Attendees:
J. Scott Evans
Fabricio Vayra
Anne Aikman Scalese
Steve Metallitz
Ken Taylor
Russ Pangborn
Andy Coombs
Claudio DiGangi
David Taylor
Mark Partridge
David Einhorn
Philip Maran
Kristina Rosette
Jonathan Cohen
Elisa Cooper
Caroline Chicoine

Events of Singapore ICANN Meeting

- Special Board meeting approving the implementation plan to add the new gTLDs
  o 1 abstention and 1 no-vote
  o Concerns of those 2 mirrored IPC's concerns
- Breakfast with ALAC (At Large Advisory Committee)
  o How does ICANN serve the public interest?
    ▪ Steve Metalitz met someone who agreed with a lot of IPC points –a Canadian consumer advocate
    ▪ Consumer advocate pointed out that one of our challenges is explaining to people that consumer protection is related to trade-mark law – need to find alliances with this group and generally reach out more to other groups.
- CSG Meeting
  o Spent preparing for hour-long meeting with Board
- Board Meeting
  o 1.) ICANN Budget and operating plan
    ▪ IPC suggested devoting 1/3 of new gTLD budget surplus to contract compliance
      • Response was "that it wasn't really a surplus" ???
    ▪ Also discussed issue regarding "backward budgeting" process
    ▪ CSG decided to set up a team to work throughout the year with the ICANN financial staff rather than have the usual end of fiscal year debates
  o 2.) Board-GAC Relationship

- ▪ Lots of criticism regarding governments attacking the Board over failure to respond adequately to concerns
- ▪ No concrete changes, but productive discussion
- IPC Meeting
  - o Presentation from Comptroller
  - o Asked for constituencies to ask for budget submissions
    - ▪ Only approved one outreach-related request and everything else was denied
  - o Compliance staff presented – new head of Compliance (Maguy Serad)
    - ▪ In process of implementing system changes that they hope will allow them to be more efficient
    - ▪ One staff member has moved to be dedicated completely to WHOIS (Khalil)
    - ▪ Will be hiring 2-3 people
    - ▪ WHOIS data problem reporting system – will look at it and redo it or completely get rid of it
    - ▪ Head of Compliance has not answered Kristina's question regarding 60-90-120 day plan –more general ideas and discussion
- Panel regarding TM Clearinghouse
  - o Open, round-table discussion with broad range of participants
  - o ICANN has no idea how to structure TMC and how to require it be structured
  - o ICANN is relying heavily on strong-man proposal from Jeff Neuman that potential applicants are putting together
  - o Most notable aspect of Jeff Neuman's plan – they would have the data from the TMC copied and cached at each Registry – each would have full access to TMC
  - o Kristina's concern: no current plan to require the registry to be accountable to TM owners for any misuse or abuse of that data, because Registry agreements will not be amended
    - ▪ Jeff Neuman proposal suggests having registry contract with TMC and have ICANN as third-party to this contract
    - ▪ Makes sense to write to ICANN to ask that the appropriate provision be put into an RFC and see the draft before it goes out to ensure that ICANN is asking for the right information
  - o How is the sunrise going to work?
    - ▪ With new gTLDs, unless your mark is in the clearinghouse, they are not required to offer you the sunrise registration?? Not certain now.
    - ▪ This is unlike URS, where mark does not have to be in the clearinghouse (can prove use)
  - o Need to put together a short letter to ICANN – need to continue the dialogue to illustrate these points
    - ▪ As people advising brand owners – if we don't have a clear picture of what's going to happen, how do we advise clients?
    - ▪ Clarification needs to be given and clients need to know what risks are involved
- GNSO Working Session

- o UDRP preliminary report was discussed on Saturday afternoon at GNSO working session and at that session, Jeff Neuman who is at Neustar, the NCUC, Wendy Seltzer and Milton Meuller and Chuck Gomes (Verisign) were vocal about the fact that they were ''disappointed and shocked'' that the Staff had recommended no PDP on UDRP. Unfortunately it seems some people have their 'backs up' now.
  - o Discussion about the fact that a'' review of UDRP'' has been inflated into the need for a PDP and the two are not necessarily the same thing (at GNSO working session)
- Panel on UDRP at Singapore Meeting (chaired by Jonathan Cohen)
  - o Mark Partridge has spearheaded IPC comments was a participant on the panel
  - o Panel consisted of wide range of people with various views – John Berryhill (registrants in UDRP disputes), Konstantino K (professor and NCUC member; supports a review to protect free speech), Mark Partridge (as a panelist), service providers and a representative of a registrar
  - o Most of the people, with one exception, feel that there should not be a review at this time and that the UDRP works well and is balanced
    - ▪ No need to change stability in light of uncertainty with launch of new gTLDs
    - ▪ No real reasons expressed as to why there should be a PDP – but discussion of difference between"" policy and procedures ""– need to be cautious because some of the things that are in the policy are procedures, and perhaps better distinction would be policy vs. rules
    - ▪ Some things that brand owners have identified that would be nice to be changed if there were to be a review, such as bad faith standard from "and" to "or" and support for loser pays system, but not enough to warrant an entire review
    - ▪ Would be nice to reduce cost and time for cases involving default
    - ▪ Things that need to be changed – free speech and safe harbors, possibility of an appeal within UDRP process, concern that advocates also service panelists
      - • Unsure of what Registry/Registrar community feels needs to be changed
  - o Kristina's perspective:
    - ▪ If you look at the voting thresholds required to initiate a PDP, it is likely that these can be easily met
      - • Should continue to publicly advocate against it, but must start thinking about what we're going to do if one goes forward
    - ▪ Everybody in the community will find our position predictable, but still should make strong case for why it shouldn't be now (as per Fabricio) and at the same time be thinking "politically" and practically about how to encourage Registries to share our viewpoint and not just appear to be "naysayers". (Russ and Jonathan C.) Need to develop ideas for reaching out to Registries.
      - • There is a move to mobilize votes on the GNSO Council

- Need to look for a political solution, and must reach out to the Registrar/Registry community and find out what we can do/offer to get their votes
  - Turning point is the Registries (KR)
    - We know NCSG is going to support PDP, but cannot meet voting threshold in our house; also know that ISPs won't support it.
    - Consider whether it's worth communicating that part of the existing safe-harbors are dependent upon the UDRP operating the way it does now
    - However, need to realize the Council may vote to go ahead with some UDRP review and need to start thinking about how to respond/deal with it
    - Caroline reported that Jeff Neuman is suggesting the Registries may support a "procedural" review of UDRP.
    - Need to recognize that efforts to stop or delay or change a PDP may fail
    - Also need to be ready for Policy vs. Procedure debate which has the potential to be very ''difficult''. Need to start thinking about how to deal with this at a practical level and be ready if it happens (Jonathan C.)

Mark's summary of the discussion:
We will modify IPC comments to recommend against any particular policy or procedural changes; modify s.4 not to particularly focus on whether there is a difference between policy and procedure, but to say that UDRP is working well, not time to change, want to see how it works in connection with URS, would be useful and more effective to do review in connection with review of URS; in interim, would be appropriate to organize a group to study where the problems are, but not solely rely on anecdotal experience; s.7 addresses a few of the principle issues where change is needed – keep this and add that Registrar compliance is outside the scope of the policy

Other Business
- Claudio is working on a comment taking the statements that were sent to the list regarding the developing countries in the new gTLDs and a fund for new applicants; will send to list over the next week