

# Summary Table of Final Agreed Trademark Claims Questions, Data & Discussions

*Draft as of 17 May 2019 - Prepared by ICANN staff for use by the Trademark Claims Sub Team*

ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
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## Background

In December 2018, the Trademark Claims Sub Teams was formed to review all three sets of Trademark Claims related data with a view toward answering the agreed questions, which are also based on refinements of the original Charter questions. The data the sub teams were tasked to review encompass the following:

- Results of Analysis Group’s Sunrise and Trademark Claims surveys
- Data collected prior to the launch of the Analysis Group’s Sunrise and Trademark Claims surveys
- Additional data submitted by Working Group members in February 2019

See attached Appendix for a list of the data reviewed by the Sub Team up to date. The Sub Team completed their review and discussion of all data on 27 February 2019.

For the actual text of the agreed questions submitted by the Trademark Claims Charter Questions Sub Team to the full Working Group, please see the Status of TMCH & Related RPM Discussions summary document also circulated by ICANN staff ([3 December 2018](#)). Between the date of the Sub Team’s report and the submission of a Working Group data request to the GNSO Council in September 2017, the Working Group discussed the Sub Team’s suggestions for refining the original Charter questions as well as for data collection.

## Disclaimer

The contents of this summary table reflect the input/comments provided by Sub Team members via Google Doc homework assignments and during Sub Team meetings.

## Clarifying Notes

Under each agreed question, the following sections are included in the summary table:

- “Proposed Answers & Preliminary Recommendations” includes the summary of draft Sub Team answers to the agreed question, as well as related preliminary recommendations; there are also link(s) to the wiki/web page of the Sub Team meeting(s) when the draft answers and preliminary recommendations were discussed.
- “Data” refers to the data quoted by Sub Team members in their input/comments. Sub Team members used the [Survey Analysis Tool](#) to review the Analysis Group survey data, referenced the [Source Tab](#) to review the previously collected data, and reviewed the additional data submitted via the Google Docs set up for this purpose (direct links to the submitted sources are provided in this summary table).

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- “Details” points to the Google Doc homework assignments where Sub Team members provide their input/comments; high level notes of Sub Team meeting discussions are also included in the Google Docs.
- “Sub Team Discussions” points to the wiki page link(s) of Sub Team meeting(s) when the agreed question was discussed.
- “Summary of Discussions/Individual Comments” is a summary of comments/input provided by the Sub Team members during their discussions of the analysis group survey results, data previously collected, and additional data submitted (19 December 2018 - 27 February 2019).
- “Not Applicable” refers to a situation where the data reviewed do not really assist in answering the agreed question.

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## QUESTION 1

Is the Trademark Claims service having its intended effect? Consider the following questions specifically in the context both of a Claims Notice as well as a Notice of Registered Name:

- (a) Is the Trademark Claims service having its intended effect of deterring bad-faith registrations and providing Claims Notice to domain name applicants?
- (b) Is the Trademark Claims service having any unintended consequences, such as deterring good-faith domain name applications?

### Proposed Answers & Preliminary Recommendations:

#### Q1

**Answer:** With limited data, the Sub Team did not come to agreement as to whether the Trademark Claims service is “absolutely” having its intended effect; although the Sub Team could determine that the service is at least “possibly” having its intended effect.

#### Q1(a)

**Answer:** With limited data, the Sub Team did not come to agreement as to whether the Trademark Claims service is “absolutely” having its intended effect of deterring bad-faith registrations; although the Sub Team could determine that the service is at least “possibly” having its intended effect. Some Sub Team members drew this conclusion based on the low number of UDRP proceedings/challenges in new gTLDs compared to that in legacy TLDs. There is insufficient data to determine the extent of deterrence, if any occurred.

#### Q1(b)

**Answer:** The Trademark Claims service may possibly have unintended consequences, such as deterring good-faith domain name applications. There is insufficient data to determine the extent of deterrence, if any occurred.

