

**Transcription ICANN Singapore
Registrars Stakeholder Group
Tuesday 25 March 2014
Morning Session (Part 2)**

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(Jennifer): I was going to say can we also start the recording and then open the remote?

(Elliott): Whoops...

(Jennifer): Okay.

(Elliott): Okay. I just saw a note from (Benny). We're here.

(Jennifer): Okay.

Michele Neylon: But was open anyway. It's not being recorded.

(Jennifer): I just start - it's being recorded?

Michele Neylon: Oh, did you? Sorry.

(Jennifer): Yes. That's okay.

Michele Neylon: Sorry.

(Jennifer): All right. Okay.

Michele Neylon: (Jennifer) is too efficient for me at times.

(Jennifer): Okay. So if we could get everyone's attention for the working lunch we'd appreciate it.

The number one topic for discussion is (Oli) representing the registrars at (One net). And as (Elliott) has just provided there are three candidates that have been invited to attend from the Registrar Stakeholder Group.

The attendance, it's been finalized and confirmed for (Oli) as well as (Elliott). And James I believe that you're considering going, but it's not confirmed yet correct?

James Bladel: I think my - I'll have to clear my travel. I don't think - it's not looking good.

Michele Neylon: Okay so James is currently negotiating with his lovely wife. Is that correct?

James Bladel: Right. Well I think the point is, and I think (Elliott)'s point is that I submitted a request and that I wasn't, you know, like (Oli) and like (Elliott) I did receive an invitation to attend and it's just - and I actually missed the deadline and they gave me a second chance. So I don't know if they're hurting for attendees or what, but probably I will not be able to go just due to a family conflict.

(Jennifer): Okay so let's clearly confirm what our intent is with this particular topic. Is it a matter as to how Fadi's recent comments? Is it a matter of registrars participating at (one net)? Is it a matter of how Fadi intends to represent the registrars? Do we want to instruct or advise...

Michele Neylon: Well parts of us...

(Jennifer): ...his position?

Michele Neylon: Well part of this was driven by the response to the letter sent by the - by registrars and registries...

(Jennifer): Right.

Michele Neylon: ...where we were just kind of raising concerns about the entire (one net). I think kind of moved on from that.

James Bladel: Yes that's my concern is that the events of the last few days have kind of outpaced our, you know, our issues here.

I mean, we can raise them. We can raise that look we came to Singapore with these concerns. We feel like, you know, perhaps they've been mitigated somewhat by some of the announcements over the weekend. And, you know, in some cases the, you know, they clarified them.

But in general and particularly going forward we want to make sure that commercial aspects of this industry have a solid voice and not just reacting to the things that are being, you know, the commitments and representations that are being made. But, you know, actually, maybe even in advance of those commitments being made we are consulted or given an opportunity to contribute.

And that's really all I would want to say on that. And unless you guys have something more specific than that I think that we can just put that out there and say, you know, we really feel like left out in the cold.

And then - and I don't think the letter helped honestly. I mean when, you know, some of us are public companies, some of us, you know, have investors you can't go back and say that our fate is in the hands of this, you know, person that we've never met who's making all these commitments on our behalf.

You know it's a, you know, we can't just do that. It just doesn't apply. And, you know, he's got that background. He knows that doesn't work, so...

(Jennifer): Thanks James. Do we have a volunteer to speak on the topic?

James Bladel: I thought my name was - if my name's not on the topic then I'm - I care about a lot less suddenly...

(Jennifer): Okay.

James Bladel: ...but I thought many was on this topic.

(Jennifer): (Unintelligible). At the moment we have four topics to raise with the board and our interaction with them this afternoon. Two of them have been assigned. So that's topics one and four.

Topics two and three are not assigned anybody. And as your chair I'm refusing to speak to any of them.

(Jennifer): So let's - and now topic number two, it's the continuing use of the Expert Working Group and that's working groups, my apologies...

Michele Neylon: You can also blame me for everything.

(Jennifer): ...and other organizations that are not representing diversity - diverse interests of ICANN.

So the - and can any comment on that as far as it being raised?

Michele Neylon: I - okay.

(Jennifer): I don't believe that is a topic we should raise. Perhaps we should...

Michele Neylon: We - well it's on the agenda now. So, I mean maybe we'll have to come back in a minute work out who the hell put it on there.

Some people have expressed concerns about how ICANN as an organization has evolved. So actually, I mean once upon a time if you - a lot of these lovely comment stuff PDPs was all volunteer driven.

And if you volunteered you - well that's how, you know, people chose that are self-selected, whereas in the last couple of years there's been a push towards ICANN staff selecting and appointing people to, participants to groups.

Now I can't speak about this subjectively because I am - because I - one I'm your chair and two I'm also one of the selected participants in a particular group.

I don't know (Jeff) did you raise last - anything about the - the use of Expert Working Groups and other organizations?

(Jeff): Yes.

Michele Neylon: Was that your - who raised that? (Unintelligible) who raised it.

Anyway if anybody has any thoughts or comments on this I mean, please feel free to share them so we come to some kind of agreement or disagreement.

Mr. (Barret) did you sort out your technical issues?

Okay.

Has Mr. Bladel deserted us? He's run off I think.

Weak bladder syndrome right?

(Jennifer): (Unintelligible) number three.

Michele Neylon: Okay number three.

(Jennifer): So the purpose of the RA - RRA waiver decision and how it relates nationally...

