as a default position no matter what goes on in this room.

Mary Wong: That is true. So first thanks George for your patience while we were deliberating the URS issue. George made an earlier comment about the question of eliminating a right to appeal by a registrant. And he says that one can do a thought experiment on that point.

So what would happen if a mark holder, which could be an IGO or otherwise, want to enforce its right if the UDRP did not exist? Answer, they would need to go to court. The existence of the UDRP is an optional tool that doesn't override existing rights. ICANN isn't in the business of creating new rights. The UDRP as it stands now does not create a new right because it can be overridden by the real courts.

So eliminating the right to go to court would be a huge change, which would deprive registrants of real rights. Indeed it would cause divergence between the UDRP's jurisprudence and the courts because UDRP panelists would no longer have the check and balance of real court and national laws relating to trademarks.

Philip Corwin: Thanks for reading that in. I just want to state - we - this working group has not yet consulted with a recognized legal expert as we're planning to do. And we'll take their input into very serious consideration on - regarding the generally accepted view on the scope of sovereign immunity for both nation states and IGOs.

I'm going to actually say what I intended to say about five minutes ago before I let you speak again Mary, which is that in the remaining now eight minutes of this session I had hoped to bring up if we've exhausted the sovereign immunity issue, which we're not going to solve in this session.

One of the other thing the GAC asked in their - or state in their Los Angeles
communicue was that whatever we did they wanted us to create a rights
protection regime for IGOs, which was either free or of nominal cost.

Now we did as the GAC and the GAC replied but not with a specific answer
that was really very illuminating whether they considered the existing costs of
the URS, which is - we're not talking about legal costs. We're talking about
the filing fee. The URS costs \$500. UDRP costs \$1500 - about 1500 for a
single examiner. It costs more of course if one of the parties wants to request
a three expert panel.

But each of these proceedings is far less expensive than filing in court. I know
generally if you want to bring a litigation in federal court in the United States,
the law firm you contact will generally ask for an initial retainer of between 25
and \$50,000 just to start federal litigation in the United States.

It's a very expensive process. So we are - this working group is also looking
at the question of whether - we've told the GAC that we have no ability to
create a free process; that experts have to be paid. Someone has to pay
them. And if they're not going to be paid by the IGO, the funding has to come
somewhere else. And we don't have any capacity in this working group to
create a fund or a subsidy mechanism for IGO filings.

But that issue is out there. We are considering it. But any views by anyone in
the room or online of whether the existing filing fees for URS and URDP fit
the definition of nominal would be welcome either now or at any time as we
continue our work. And Mary, did you still have something you wanted to say
after that.

Mary Wong: I had something that George wanted to say. And...

Philip Corwin: Is it short?

Mary Wong: Yes actually.

Philip Corwin: Why don't you read it out and then we'll...

Mary Wong: But first I want to apologize to George for not completing his original comment because he did have a separate one. And to complete the original one he says eliminating the right to appeal would encourage form shopping by complainants because providers would have incentive to prove a quote unquote better result.

His separate comment on a related point about mandatory arbitration is that he says there are laws against mandatory consumer arbitration and so a new DRP along those lines would violate those laws.

Philip Corwin: Thank you. Well, to that now - up now for - yes sir. And you came in since we started. Could you identify yourself?

Klaus Stoll: Klaus Stoll and (unintelligible) for the record for the transcript. Just to pick up on your point of the value and the money, what is - maybe you should look at it at a strictly monetary point of saying \$1, \$500, \$50,000. But actually what the product you're trying to defend is actually worth. You understand what I'm trying to say?

Not what is reasonable or marginal depends on for a trademark, which is basically, or a name, which is basically your whole organization IGO depends on. Yes. It has a huge value so it's - so marginal becomes much larger and something, which is not of so much importance to you. So it should be not only seeing on a monetary scale but also on a value scale.

Philip Corwin: Right. Well I take that - I take your point but that's more of a philosophical point than a cost benefit point. But the point I was trying to make is that no matter whether we're talking about the URS, the UDRP or some brand new

process, the determination has to be made by a legal expert or experts. And they tend not to work for free.

Perhaps we can identify a pool of legal experts who'd be willing to work pro bono for IGOs generally or for IGOs with limited monetary resources. Perhaps WIPO among their pool - that WIPO would say we're a very well know IGO. Perhaps they can ask their experts whether any of them are willing to do that.

I was just trying to - and we heard from the GAC this - the other morning the suggestion that maybe the pool of money from the last resort auctions some of it could be set aside to fund this. But I think in the session - the high interest session we had Monday afternoon we heard many suggestions for how people want to spend that money. Probably enough to spend it several times over in a single year.

So - but this working group we're looking for guidance on whether folks believe the existing fees for filing a URS or UDRP satisfy the GAC request for a nominally priced process but we have no ability to create a mechanism that let's IGOs file for free.

Petter Rindforth: Actually we have received a response from GAC that again you have to read between the lines. But I mean they - the initial request was to look at, as you said, review (seeing or) not cost at all. And then we got - then we sent out our new questionnaire to GAC frankly saying that do you consider current fees charged by URS and UDRP provides to be nominal, et cetera.

And the GAC's very clear response was the GAC is not in the position to assess the current fees charged by URS and UDRP providers as being nominal or not. Again, the GAC is happy to participate in further discussions that should ideally include IGOs.

So at least there was not - no indication that they still consider it too high. And I got more the impression that the cost question was something that they had to throw out to be considered and that maybe - they maybe accept our conclusion that the costs are already rather low. As you said, thinking of that it's actually experts that's dealing carefully with these cases.

Philip Corwin: Yes Brian.

Brian Beckham: Thank you. Brian Beckham for the record. I just wanted to make a small point on the comment about the cost to the IGO filing under whatever dispute resolution mechanism would be available.

It's not so much in terms of looking at what's the quote unquote benefit or utility to the IGO in a domain name. Quite the contrary, what is being addressed would be misuse of their identity to prevent consumer harm.

So I think it's just important to come back to that principle when the working group is looking at what is being addressed here as preventing harm to consumers in the Internet.

Philip Corwin: Yes. Thanks for that comment. I would echo that. What we're protecting when we protect a trademark or in this case the name or acronym, we're protecting it from misuse by third parties who are either putting out statements, (unintelligible) putting out statements that are contrary to the view of the organization.

But that might mislead some people who wind up at that Web site and believing those are the views or activities of the IGO that they're being confused about. And the more extreme cases with it might be soliciting funds where people are, you know, believe they're supporting something when in fact there's a scam going on. So there - it's not just protecting the value but it's protecting the public from being misled and abused.

We're at our scheduled end point. Is there - are there any final comments that people feel compelled to make? And I remind everyone that we are at least several months away from completing a preliminary report and recommendations.

That we're completely open to further input from all interested parties and participation by all interested parties. That we're, you know, nowhere near even that preliminary report. And once we complete that preliminary report, which we hope to do so before the Dublin meeting, there's going to be a 40 day period of public comment before there's a final report and recommendations.

And then whatever is done with that final report and recommendations will be up to ultimately the ICANN Board. So we're a long way from the finish line here and still have a very open process. And yes Lori.

Lori Schulman: Yes. I just want to thank you and Petter and Mary for shepherding us over the last year. I think these are highly complex issues. There's been a lot of talk - even today was a great example of some of the back and forth that we share and whether you play the devil or the angel in this, I think it's important to hash these issues out.

And again, I just wanted to appreciate the leadership - the thought leadership as well as the administrative leadership to get us to where we are today. Thank you.

Philip Corwin: Thank you for the record.

END