**Recommendation:** The Trademark Claims Sub Team recommends that the language of the Trademark Claims Notice be revised, in accordance with the Implementation Guidance outlined in the Sub Team’s recommendations for Question 3 (below). This recommendation aims to help enhance the intended effect of the Trademark Claims Notice by improving the understanding of recipients, while decreasing any unintended effects of deterring good-faith domain name applications.

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## Individual Proposal [#5](#)

**Question A: Should the Sub Team support recommending that the full WG consider including this Individual Proposal in the Initial Report for the solicitation of public comment?**

**Answer:** No.

The Sub Team was unclear about the scope of the problem that Individual Proposal #5 aims to solve. The Sub Team also believed that it is not viable for Registrars to implement the proposed recommendation, which is based on a false premise of comparing the Trademark Claims Notice with an advertisement. One Sub Team member supported the rationale behind the Individual Proposal #5. Other Sub Team members believed the rationale is based on limited data. They also commented that improving the Trademark Claims Notice can help reduce the unintended consequences associated with the issues mentioned in the proposal's rationale.

**Question B: In light of the Individual Proposal, are any modifications to the current "Proposed Answers & preliminary recommendations" needed?**

**Answer:** No.

**Question C: Should any additional Sub Team recommendations be made in relation to the agreed Sunrise charter question?**

**Answer:** No.

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## Individual Proposal [#6](#)

**Question A: Should the Sub Team support recommending that the full WG consider including this Individual Proposal in the Initial Report for the solicitation of public comment?**

**Answer:** TBD

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<p>The Sub Team was unclear about the scope of the problem the proponent suggests. One Sub Team member commented that large Registrars do not need the proposed technical assistance from ICANN Org. Another Sub Team commented that Registrars never expressed such desire to acquire technical assistance from ICANN Org. Some Sub Team members suggested that if some Registrars, especially smaller Registrars, choose not to run the Trademark Claims service, it is due to a number of factors, including the lack of trademark owners in their client base, technical ability, or resources. These Sub Team members suggested that an open source software will unlikely solve the problem those Registrars are facing. The review of this Individual Proposal has been paused as the Sub Team awaits further information from ICANN Compliance.</p> <p><b><u>Question B: In light of the Individual Proposal, are any modifications to the current “Proposed Answers &amp; preliminary recommendations” needed?</u></b></p> <p><b><u>Answer:</u></b> TBD</p> <p><b><u>Question C: Should any additional Sub Team recommendations be made in relation to the agreed Sunrise charter question?</u></b></p> <p><b><u>Answer:</u></b> TBD</p> <p>--</p> <p><b>Sub Team Discussions:</b>  <a href="#">11 March 2019</a>, <a href="#">Mailing List Discussion</a>, <a href="#">24 April 2019</a>, <a href="#">2 May 2019</a></p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b>                      Actual &amp; Potential Registrants tab: cells D-E-F12-27                      Registrant - Q11b tab                      Registrant - Q11c tab                      TM &amp; Brand Owners tab: F50-52, F81</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b>                      Deloitte Responses: Questions 2, 4, 10, 14                      Deloitte Follow Up: Questions 2, 5, 6                      Deloitte TMCH Report</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">New gTLD Program: Rights Protection Mechanisms Review Draft Report</a></li> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> </ul>