Michele Neylon: RAA.

(Jennifer): Sorry, RAA waiver decision and how it relates to the national laws.

What is the thought process associated to send for public comment? Who would like to take that item for discussion? (Walter)?

Michele Neylon: I would look in Volker's general direction. No? Why not?

Volker Greimann: (Unintelligible).

(Jennifer): A European data registrar.

Michele Neylon: Okay then it can't be me because I'm just likely to murder somebody.

(Jennifer): (Unintelligible).

Michele Neylon: Maybe (Lindsay) might. (Lindsay).

(Jennifer): (Unintelligible) (Tom).

Michele Neylon: (Lindsay) we're volunteering you.

(Lindsay): (Unintelligible).

Michele Neylon: So right specifically, this has to do with well first off any waiver request whether it's preliminary determination are open to public comments. So, I mean the obvious question there as well, you know, what's that got - what's that mean?

I mean if, for example, ALAC or the I don't know, the ITC or somebody were to submit a comment saying they didn't like this waiver request, you know, what's the option out of that?

What standing do they have to make a change? And if there's no change then what's the point of having the comment period? I mean I wanted it for laughs and giggles.

The other one which is personally, I find it to be of more concern is this thing that of ICANN putting the entire data privacy, data protection rules out for public comment as per the announcement they made on Friday.

They were told repeatedly by various data protection authorities via the Article 29 that they needed to have a rationale for data collection and retention. They failed to put that in anywhere. And now they're putting it - what they're doing is kind of crowdsourcing it. So we'll have to crowd source and negotiate with the crowd. I don't know. I don't get that.

Man: I think it's about it I mean...

Michele Neylon: These are matters is what I think so that are matters of international law.

So (Lindsay) has as somebody withstanding maybe you could speak to that without jumping across the table and strangling anybody.

Yes, I mean basically look we have a bit of time here. So are there any topics that anybody feels passionate about or dispassionate about or...

Man: (Unintelligible) time here so...

Michele Neylon: Well appropriate for anything really. Leave it wide open.

(Tom): I may have missed it but did we get an update from ICANN on errors, the onboarding system?

Michele Neylon: You - that was done this morning.

(Tom): And making progress?

(Jennifer): (Tom) so main action items notable that came out of the discussion is that there was a dependency on another system being put in place. I can't recall any of it. I have it in my notes and I'll forward them to the GED.

Man: GDE.

(Jennifer): GDE, thank you who the dependency and there was a delay in rolling out that system which is then in turn delay with (Aeros) but you - they commit - ICANN committed to us that they would provide us an update and we will have monthly updates anticipating the timeline for rolling out by the end of April is what they committed to the end of April for updated timeline to roll out (Aeros).

Michele Neylon: Are there any other topics or anything that anybody wants to discuss or if not we might do is just give you all a break until the next session?

The next okay at 1300 local we will be getting an update from Robert Hoggarth of ICANN staff. He's going to be presenting to us around the bylaws our bylaws that is.

And we had a discussion on the members list on this topic a while back but there was no clear direction from the membership which way to do it.

So rather than getting into some kind of crazy I don't know he said she said or back and forth of which wasn't going anywhere want to take the opportunity here there because there are people to get an update and maybe we can clarify things and move forward on this and get a timeline for implementing.

So if we could stop the recording please now and for those of you in the room you can 1300 hours local 1:00 PM for those who don't understand military time will be restarting with the bylaw update in 24 minutes - sorry (Jennifer) keeps whispering in my ear. It's really confusing. Thank you.

Okay so I'm going to hand over now to Robert Hoggarth from ICANN staff to walk us through a few options and some things to do with the bylaws.

Robert Hoggarth: Okay thanks Michele. I thought this would be helpful dialogue for us to have because you guys approached us several months ago to talk about the concept of adjusting your governing documents.

And I thought it would be helpful to talk a little bit about what some of those options are and get a better sense as to where you are all in the process and see if we can potentially collaborate on a good strategy moving forward the meets your needs.

Essentially it was only in September where the board approved a formal process for assessing, reviewing and approving community charter documents.

You guys have a relatively complicated system that you have inherited in that I think you have got three different governing documents that all focus on slightly different areas of your work.

And so one of the useful things might be to talk through how you want to change those, what some of your goals and expectations are.

You all did a very good job I guess a small community of folks got together to suggest a number of redline amendments to your existing bylaws.

And what I wanted to explore with you is what might be the best approach for getting it to a conclusion.

If I recall correctly you've got the charter, bylaws, and procedure rules. And having them all touch on slightly different areas of your work it might be advisable to look at taking that entire package and combining it into one sort of comprehensive set of documents or a particular document.

I guess what I wanted to explore with you all in the public setting was from an options perspective how much support you wanted from the staff to provide to you all for doing that work.

Essentially there is two options as I see them. One is for you all to continue to work through your internal processes, do all the drafting work and play back and forth with what you want to accomplish with some staff advice on the outside. And you maintain the control of that basically just take on more work and we do less.

The other option is we do more work, we go back and work with you, find out specifically which you want. And you've already given us a really good basis through the redline documentation that you've provided.

We come back with an analysis and with some recommendations for how you can could package them all consistent with the board, new board review process and the rest.

And then you still have control over the process, you just don't do as much work. So that's entirely up to you in terms of how you want to approach that.

A couple of things to be aware of overall is you know there's pending a GNSO review which will include not only the GNSO over all but the individual stakeholder groups and constituencies.

