

**Adobe Connect: 17 members**

Brian Beckham - WIPO

Cyntia King

George Kirikos

Greg Shatan

Griffin Barnett

Justine Chew

Kathy Kleiman

Kristine Dorrain

Martin Silva

Michael Graham

Philip Corwin

Rebecca L Tushnet

Renee Fossen (Forum)

Roger Carney

Sara Bockey

Susan Payne

Zak Muscovitch

**On Audio only:** Claudio DiGangi

**Apologies:** none

**Staff:**

Julie Hedlund

Mary Wong

Ariel Liang

Terri Agnew

Terri Agnew:Welcome to the RPMs Sub Team for Trademark Claims on Wednesday, 19 December 2018 at 17:00 UTC for 60 minutes.

Terri Agnew:agenda wiki page: [https://community.icann.org/x/QAj\\_BQ](https://community.icann.org/x/QAj_BQ)

George Kirikos:Hi folks.

Martin Silva:hi all

Kathy Kleiman:Tx All for being here in the busy holiday season!!

George Kirikos:@Kathy: attendance today helps Santa Claus add us to the "nice" list. :-)

Kathy Kleiman:LOL :-)

Kathy Kleiman:We have a nomination!

Terri Agnew:Who has joined via telephone only ending in 4330?

George Kirikos:Secretary of the IP Constituency

Martin Silva:3943 is me

Martin Silva:you ended me!

Martin Silva:I just re joined

Terri Agnew:Thanks Martin

Kathy Kleiman:not hearing

George Kirikos:No audio here either.

Kathy Kleiman:yes

George Kirikos:Sound now, yes.

Kathy Kleiman:Looking for others to share the co-chairing

Kathy Kleiman:Let's keep it open for a few days...

Kathy Kleiman:(my personal thought)

Kathy Kleiman:Tx to Martin for volunteering - much appreciated!

Martin Silva:I agree with both phillip and kathy

Martin Silva:but worst case, you got me

Cyntia King:Thanx for volunteering, Martin.

Kathy Kleiman:no objections

George Kirikos:If Martin chairs future calls, he might want to experiment with the audio dial-in, etc. (sometimes the phone dial-in is of higher quality than VOIP -- sometimes need to call in multiple times to get a noise-free line).

George Kirikos:[I myself called the toll-free number twice to get a good line]

Martin Silva:I am in dial out and in the computer as well now

Ariel Liang:The URL to the survey tool is here: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_docs.google.com\\_spreadsheets\\_d\\_1aBw-2DdW2gBzvBfhUgl3u6ShWIPZt0yyNF-2DVs1qmUuljg\\_edit-3Fusp-3Dsharing&d=DwlCaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Align-H4xR2EBk&m=B1C9b53D2\\_HOfXOio6Azf5xGQ-OISmQTHiXfyBM5548&s=gP8corfOB7olmmOZqUEmRTg0TrIMUrC\\_M0M0icI4rQU&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_docs.google.com_spreadsheets_d_1aBw-2DdW2gBzvBfhUgl3u6ShWIPZt0yyNF-2DVs1qmUuljg_edit-3Fusp-3Dsharing&d=DwlCaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Align-H4xR2EBk&m=B1C9b53D2_HOfXOio6Azf5xGQ-OISmQTHiXfyBM5548&s=gP8corfOB7olmmOZqUEmRTg0TrIMUrC_M0M0icI4rQU&e=)

Ariel Liang:Staff is sharing the screen but you are encouraged to check the spreadsheet on your own computer (text can be seen more clearly)

Susan Payne:is the audio cutting out for others or is it just me?

Kristine Dorrain:It's fine for me.

Susan Payne:not just for George but also Julie?

Terri Agnew:if a dial out is needed, please let me know

Martin Silva:I got george just fine

Philip Corwin:Audio is fine on phone line

Kathy Kleiman:no problem if dialed in through PBX

George Kirikos:Susan is on VOIP, it appears, whereas others were on the phone line.

Martin Silva:and julie too

Kristine Dorrain:I'm on AC audio....fine here so far.

Susan Payne:I think we absolutely ARE trying to answer the charter Qs. If not now then when would we be doing that????

Kathy Kleiman:Could Staff make a list in our notes -- and we can revert back later... and see if there is more to incorporate

Kathy Kleiman:George: could you put these sections in the chat for Staff to capture in the notes

Kathy Kleiman:We have to start somewhere...