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Registry - Q26 tab: cells B8-14 Registry - Q28 tab: cells D-E-G-H-I-J5-7 Registrar - Q10 tab: cells D6-8 Registrar - Q11 tab: cells A7, A25, B6-8, D5	Analysis Group Report: pp.2-3, 6-9, 15-19, 64-65, C IV Data INTA Survey: pp.2, 6, 15, 51-52	<ul style="list-style-type: none"> <li>● <a href="#">Are We Running Out of Trademarks?</a></li> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a> (pp.1-6)</li> </ul>
<b>Details</b> <a href="https://docs.google.com/document/d/1A5PSNNrAFS2bFvNoMFx-5DQUHxPnocOrEbT1XL480E/edit?usp=sharing">https://docs.google.com/document/d/1A5PSNNrAFS2bFvNoMFx-5DQUHxPnocOrEbT1XL480E/edit?usp=sharing</a>	<b>Details</b> <a href="https://drive.google.com/open?id=1xldqJc89FkVStHuceMBeShWVWD0JRD185FY5ZUjySLo">https://drive.google.com/open?id=1xldqJc89FkVStHuceMBeShWVWD0JRD185FY5ZUjySLo</a>	<b>Details</b> <a href="https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing</a>
<b>Sub Team Discussion:</b> <a href="#">19 December 2018</a> , <a href="#">2 January 2019</a> , <a href="#">9 January 2019</a>	<b>Sub Team Discussion:</b> <a href="#">30 January 2019</a> , <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>	<b>Sub Team Discussion:</b> <a href="#">27 February 2019</a>
<p><b>Summary of Discussions/Individual Comments</b></p> <p>The AG survey results assist in answering this question, including both of its sub questions (a) and (b).</p> <p>(a) The Trademark Claims service is clearly providing Claims Notice to domain name applicants. The Trademark Claims service may be having its intended effect of deterring bad-faith registrations to some extent, as there is evidence that the Claims Notice does affect the applicant’s decision whether or not to proceed with a registration. Nevertheless,</p>	<p><b>Summary of Discussions/Individual Comments</b></p> <p>The previously collected data assist in answering this question, including both of its sub questions (a) and (b).</p> <p>(a) The Trademark Claims service may have its intended effect of deterring bad-faith registrations. 36% of INTA Survey respondents agreed the Claims Notice helped. Analysis Group found the 93.7% abandonment rate of domain registration</p>	<p><b>Summary of Discussions/Individual Comments</b></p> <p>The additional data assist in answering the sub question (b).</p> <p>The Trademark Claims service may be having unintended consequences, such as deterring good-faith domain name applications. This is suggested by the very high number of Claims Notices generated compared to the relatively low number of Claims transactions. As Trademark Claims service “operates off the</p>

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<p>the survey data do not permit a conclusion about the proportion of bad faith registrants deterred by the Claims Notice versus good faith registrants deterred, or the percentage of bad faith intended registrants who receive the Claims Notice and are affected by it.</p> <p>(b) The Trademark Claims service may have unintended consequences, such as deterring good-faith domain name applications, due to the collateral damage caused by its confusing and/or intimidating wording perceived by some potential and actual registrant respondents. Notably, the abandonment rate of non-ICANN-experienced potential and actual registrant respondents seem to be materially higher than those involved in ICANN. Other unintended consequences include the reduced publicity for the marks that are being protected or the conflicting domains that are being registered, negative impacts to Registry Operator and Registrar respondents.</p>	<p>after receiving the Claims Notice, as well as the 0.3% dispute rate. Nevertheless, Analysis Group notes that the assumptions, caveats, and limitations that the findings are based on could render these results disproportionate.</p> <p>(b) The Trademark Claims service may have unintended consequences, such as deterring good-faith domain name applications. As Trademark Claims service “operates off the data in the TMCH”, the unintended consequences might be caused by issues regarding the TMCH operations, including: undeleted mark records (note that the TMCH deactivate a mark when a trademark holder informs them about the cancellation), acceptance of design marks, registration of marks for a registry’s individual requirements, TMCH’s confidential database, etc. Unintended consequences may also be suggested by the confusion of the Claims Notice recipients, high costs for registries and trademark owners, as well as Analysis Group’s caveated findings (e.g., 93.7% abandonment rate; common words, such as “cloud” and “hotel”, that seem to trigger the Claims Notice).</p>	<p>data in the TMCH”, the long list of dictionary words protected in the TMCH (including Geographical Indicator and other marks protected by statute or treaties) and the extent to which common words are already subject to registration in the US seem to cause unintended consequences.</p>

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## QUESTION 2

If the answers to the agreed Claims question 1(a) is “no” or 1(b) is “yes”, or if it could be better: What about the Trademark Claims Notice and/or the Notice of Registered Name should be adjusted, added or eliminated in order for it to have its intended effect, under each of the following questions?