And so from a timing perspective you all might want to consider do we want to wait until that takes place? Do we want to continue the work that we're already doing and therefore when you meet with any independent reviewer or whether they are in discussions with the board then you're already half prepared and ready to go.

A component potentially of the GNSO review for those of you who may have heard (Ray Paulzak)'s remarks is a concept of a 360 review.

So in that case there may already be some expectations that the board may have of you that you've already started. So a combination or a number of different options that you all might want to consider.

I wasn't going to go into anything really more than that until I heard more about what you all as a community were looking to accomplish.

Okay thanks Rob. Mr. Berryhill?

John Berryhill: Yes you are - this whole issue kind of I think took a lot of us by surprise. Is one of the options to take our existing bylaws and mark them up in, you know, such a way to indicate what needs to be in there or what is no longer, you know, the compliant or desirable, you know, as a baseline?

Because I think we're very - we in the amendments to existing bylaws there's specific goals that we're trying to accomplish. And one of our imperatives is we'd like to get this done is relatively quickly.

So I think that it makes at least to me makes more sense to tell us - take our particularly bylaws, mark those up and then we can take the amendments that we've all discussed and debated on and graft them in.

Because I don't think the amendments that we have wouldn't indicate anything that you are concerned about. But my understanding right now is that our bylaws are not compliant as they are. Is that correct?

Robert Hoggarth: I think that's accurate in that the documentation you guys provided to us was built on I think a 2003 document. And in terms of its layout in terms of some of the terminology it just doesn't reflect current reality.

From a staff perspective in terms of how we on the policy team interact with Michele, other members of the community we don't have any other agenda than to see that you guys get this done as quickly as you want to get it done without duplicating work in the future in fact, you know, there are future changes that take place within the within the GNSO.

You all are much more conscious and aware of what potential changes are coming down the road. But I've been sitting in as an observer of the registry side as they discuss the evolution of ICANN and of the registries and that's going to create changes that they may have in their community.

You may have immediate specific things that you want to accomplish now get them out of the way and then talk about longer evolution and leave that for years to come. I don't know.

I can tell you that based on the process that the board created and approved back in September it's about a six month process from the date of your formal submission of changes.

So if you factor that in I don't - I'm managing your expectation of quick and just helping you appreciate sort of the timing in which you sort of lead into.

But I wholeheartedly endorsed the concept of at least bringing things up to the current state if not the future state.

John Berryhill: I think that's probably easier for us given the discussions and compromises that went into our proposed amendments so they would be hard for us if you - our currently amended proposal and then mark that up there would be some concern about whether, you know, amendments that you are suggesting were solely for current compliance purposes or also related to changing the intent of what we're trying to change?

Robert Hoggarth: Yes there is no interest on our part in doing that. In fact it seems like an awful lot of work has already been done. I mean essentially all we would do is go in and say oh, you know, the - this terminology is obsolete. Here are new things that you should have had.

The real issue becomes potentially format depending upon how you - because the documentation of your governance is unique to your community.

We don't expect it to be the same as the registries or the NCSG, or the CSG. The critical thing is that you operate flexibly and the best way that you community can.

There are certain templates that the board is used to seeing. There are certain formats that other communities have used that they have found to be easier to manage, easy to look things up that are structured in terms of making sure that they've touched on everything.

We have a lot of experience in that perspective and worked very closely with the non-contracted parties and with the Registry Stakeholder Group in terms

of putting those into formats that we hope help to improve their processes and efforts.

We're happy to make those suggestions. I'm also happy to hear you say not really interested, this is at. So it's entirely in your hands.

My only goal is to minimize the administrative work on your part to give you what sort of input that you can assess whether to take or not.

And so one way going forward might be to take the red line documentation that you already provided, just give us the chance to come back and say here are 12 different things you might change. Here's an example of the document and, you know, let you all react to that.

Man: (Tom) has - I don't see you heading towards a microphone. I think we really need to quit kicking this around and make a decision as to what's going to work, you know, most efficiently.

And I think you're probably the best person to speak to that but go ahead (unintelligible).

Man: Well just more of a question really. You know, I think driving the timeframe behind this we were - it's really a self-imposed deadline if I remember correctly because we were concerned that there were changes coming in the marketplace that we were not equipped with to deal with with our current bylaws.

And so I guess my question is is that does that change our thinking to how much or how little we engage ICANN staff resources in this?

I mean do we see that our nightmare's coming true and we need to actually have this ready as quickly as possible in which case we need ICANN staff or do we have the time to be a little more thoughtful on this on our own?

I don't know the answers I've just I'm asking those questions.

Man: Yes while if our nightmare's start coming true that it's going to be too late.

Man: Yes okay but the necessary predicates for those things to happen are in place now right?

Man: Well I'm potentially, you know, I'm potentially one of the nightmares right? I made that clear at the outset of the process that however it ends up it ends up.

And so, you know, as in certain ways I've sort of recused myself as an outside policy advisor to a registry not a, you know, registry employer involved in the operational aspect of it.

But I appreciate what we're trying to accomplish and I think it's - I think speed is important.

Man: Okay. Okay well I think that helps. No that's - I mean that helps. If we're trying to get this done, you know, relatively quickly I think that helps make an informed decision.

Michele Neylon: So this is Michele speaking. Just with respect to the thing around - sorry taking the thing out of my ear. Around timelines and everything else I mean this has been going on for I don't know two years, 2-1/2 years.