George Kirikos:e.g. Registry Q26, cells B8-B13 (higher costs); Registry Q29 - claims/sunrise should be optional; Registrar Q4i (decrease in costs by eliminating claims); Registrar - Q10 - decrease in costs; Registrar - Q11 (costs again)

Susan Payne:yes, completely agree with Kristine on this, we can't keep going round in circles

George Kirikos:Also stuff in the TM owner tabs, e.g. F52, comment that TMCH should be public, and not just notice via claims.

George Kirikos:+1 Ariel, starting with the Registrant's tab today makes sense.

George Kirikos:1(a), 2nd part, is easy.

George Kirikos:First part of 1(a) is a bit harder.

Susan Payne:Yes!

Susan Payne:That "Yes" was a response to KD's path forward to be clear

Susan Payne:I have an annoying timelag going on

George Kirikos:So, 2nd half of 1(a) is answered by cells E12 and F12.

George Kirikos:That's why I asked for the top 500 TMCH terms for that March 2017 Analysis Group report (which has never been delivered).

George Kirikos:We only have the top 10.

Susan Payne:@George, how do those cells answer 1(a)? They got a claims notice - super

George Kirikos:@Susan: yes, just that they got the claims notice (no surprise).

George Kirikos:The first part of 1(a) is harder (and also interrelated with 1(b), i.e. the good faith vs. bad faith issue.

George Kirikos:Cells E23 & F23 show that registrants feel intimidated.

George Kirikos:(which is an unintended consequence)

Kathy Kleiman: right - registrant tab Q11

Kathy Kleiman:lots of people stopping to think

Kathy Kleiman:but there is a lot of deterrence going on :-)

Kristine Dorrain:^to 1(b),

George Kirikos:That's a chilling effect, especially if the strings being attempted for registration are not in bad faith.

Kristine Dorrain:Spoiler alert. I'm next going to ask - how much "deterrence" is acceptable? We always tolerate a certain amount of collateral damage....what is the threshold here.

Michael Graham:@Susan -- Well-spoken and I believe correct.

Kristine Dorrain:(We probably don't need to answer that. I propose this is a question we put out for public comment)

Kristine Dorrain:+1Susan

Rebecca L Tushnet:To be clear: there are a range of responses. Some group just stops, some group stops and researches.

Rebecca L Tushnet:What we don't know from the survey is the distribution within those groups.

Kathy Kleiman:let's finish the question...

Kathy Kleiman:1b)

Kathy Kleiman:it may shed light on 1a)

Susan Payne:@George - we don't know if they are in bad faith so your inference is not supported

Cynthia King:I don't think we can infer intimidation - I see a simple thought process: now that I know there is a potential TM issue, should I proceed or look at alternatives?

Kristine Dorrain:I'm losing you George

Michael Graham:@George -- I don't think you can presume the type of registrations being affected. The intent of the Notice -- i.e. that applicants consider whether their domain name would infringe a copyright, etc. -- is met by their pausing to consider.

Cynthia King:The audio dies when I'm typing comments. Could I please get a dial out?

Zak Muscovitch:George sound is cutting out entirely for me.

Justine Chew 2:The number of potential registrants who indicate that they found the notice confusing and/or intimidating and require help in understanding (47) and also don't know/ not sure (6) (see cell F23) is also rather telling to me.

Griffin Barnett:Sorry to join so late... another call I was on ran quite a bit long

George Kirikos:People outright claimed intimidation in the survey!

Terri Agnew:@Cynthia, I am sending you a private chat

Rebecca L Tushnet:George is right: this was asked. You can disbelieve the responses but they were given.

Justine Chew 2:More F23 than E23

Rebecca L Tushnet:+1 Justine

Zak Muscovitch:Is there any available data from registries about aborted registrations, i.e. which domains were originally ordered and then aborted after a Claims Notice? Or am I not thinking about this correctly?

Kathy Kleiman:@Justine - could you expand please?

Kathy Kleiman:(for those of us trying to read the spreadsheet in realtime)

George Kirikos:That's why we should be given the top 500 terms, so we have a good sample of the types of domains that are getting notices.

Mary Wong:@Zak, we do not currently have that type of detail.

George Kirikos:If folks are getting notices for terms like HOTELS.tld or ONE.tld, thats not good....

Terri Agnew:reminder to mute when not speaking

George Kirikos:(and those were the kinds of strings in the top 10)

Michael Graham:@Justine -- I'm not seeing these numbers in F23.

George Kirikos:@Michael: are you on the right tab? (Actual and Potential Registrants)

Martin Silva:Numbers are in between (^)

Kathy Kleiman:and Phil

George Kirikos:"The notice is confusing and/or intimidating and I would want someone to help me understand it."