- (a) Should the Claims period be extended - if so, for how long (up to permanently)?
- (b) Should the Claims period be shortened?
- (c) Should the Claims period be mandatory?
- (d) Should any TLDs be exempt from the Claims RPM and if so, which ones and why?
- (e) Should the proof of use requirements for Sunrise be extended to include the issuance of TMCH notices?

### Proposed Answers & Preliminary Recommendations:

#### Q2(a)

**Answer:** The current mandatory Claims period should not be extended. However, registries should have a certain degree of flexibility, based on a suitable business model, with the option to extend the Claims Period.

#### Q2(b)

**Answer:** The current mandatory Claims Period should not be shortened.

#### Q2(c)

**Answer:** There should be a mandatory Claims Period. However, registries should have a certain degree of flexibility to create a suitable business model in providing the Claims Service, provided this does not involve shortening the mandatory Claims Period.

#### Q2(d)

**Answer:** TLDs -- not including legacy TLDs as the mechanism is applicable to gTLDs launched during the 2012 New gTLD Program and future new gTLD Program(s) -- should not be exempt from the Claims RPM. However, based on the limited data, public comment will be sought on whether there is a use case for exempting a TLD from the requirement of a mandatory Claims Period due to the particular nature of the TLD.

#### Q2(e)

**Answer:** The Sub Team has differing opinions on whether the proof of use requirements for Sunrise should be extended to include the



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issuance of TMCH notices. The Sub Team has not reached agreement on any draft answer to this question.

**Recommendation:** The Trademark Claims Sub Team recommends, in general, that the current requirement for a mandatory Claims Period be maintained, including for the minimum initial 90-day period when a TLD opens for general registration.

In addition, the Trademark Claims Sub Team recommends that public comment be sought on whether there is a use case for exempting a gTLD that is approved in subsequent expansion rounds from the requirement of a mandatory Claims Period due to the particular nature of that gTLD. Such type of gTLD might include: (i) restricted TLDs that bar any commercial use due to their terms of use or acceptable use policy; and (ii) “Dot Brand” TLDs whose proposed registration model demonstrates that the use of a Claims Service is unnecessary.

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Individual Proposal [#1](#)

**Question A: Should the Sub Team recommend that the full WG consider including this Individual Proposal in the Initial Report for the solicitation of public comment?**

**Answer:** No.

Sub Team members believe that this proposal will probably not be supported by the Working Group or the broader community and that the rationale behind the proposal appears to be more of an opinion and conclusions without supporting evidence. The Sub Team took into account responses from some registries and registrars to the Analysis Group surveys that suggested support for eliminating the Claims RPM with no impact on cybersquatting; but overall this proposal should not be considered for inclusion in the Initial Report.

**Question B: In light of the Individual Proposal, are any modifications to the current “Proposed Answers & preliminary recommendations” needed?**

**Answer:** No.

**Question C: Should any additional Sub Team recommendations be made in relation to the agreed Sunrise charter question?**

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**Answer:** No.

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**Individual Proposal #12:**

**Question A: Should the Sub Team recommend that the full WG consider including this Individual Proposal in the Initial Report for the solicitation of public comment?**

**Answer:** TBD

The proponent clarified that if the Sub Team has already reached a conclusion and proposed answer to the agreed charter question, there is no need to further discuss this proposal. The proponent had submitted this proposal to make sure that the Sub Team discussed the topic of a potential extension of the Claims Period.