Now that's nobody's fault. I think that's just been the case of, you know, doing something like this is not something that generates revenue for anybody. It's something that and several people have volunteered and they helped to do this and, you know, trying to arrange even a conference call to get a bunch of people on the phone to even discuss some of the options was going to be a challenge which is part of the reason why rather than trying to, you know,

force a square peg into a round hole decided to see if Robert come to us today.

Personally I'd love sort of put this to bed as quickly as possible. That doesn't mean doing it badly but, you know, we can't keep dragging this out. The need to bring this to, you know, close.

(Tom Barrett): Hi, (Tom Barrett) for the record. And I think Michele is right. I think that if we don't get this to a closure that we're looking at another two or three years before we do.

So I totally endorse that we should have an effort to look at what were proposed to do and let's figure out how we update that according to best practices at the latest agreements.

But I don't think that should detour our approval which says as the constituency had voted on is that we want these changes. We should finalize that and make those gospel.

And then I would certainly would love to participate in figuring out how we fix not only the bylaws but look at the rules in the charter and update all of those three in tandem.

But I don't think we should spend any more time or delay in the implementation of the new bylaws that we've all voted on.

Robert Hoggarth: Can you guys clarify for me status where it is now? For example you shared with us a document that was redlined. Have you voted on that and that's you said we are done, let's go forward?

Man: Yes we thought we were done.

Michele Neylon: We sorry - this thing in my ear. We thought that we just hand - that we were handing that over to yourself just to make sure this way we weren't breaking some, you know, in ICANN internal bylaw that we weren't aware of.

And then you came back to us and it was like oh...

Man: Yes were...

Man: ...weren't expecting that.

Man: And it's been voted on.

Robert Hoggarth: If you're done what I would propose is I don't know the next time you guys get back together but in a matter of two weeks or something I can generated document that has it in the right format, cleans up any because there's a number of things in there where the terminology is just not consistent with where we are today.

And we start the clock ticking. In other words send it back to you guys say hey it looks good or no fix this or that and we just move forward.

I mean I think that that would start the formal clock and you'd have a board, you know, you'd potentially have the board looking at it by London if not before.

Man: Right. Just so you know the - even the definitions that we have now included in the bylaws document were discussed and debated agreed-upon and voted on.

So to change the terminology as you're know changing some definitions and that may or may not be, you know, that may not simply be an administrative change for us.

Man: And we only look at administrative stuff. I'm not looking at change anything that you guys are doing. But, you know, the heading I think there is some references to other ICANN structures that don't exist anymore and things like that that can be cleaned up.

Because again whatever ends up, you know, being handed to the board we want it to be smooth. We don't want to get three months down in the process and a member of the board says well this doesn't exist anymore. Let's send it back and get it amended.

I'd rather handle that at the front end so that there are no difficulty that the backend.

There is another piece to this that - I'm being recorded. It doesn't matter but where I think there's differences of opinion between staff and some members of the community in terms of what happens after you have made a decision.

You guys have made a decision correct? And so in the minds of some that means that they - you shouldn't be operating under or changing your processes or procedures based on those changes until you get a formal stamp of approval.

And there's another school of thought that says you've made the changes, you should conduct your affairs in that way with the comfort or a potential discomfort that four months from now the board says that's not kosher.

So I think it's a matter of your own operating processes and the approaches that you want to take in terms of a comfort level with the degree of changes because I haven't looked at them from a substantive standpoint.

I mean if you suddenly changed eligibility for American plumbers to become members of your organization and the board had a problem with that and you

had already accepted 10,000 plumbers into your membership that might be a substantial problem.

Man: Right. So as far as I think we're concerned we have put ICANN staff on notice that we have approved these changes to our bylaws.

If they have sat on them for six months and now want to raise some issues that I think would be problematic.

So there must be a timeline in which if you feel like there is an additional review process, a public comment process I think we're owed that information...

Rob Hoggarth: There is...

Man: ...sooner rather than later.

Rob Hoggarth: Yes there always will be a public comment process as a part of this process. The only exception I'd take it we can battle it out if necessary is it wasn't clear that it was this was the formal submission.

And so, you know, I'm now understanding we've made it clear today that this is what we're prepared to do going forward. What we've discussed is and I think helps you out in the long run is to make sure that there aren't any pieces in there that would delay the process going forward.

Michele Neylon: (Tom) if you remember we did have some discussion about the two options that Robert and his team had put to us.

And from my position as chair if I get a clear message from, you know, the majority of people who respond on the mailing list about particular things to do one route then I'm okay fine. I've got a mandate to go back to staff and say yes this is exactly what we want to do.

But I couldn't make that assessment because I saw probably as many of you being supportive of staff cleaning up the document and just writing it up in a way that was reflective of what we've agreed on but I saw other people seeing this as being a kind of potential for I don't know, staff interference or whatever we wish to frame that.

Man: And I think part of the reason why you didn't get a clear consensus is that a lack of clarity on what the next steps are to put these into place.

So we still don't have that I think from ICANN about does this require board approval, you know, is there a public comment period? What's the process for that? That clarity I don't think exists as of today.

Rob Hoggarth: I'm more than happy to send you a link to the processes on the GNSO council on the gns0.icann.org Web site that does outline the process.

And there is a public comment period as a part of that so the rest of the community can work for members of your own community to comment or for you guys to say this is why we should do it and this is why it's a good thing.