Justine Chew 2:@Michael G, Actual & Potential Registrants tab, cell F23

Cyntia King:@George - people didn't claim they were intimidating, they said the FORM was intimidating. We can solve w/ a better-written notice.

George Kirikos:They said the NOTICE is intimidating.

Ariel Liang:@Michael - you are welcome to look at the screen which points to cell E23 and F23 in the actual/potential registrant tab

Justine Chew 2:+1 Cyntia

Kristine Dorrain:@George to this point "If folks are getting notices for terms like HOTELS.tld or ONE.tld, thats not good...." I don't think we can practically put a value judgment on brands in the TMCH, and even if we did, that's outside the scope of this WG (which is dealing with the claims service, not TMCH rules). I think the point might be to amend the notice to help mitigate that.

Griffin Barnett:+1 Kristine

Mary Wong:Can the group agree that the results show that the Claims Notice does affect the decision whether or not to proceed with a registration; and that various reasons were cited by respondents for not proceeding?

Kristine Dorrain:@Kathy....there is no way this will be done in 2019 if we take that many passes.

Kristine Dorrain:I don't propose that we write final recommendations now. Just note that we have some rough ideas that we're coalescing around.

Kristine Dorrain:+1 Mary

Justine Chew 2:+1 Mary, agree with your point.

George Kirikos:@Mary: that's acceptable, as it removes the "good faith vs. bad faith" distinction; however, the various reasons cited were from a preset list, weren't they? (not a free form list, so the list of reasons might not be exhaustive)

Kathy Kleiman:Can we fill in the boxes with what data fields we are finding relevant... start with the basics and leave a path behind us...

Kristine Dorrain:We don't have mounds of "other data". We looked for this to see if we'd learn anything. We really didn't. Let's carry on.

Julie Hedlund:@All: Just a reminder that we will need to adjourn 5 minutes before the top of the hour to allow switchover to the next Sub Team.

Kristine Dorrain:+1 Phil

Kristine Dorrain:Thanks for the reminder Julie

Justine Chew 2:+1 Phil

Griffin Barnett:AGree with Phil as well

Justine Chew 2:We talked about the opportunity much earlier in the WG's life about relooking at the notice.

Cyntia King:+1 Phil. The wording of teh notice is causing confusion, which means results of our survey will be inconclusive. We can, however, improve the wording of the notice to decrease confusion & improve future results.

Kathy Kleiman:the data is here...

George Kirikos:I would disagree with Phil, because the registrars and registries were explicitly surveyed as to the elimination of sunrise and or TMCH claims.

Kathy Kleiman:sorry, no, documenting what data that we're looking at is relevant to our decision...

Kathy Kleiman:we agree Susan :-)!

Kristine Dorrain:+1Susan. We've had this data a long time - we've looked at it. This is our chance to discuss it, to the extent is meaningful (and it's not)

Kristine Dorrain:but we don't need to spend weeks and weeks on it

Kristine Dorrain:@George, duration (and existence of) SUNrise and claims ARE on the table

Michael Graham:@Justine -- I see there 46 appear generally accurate -- 6 not sure -- 14 close as to ICANN policy (not clear how far off this is since it is policy) -- 2 seem somewhat spurious -- and 15 that are reading more into notice than is there. As with much data, we have to consider. My conclusion: perhaps the Notice should be clarified as to what it IS and what it ISN'T -- but we'll never remove all misunderstandings I'm afraid.

Kristine Dorrain:+1susan

George Kirikos:@Kristine: right, as well as whether to eliminate entirely, or to extend to COM/NET/ORG, etc.

Michael Graham:@Susan +1

Kristine Dorrain:Not to extend. Susan is right...these are launch policies

Kristine Dorrain:Too late for COM NET ORG

George Kirikos:Since the registrars/registries were asked about this.

Kristine Dorrain:for sure RRs and RYs were asked about duration/existence. I think TM owners were too.

Cyntia King:+ Susan - we have to use the data we have at this time. We should avoid "data paralysis" where the search for "perfect" data results in a lack of conclusions/progress.

Kristine Dorrain:and duration/existence are in scope

George Kirikos:Happy holidays and new year, everyone!

Kristine Dorrain:+1Cyntia

Griffin Barnett:+1 Cyntia

Philip Corwin:Let's finish Phase One in 2019!!!!

Ariel Liang:happy holidays to everyone!

Cyntia King:+ Phil

Kathy Kleiman:Happy Holidays!