Nevertheless, there were mixed opinions about this proposal (i.e., extending the Claims Period indefinitely). Some members opposed it due to the lack of data concerning the effect of the current Claims Period, as well as the risk of disturbing the balance of the Claims RPM. Some members supported it due to the impact of changes to WHOIS on trademark owners and actual/potential registrants, as well as the view that the proposal was related to the discussion regarding improvements to the text of the Claims Notice.

One Sub Team member suggested comparing this proposal against the current preliminary recommendations by the Sub Team. The same Sub Team member suggested that public comment be sought on whether registries should have the option to conduct a permanent Trademark Claims period if it is combined with the “business flexibility” option noted in the proposed answer to TM Claims Q2(c).

**Question B: In light of the Individual Proposal, are any modifications to the current “Proposed Answers & preliminary recommendations” needed?**

**Answer:** TBD

**Question C: Should any additional Sub Team recommendations be made in relation to the agreed Sunrise charter question?**

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<p><b>Answer:</b> Sub Team members proposed initial ideas for additional preliminary recommendations in relation to the agreed Sunrise charter question.</p> <ul style="list-style-type: none"> <li>- The Sub Team recommends that legacy TLDs should have the option to implement the Trademark Claims RPM, if they wish to do so.</li> <li>- Michael Graham will provide language for a potential additional preliminary recommendation pertaining to developing a list of data/information that should be gathered to facilitate the future review of RPMs.</li> </ul> <p>--</p> <p><b>Sub Team Discussions:</b>  <a href="#">27 March 2019</a>, <a href="#">10 April 2019</a>, <a href="#">17 April 2019</a></p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b>                      Registries &amp; Registrars tab: cells D-H60-62, F29, F31, F-G63-66, F81, G74                      Registry - Q26 tab: cells B8-14                      Registry - Q28 tab                      Actual &amp; Potential Registrants tab: cells E-F12-27                      TM &amp; Brand Owners tab: D-G45-55, F84-85</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b>                      Analysis Group Report: pp.3, 6, 8-9, 14-19, 21-22, 64-65                      INTA Survey: pp.53, 59                      ICANN61 Transcript: pp.25-26</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">Are We Running Out of Trademarks?</a></li> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>
<p><b>Details</b>  <a href="https://docs.google.com/document/d/1hvt63HvVdNdYIZxKVMXHq3fIEFxfnweT0F3ZXsJU_Q8/edit?usp=sharing">https://docs.google.com/document/d/1hvt63HvVdNdYIZxKVMXHq3fIEFxfnweT0F3ZXsJU_Q8/edit?usp=sharing</a></p>	<p><b>Details</b>  <a href="https://drive.google.com/open?id=1P2mckW_nLHiyffxLhT6h2NCWfpjwAcXQ4zjG1-c2sac">https://drive.google.com/open?id=1P2mckW_nLHiyffxLhT6h2NCWfpjwAcXQ4zjG1-c2sac</a></p>	<p><b>Details</b>  <a href="https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpaZLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpaZLrIA/edit?usp=sharing</a> (pp.1-6)</p>
<p><b>Sub Team Discussion:</b> <a href="#">23 January 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">30 January 2019</a>, <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>