(Jennifer Stanaford): Sorry (Jennifer Stanaford) for the transcript. Does it go to the board before he goes to public comment? Sorry I'm not familiar with the process for in order for us to determine what our next steps would be as a group.

Rob Hoggarth: You guys are only the second one's who are actually going to use this process. So there's a phase one which is the amendment preparation which you are now at the end of.

There is a phase two staff review. And I'm comfortable by the way depending upon your guys' perspective for you all to say right now well just this start the staff review process because then I've got ten days to come back and comment on any of that various pieces of it.

Now the issue there in terms of staff review and let me read it to you is upon formal receipt of the proposed amendments approved by the community group ICANN staff -- and that's us on the policy team -- will analyze the proposal and within ten business days submit the community proposal with a report to the appropriate board committee identifying any fiscal or liability concerns.

So we're not looking at anything from a perspective of how you're operating or anything else unless it potentially creates a financial or liability concern for ICANN organization.

What I want to prevent is if in particular within its current form if it's not correctly describing structures and other pieces I do want to pass that on to the board because I'm going to have to say sorry it's not sufficient, it's not appropriate.

So I think through this short couple of weeks process I can get back to the cleanup of the document then -- and I don't know how you guys work internally -- your executive committee or whatever can come back and say yes great no substantive changes.

Then we can say it's formal. Literally what we then do from a notice perspective is alert the structural improvements committee of the board that the amendments have been submitted just as a heads up to them more than anything else.

Then to your point comes the public comment period. That's a 30 day public comment period. I'll read it to you.

After board committee review of the staff report and the proposed charter amendments the board committee - I'm sorry the board committee will direct the opening of a public comment forum.

And upon completion of that form within 30 days we have to provide a summary and advise the board what happens.

So there are some built-in potential time lapses here. One is, you know, within ten days we'll submit a report to the ASIC of the board depending upon when they meet next which will be sometime I'm sure between now and London they'd authorize the initiation of the public comment period. Then we'd see what comes in. I would hope that you as a community or members of your community would comment in support of that.

And then -- and I'm not going to read you the three paragraphs subsequent to that -- once the public comment period is completed the board that has a review opportunity.

And there's certain timelines here to make sure that the board acts and I mean they'd be inclined to act but based on other situations timing or otherwise they have to act within a certain period of time. They can't just sit on the shelf.

(Jennifer Stanaford): Thank you for that explanation. So I believe that first of all we'd like to say that we've submitted them formally and we can start the ten day clock in order to make some progress here.

And then in turn you could provide us with a redline of the changes proposed and we will then circulate them to the Stakeholder Group.

Rob Hoggarth: You know, I like that idea because what that would allow us to do is give you feedback. Still within ten days we would submit a note to the SIC. What we're likely to say in that -- and right now I'm just thinking out loud -- is that we've reviewed it we've noticed a number of non-substantive process that process but just terminology issues that we're working with the community defects.

In the meantime SIC you're now on notice that this has been done and pending our look at it I don't suspect that there will be but we have to look about any fiscal or liability concerns.

And then that can - we can actually have almost a dual approach so that we're not losing time and by the time the SIC meets you can come back to us and say oh that looks good or that doesn't.

Now the only pressure that puts on you all is relatively quick return to anything that we send to you only because and what I hope again is without clear red, or yellow, or green lines you'll see where we suggested it changes that you'd be in a position to say okay fairly quickly oh no we're not going to change that or okay that looks fine.

So that's just a process piece on your all side in terms of quickly turning that around.

Michele Neylon: That's very helpful. Thank you. Is there anybody else here in the room or remotely who has any comments or queries?

Rob Golding is happy is he? He's in a happy place and this is a first. We've got on the record Mr. Golding is happy.

Any other registrars in the room have any comments on this or if not we will assume that you're happy with is proceeding with this yes?

(Jennifer Stanaford): Sorry yes, we take that back. Rob Golding...

Michele Neylon: We're taking it back

(Jennifer Stanaford): He has a question.

Michele Neylon: So your note to carrying Rob Golding to be unhappy.

(Jennifer Stanaford): He's concerned. He - his question is I'm concerned about this idea that there is a public comment process on an optional group that is self-funded deciding on its own internal structures and rules relating to its own membership as one of many stakeholders.

Since when did nonmembers get a say about something they're not part of?

Rob Hoggarth: Since the board said so. I mean it's a process. The stakeholder groups constituencies of the GNSO, their charters are approved by the Board of Directors.

And any changes made to those charters are expected to be reviewed by that body.

Michele Neylon: I suppose Rob I think I understand where Rob Golding is coming from in that, you know, what is the - what's the kind of boundary, the purpose, the function of the public comments? I think that's what he's trying to understand.

I mean if for example since I seem to have a fixation with plumbers I'll use that. If a group of plumbers were to object to some terminology in our proposed bylaws, you know, what grounds would that objection have to have in order for the board to direct you to direct us to, you know, reverse a change or whatever?

Rob Hoggarth: I think that becomes a matter of judgment for the board just as any comments that come into ICANN they'd be considered for their relevancy, the context in which they come from.

I think the background or at least the if I can share sort of the perspective that I proceed from the board members is that whenever there's decision that they need to make they want to have the opportunity the community.

Some of the context of this is not directly related to your stakeholder group but impacted some of the non-contracted parties.