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<p><b>Summary of Discussions/Individual Comments</b></p> <p>The AG survey results assist in answering the sub questions (a), (b), (c), and (e), although the survey data do not permit a conclusion about the proportion of bad faith registrants deterred by the Claims Notice versus good faith registrants deterred, or the percentage of bad faith intended registrants who receive the Claims Notice and are affected by it.</p> <p>(a) Most trademark and brand owner respondents seek an extension of the Claims Period. Some Registry Operator and Registrar respondents support an extended Claims period, including a “perpetual” length.</p> <p>(b) Most trademark and brand owner respondents believe the Claims period should not be shortened. The majority of Registry Operator and Registrar respondents believe that the Claims period should be shortened. Registrants would experience fewer problems with a shorter Claims Period, including fewer good faith registrants turning back when they encounter the Claims Notice or are confused by it. Data shows substantial confusion and uncertainty about the meaning of the Claims Notice, as well as an inappropriate deterrent effect of the period on legitimate actual and</p>	<p><b>Summary of Discussions/Individual Comments</b></p> <p>The previously collected data assist in answering the sub questions (a), (b), and (c).</p> <p>(a) Many Generic TLDs and Brand TLDs, as well as some GeoTLDs already have Claims periods longer than 90 days, including indefinite length. Trademark owner respondents to the INTA Survey and Analysis Group’s questionnaire believe that the Claims period should be extended; there is interest in extending it for at least one year, or permanently. Registrars and non-trademark owner registrants that responded to Analysis Group’s questionnaire are opposed to the extension of the Claims period. Analysis Group believes that extending the Claims period may be of limited benefit to trademark owners and may be associated with costs incurred by registries and registrars, as well as potential deterrence to good-faith registration. Nevertheless, Analysis Group did not conduct a concrete cost-benefit analysis of extending the Claims service.</p>	<p><b>Summary of Discussions/Individual Comments</b></p> <p>The additional data assist in answering the sub question (c).</p> <p>As Trademark Claims service “operates off the data in the TMCH”, the long list of dictionary words protected in the TMCH (including Geographical Indicator and other marks protected by statute or treaties) and the extent to which common words are already subject to registration in the US may be a factor to consider in the Working Group’s discussion of whether the Claims period should be mandatory.</p>

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<p>potential registrants, according to detailed summaries of AG and discussion in the Sub Team.</p> <p>(c) Most trademark and brand owner respondents think the Claims period should be mandatory. The majority of Registry Operator and Registrar respondents think the Claims Period should not be mandatory.</p> <p>(e) Some Registry Operator responses imply the desire of extending the proof of use requirements for Sunrise to include the issuance of TMCH notices due to overly generic terms.</p> <p>The survey results do not assist in answering the sub question (d).</p>	<p>(b) Trademark owners believe that the Claims period should not be shortened based on their responses to the INTA Survey and Analysis Group’s questionnaire. Opinions from other stakeholders on whether the Claims period should be shortened are unclear.</p> <p>(c) Trademark owners believe that the Claims period should be mandatory based on their responses to the INTA Survey and Analysis Group’s questionnaire. Nevertheless, Analysis Group’s caveated findings of high abandonment rate and low dispute rate seem to suggest substantial uncertainties about the effectiveness of the Trademark Claims service.</p> <p>The previously collected data do not assist in answering the sub questions (d) and (e).</p>	
<p><b>QUESTION 3</b></p> <p>(a) Does the Trademark Claims Notice to domain name applicants meet its intended purpose?</p> <p>(i) If not, is it intimidating, hard to understand, or otherwise inadequate? If inadequate, how can it be improved?</p> <p>(ii) Does it inform domain name applicants of the scope and limitations of trademark holders’ rights? If not, how can it be improved?</p> <p>(iii) Are translations of the Trademark Claims Notice effective in informing domain name applicants of the scope and limitation of trademark holders’ rights?</p>		

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(b) Should Claims Notifications only be sent to registrants who complete domain name registrations, as opposed to those who are attempting to register domain names that are matches to entries in the TMCH?

## Proposed Answers & Preliminary Recommendations:

### Q3(a)

**Answer:** The Trademark Claims Notice generally meets its intended purpose of notifying prospective domain name registrants that the applied-for domain name matches at least one trademark in the Trademark Clearinghouse.

### Q3(a)(i)

**Answer:** Based on the data, the Claims Notice is intimidating, hard to understand, or otherwise inadequate (e.g., lack of identifying details of the trademark, issues with figurative/design marks).

### Q3(a)(ii)

**Answer:** Based on the data, the Claims Notice does not adequately inform domain name applicants of the scope and limitations of trademark holders' rights.

**Recommendation:** The Sub Team recommends that the Trademark Claims Notice be revised to reflect more specific information about the trademark(s) for which it is being issued, and to more effectively communicate the meaning and implications of the Claims Notice (e.g., outlining possible legal consequences or describing what actions potential registrants may be able to take following receipt of a notice).