And that was simply that in their case there were potentially fundamental changes that were being made they weren't consistent with ICANN's general strategic direction.

And giving different groups the opportunity to comment on that was - is just a part I think of the board's general approach to making decisions.

I don't know that that - I mean I don't know the remote comment or that helps or if there is a follow-up comment?

Michele Neylon: So Mr. Golding speaking to you remotely does it satisfy your query or do you still have other concerns?

Robert Hoggarth: This is kind of neat. We have an ongoing dialogue and (Amy) just channels him. That's good.

(Jennifer Stanaford): He says it's okay for now.

Rob Hoggarth: Thank you.

Michele Neylon: Thanks Rob. I think we'll follow up so Jennifer and I will follow-up with you afterwards.

Rob Hoggarth: Great. We'll have an email and a document for you all to look at in a week and a half.

Michele Neylon: Okay. Thank you.

Rob Hoggarth: Thank you.

Michele Neylon: Thank you. So I believe we have Deloitte here somewhere that are going to talk to us about the wonderfully exciting world of IP Internet services and strategy?

(John Thorstons): Hi. This is (John Thorstons). I don't know who came up with the title.

Michele Neylon: I don't know. I'm just looking at it going I have no idea what that means but okay.

(John Thorstons): You can expect that I'm here to talk about the trademark clearinghouse. I'll give you an update.

Michele Neylon: Well you know how much I love talking about the trademark clearinghouse.

(John Thorstons): I know.

((Crosstalk))

Michele Neylon: One of my favorite subjects.

(John Thorstons): At least (unintelligible) you know.

Michele Neylon: Are you going to come up and join us here or do you want to exercise your legs? Is only one Deloitte employee?

Man: (Unintelligible).

Michele Neylon: There's - oh I've been informed there is a gaggle of Deloitte employees hiding in the back of the room.

(John Thorstons): So we wanted as I mentioned to give a small update on the status of the trademark clearinghouse.

I know you have a busy schedule today so we'll try to limit our time take a maximum of 15 minutes of which half potentially could be used for an update and half for answering questions if there are any.

It's the first ICANN meeting that we don't have a trademark clearinghouse session as such. So we focused during the session on having a lot of one to one meetings with registrars with our agents with registries.

And we thought that for some of the stakeholder groups like yourselves it could be useful that we would visit you so that you could interact directly with us.

Yes we are now live in the year and it's going quite okay. We expect to surpass the 30,000 trademarks within the next two weeks.

So that means that we're also seeing still an uptick on a daily basis.

We have over 40,000 labels within the trademark clearinghouse. Labels are legible for the domain name so that's a good number I think. We don't see is a lot of uptick for actual domain name registrations during sunrise. I think everybody is aware of that.

We however see a lot of activity on the claim side. And we see a lot of activity on the claims request. So the notification letters are sent out (unintelligible) to the potential registration of a domain name is at this moment over half 1 million.

And we also see a lot of them are not followed by an actual registration so it does work as a rebalance.

We've also notified you of the fact that we're going to have ongoing notifications. So the - half of the claims activity of the three months will be extended with a notification to the trademark holder or their agents whenever

there is an actual registration of a domain name that has an exact match with what is - what are right customers in the clearinghouse.

As a registrar do not expect to do anything specifically. Obviously if you're a registrar and also an agent then you will get those in. But as a registrar as such you don't - you're not expected to do anything.

And then the last point that we wanted to raise we - we're trying to I mean we're working a lot now with our agents on helping them as much as we can also work with - are working a lot with all of the registries.

One of the things that we're trying out is to see if new ideas could help them and having better results. And what we've noticed or what we heard from the market was that for a lot of trademark holders the concept of having to go first to the trademark clearinghouse then receive the goals then going for an actual registration is still somehow confusing.

So we thought that for certain designated TLDs that could be potentially interesting that clients could go to registrars or to agents and actually apply for a domain name and a trademark clearinghouse validation at the same time.

How would that go? Well they would potentially own their Web site, set up something where it became clear that when they apply for a domain during sunrise and they provide the right information that they will have the validation of the trademark plus the actual registration of domain name.

So it will make it easier and will make levels of abstraction of what we have to do. We tested it out with a couple of registrars and they were actually positive about it.

So if you have questions about it please feel free to visit us this week to give so we can give you some more detailed information on how we would - how that could be set up and how it could help you become successful.

But that's it actually. That's all - those of the points that we wanted to raise at this moment. Again we're here. We have still some slots available for meetings if you feel like having a more detailed session, please feel free to contact us and then we'll be happy to provide you with any type of help of information that we can provide.

Any questions, any remarks, any feedback you want to give us of how we're doing, things that should be different things that we need to pay attention to please feel free.

Michele Neylon: This is Michele. I have just one obvious question. What's the turnaround now on validating a mark?

(John Thorstons): I think the majority (unintelligible) two days at this moment.

((Crosstalk))

Michele Neylon: (Unintelligible) is in room but has been hiding down in the back. I wonder why? Deloitte people don't seem to want to come and sit with the registrars.

Man: Yes I have a question related to the trademark clearinghouse procedures. And I noticed that these are a third party - oh okay.

Michele Neylon: I nod at you (John) because you made it - anyway never mind. Just let her answer the question, the first question she was asked then Mr. Serlin who is adjusting the microphone to compensate for the air-conditioning and then we'll have Mr. Berryhill.

(Vicki): First for the verification or I...

Michele Neylon: The question asked was what was the turnaround on...

(Vicki): So it's all the information is correct the first time. It's actually two days at this moment is the turnarounds so 48 hours.

Michele Neylon: So 48 hours, 48 hours or two working days?

(Vicki): Two working days because we actually work...

Michele Neylon: Do you work seven days a week or five work days a week?

(Vicki): Seven days a week.

Michele Neylon: Okay.

(Vicki): So yes.

Michele Neylon: Mr. Serlin?

Matt Serlin: Yes hi Matt Serlin, Mark Monitor. So now I have two questions so, you know, I'm sorry you said the ability for someone to register a domain name and the trademark clearinghouse together both through an agent and a registrar.

How exactly would that work if they're doing it through an agent? I understand how it would work through the registrar if, you know, is there a clearinghouse agent and an accredited registrar. I think that's interesting.

But the fact that you could go to an agent and do that is troubling.

(John Thorstons): Well no perhaps I said it wrong. I mean we meant registrars.

Matt Serlin: Okay.

(John Thorstons): The only thing of course is that if the registrar is not an agent he would also have to work with an agent...

Matt Serlin: Right okay. And then my...

Michele Neylon: Next question.

Matt Serlin: ...follow-up to that is when (Vicki) said two days to validate a mark how would that process work?

So it wouldn't in real-time right where sunrise registration client goes in request the name, pushes out to the registry. But there'd really be a two day gap is that correct?

(John Thorstons): Yes.

Matt Serlin: Cool thanks.

(John Thorstons): We do have - I mean we're currently working with a few teams over the globe. So we pretty much cover I think at this moment 19, 20 hours of the 24 hours a day that people are actually validating. And so we have 48 hours today (unintelligible) to look at it.

Matt Serlin: Okay thanks.

Michele Neylon: Mr. Berryhill?

John Berryhill: Yes. In the trademark clearinghouse and this is a third-party dispute procedure where a trademark clearinghouse entry can be challenged for \$250 fee which is assess only if they complaint is not upheld.

Can you give me some idea how specifically that works? Do you have to pay the fee up front and then get a refund or is the fee charged after a decision is rendered?

(Vicki): Some principle how we work but we haven't had one disputes...

John Berryhill: You're going to it and...

(Vicki): Yes I'm sure.

John Berryhill: And that's what I want to find out.

(Vicki): So disputes have to be done in I believe seven days and we have to provide a response and that's actually just the days that you can reserve an amount on a credit card. So you don't get charged if it's wrong from the clearinghouse.

So it default otherwise you're about your credit card will be credited.

John Berryhill: Okay all right. So because I mean there's some ridiculous crap in a trademark clearinghouse. Is the word Tahiti.

I mean what's remarkable is with all of the discussion we had in TLDs over reservations of geographic names okay the name Tahiti is an entry in the trademark clearinghouse that's owned by a company that does nothing other than sell chips to Tahiti regardless of the fact that they obtained a token French registration for that computer services.

I can't imagine what their specimen abuse would be because that's all they do is sell chips to Tahiti.

The German name and I can't pronounce this right, the city of Munich mention however that's pronounced in German, I know I'll slaughter it...

Man: You get a thumbs-up from Volker over here so...

John Berryhill: Is that close enough? Okay. That is a trademark of a company that is a Web portal that does nothing other than provide resources, informational resources third-party, not official for the city of Munich.

And it blows my mind that while, you know, TLD operators like .Berlin and so forth or .New York City have to get the approval of local authorities you are just handing out the names of geographic entities and cities on the basis of nothing whatsoever other than the word mentioned with a clipart picture of the city skyline next to it.

And that was, that figure your dominant characteristic criteria in the way that you slip figurative names in without any - or figurative marks in without any public comment process.

The domains -- and this is great for registrars. You should know this. The word domains is in the trademark clearinghouse. And the entry is owned by a Czech domain registrar.

The - it's for a Czech trademark, that's a joke for training services for adults and children. And all they do is sell domains. They're domain registrars its complete bullshit.

So the word hosting believe it or not is a trademark of a Dutch hosting company that these wonderful verification agents, you know, could not figure out that the a trademark registrant of a Benelux trademark whose name is hosting BV who only does hosting, has a trademark in hosting and they can roll that up in every TLD and, you know, it's up to you to spin the wheel to pay \$250 to deal with this kind of garbage that's going into the trademark clearinghouse with no quality control whatsoever.

Michele Neylon: Would you care to respond?

(John Thorstons): Well I mean there are a lot of generic terms which are owned by respectable companies Apple as an example.

John Berryhill: Those are arbitrary marks. When and Apple is not a computer. Apple, you know, Apple is an Apple and Apple Computer does not make apples.

When a hosting company comes to you with a bullshit 24-hour Benelux trademark in front of your face for the word hosting you would think that it would get some sort of critical analysis.

When a domain registrar comes to you with a bullshit trademark for the word domains you would think that it would get some kind of substantive look other than the fact that I means these are domains that are being registered.

And through the trademark clearinghouse they can get a global first dibs monopoly on the words domains. It's obscene.

(John Thorstons): Well I don't think it was also a the trademark clearinghouse who defined the matching rules or the validation rules and such.

I mean we are validating in a very consistent way and in a very active way. If there were if there are other variations required I mean I can see where part of the community at the time when those roles were desired of them...

John Berryhill: No. There was no community discussion on this. I'm slipping in figurative ones at the last minute so that people could get generic words and figurative marks in jurisdictions they would've tossed them out on their ear. There was no community discussion on that point.

(John Thorstons): Well I can tell you that we didn't decide upon it either domain. I mean, you know, I think you're shooting the messenger with this message.

(Vicki): And if I can just add it's not because that they're in the clearinghouse that they are actually sunrise eligible? We have trademark in the clearinghouse that are sunrise eligible providing sample and proof of use.

And then you have other trademarks that they indeed provide proof of use that proof of use was not sufficient but there's still in the trademark clearinghouse and they get trademark notification.

So not all trademarks are sunrise eligible and able to register during sunrise.

(John Thorstons): Well will the Tahiti guy is rolling them up.

Man: Oh yes.

Michele Neylon: Mr. Bladel.

James Bladel: I had a bunch of questions but I just hate following John. I just - and you know I also I think we said in Los Angeles, you know, is that, you know, after were all dead and gone and people have forgotten about ICANN and this entire industry this trademark clearinghouse will live on. I do believe that.

And the one authority in the room is shaking his head or nodding his head on this one because it's just it's very scary but I think what we're trying to do here.

So I just have some basic statistical questions. I did come in a little late so if you covered these already it's a repeat, I apologize.

I'm wondering the total size of the database now at this point if it's still growing? Is that growth accelerating? I mean what are you seeing on that?

Are you seeing - and I wanted to get your thoughts on the plus 50. Where did we end up with the plus 50 and is that being implemented and what standards are using to determine the plus 50 generic terms?

And I also had a question about the on boarding of additional because wasn't the idea that IBM would manage the database for Deloitte or somebody and Deloitte was the verification but there would be other subsequent validator's coming down the pipeline and where are we with those or are you still the only game in town?

So just some quick fire question that I'd love to get some response.

Michele Neylon: And also just because we're going to the board straight after this James and then Volker's after you and that's it. I have to close the queue.

(John Thorstons): Yes I think I gave some of those homage already at the beginning so 28,000 is where we are. The...

James Bladel: Is that still growing or...

(John Thorstons): So every day we are getting in 100 to 150 and that much stable for a while. So it's not like we are currently seeing peaks but we are seeing continuous take up that is both from existing agents.

And we hear from those that they still are able to reach other clients that they have on the table to convince the (co-plan) data base yes but they gradually that's what they believe they will get.

And then we we're also getting in new agents. And then some cases also from new regions like the Middle East in the Asian region but it's growing still.

As I mentioned those 28,000 residents somewhere in the 40,000 labels that are eligible for sunrise. If you remember some of the special characters are

either admitted in trademarks and replaced by an - and would results sorry in a label that could be sunrise eligible.

So that's where I think the 28,000 will be (unintelligible) 40,000 I don't know the exact number there. However the 50 plus of the UDRP historical UDRP case of court cases that also could generate labels that were not sunrise legible but legible for claim services. There the number is much lower.

So despite the fact that the community was very loud about the requirement of having that and the effort that we have to do to set this up at this moment we don't see a lot of take-up of that.

James Bladel: That's encouraging. I mean the barn door is still open. The fact that the horses haven't run away yet isn't really all that comforting but I guess, you know, it is still a concern. Thanks.

Michele Neylon: Mr. Greimann?

Volker Greimann: Yes I was thinking that I would have to adjust this (unintelligible) size but you kind of already you kind of already answered my question as is.

Are you happy with the uptake so far? Is that something that you had expected (unintelligible) or did you expect much, much more because on the registrar's side and the registry side there were significant implementation costs.

And now that we see just well in our view to the pointing take-up was it worth it? But that's probably not the question to ask you so I'm just asking you what is this take-up compared to which you expected before disappointing, norm, more than you expected?

(John Thorstons): Well I mean we speculated a lot about that too just as you all are probably about the uptake on the new gTLD program of such.

If it continues like this I think eventually we'll get to a respectable database. And the question is always okay when is it a big enough database to be a good database?

Honestly I don't know. Is it 70,000, is it 100,000, is a 200,000? I have no clue. The question I think that we need to go to eventually is I mean you know that the purpose of the trademark clearinghouse is twofold.

On the one hand it is - it has an opportunity side where you can get priority and register before anyone else. That's still not very successful.

Perhaps it becomes successful if people start realizing the new gTLD program better. If there are more TLDs with good opportunities I think a couple of big city TLDs are coming our way might be good ones.

You could say okay what is the success rate there? I mean to be honest if you have 5% registration of even the current population you would have 1500 registrations during your sunrise.

But most sunrises haven't - I haven't even seen that. So hopefully that will change and but I think it's yes awareness that is the requirement there.

I think on the claims side and on the effect of that there I do think that it has a good result already. I mean if you see the number of (unintelligible) requests that we have the outcome of it and re-launching and there's a press release about that.

So I think that's successful. That works. And so yes it continues growing. If more IDM type trademarks of getting in that I think it will be successful within the this half year to a year.

Michele Neylon: Okay thank you everybody. Stop this session is now concluded. Stop the recording. Registrars we are now moving to the board room while sorry the room where the board are which is (Padang) is that correct?

(Vicki): Yes.

Michele Neylon: (Padang) which I believe is next door. The session with the board is scheduled to start at 1415 local. For those of you joining us remotely please join the link I put in on the Adobe Connect for you. Thank you.

END