The Sub Team recommends, accordingly, that the current version of the Claims Notice be revised to maintain brevity, improve user-friendliness, and provide additional relevant information or links to multilingual external resources that can aid prospective registrants in understanding the Claims Notice and its implications.

To assist the Implementation Review Team (IRT) that will be formed to implement recommendations from this PDP in redrafting the Claims Notice, the Trademark Claims Sub Team has developed the following Implementation Guidance:

- The Claims Notice must be clearly comprehensible to a layperson unfamiliar with trademark law;
- [Albeit unspecified, agreed terms, concepts, parameters, objectives, and principles should be taken into account when the IRT redrafts the Claims Notice] (Staff Note: Sub Team will need to develop more specific terms, concepts, parameters, objectives, and

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principles);

- A suggestion was made that ICANN Org consider partnering with external resources that have already indicated an interest in helping redraft the Claims Notice (e.g., AUIP clinic).

### Q3(a)(iii)

**Answer:** Based on the data, the current requirement on translations of the Trademark Claims Notice does not seem effective in informing domain name applicants of the scope and limitation of trademark holders' rights. The Sub Team noted, however, that it may become quite complex for a registrar to operate the Claims Notice if all possible translations are required.

**Recommendation:** The Trademark Claims Sub Team recommends that delivery of the Trademark Claims Notice be both in English as well as the language of the registration agreement. In this regard, the Trademark Claims Sub Team recommends changing the relevant language in the current Trademark Clearinghouse Requirements on this topic to "...registrars must provide the Claims Notice in English and in the language of the registration agreement." The Trademark Claims Sub Team also recommends that, where feasible, the Claims Notice include links to translations of the Claims Notice in all six UN languages.

### Q3(b)

**Answer:** The Claims Notice should not be sent only to registrants who complete domain name registrations. The Claims Notice should generally be sent to potential registrants, who are attempting to register domain names that are matches to entries in the TMCH, at some point before the domain name registration is completed. However, one Sub Team member strongly opposed sending the Claims Notice before the registration is completed.

**Recommendation:** The Sub Team recommends that the current requirement for only sending the Claims Notice before a registration is completed be maintained. The Sub Team also recognizes that there may be operational issues with presenting the Claims Notice to registrants who pre-registered domain names, due to the current 48-hour expiration period of the Claims Notice. The Sub Team therefore recommends that the Implementation Review Team consider ways in which ICANN Org can work with registrars to address this implementation issue.

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Sub Team Discussions:

[11 March 2019](#), [3 April 2019](#)

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<b>ANALYSIS GROUP SURVEY RESULTS</b>	<b>DATA PREVIOUSLY COLLECTED</b>	<b>ADDITIONAL DATA SUBMITTED</b>
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b>                      Actual &amp; Potential Registrants tab: cells D-E-F12-27                      Registrant - Q11 tab                      Registrant - Q11b tab                      Registrant - Q11c tab                      Registry &amp; Registrars tab: cell D-F56, G70, G72, G74, G67-68, G75                      Registry - Q26 tab                      TM &amp; Brand Owners tab: cells F50-55, F56                      TM Owner - Q27 tab</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b>                      Deloitte Responses: Question 2                      Deloitte Follow Up: Questions 2, 6, 7                      Analysis Group Report: pp.8-9                      INTA Survey: pp.15, 51-52</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Trademark Claims Notice Rewrite</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>
<p><b>Details</b>  <a href="https://docs.google.com/document/d/1WLE91cg73avpWHkzczNCnxw1ALWYhWqGZOnnrmqTsH4/edit?usp=sharing">https://docs.google.com/document/d/1WLE91cg73avpWHkzczNCnxw1ALWYhWqGZOnnrmqTsH4/edit?usp=sharing</a></p>	<p><b>Details</b>  <a href="https://drive.google.com/open?id=10R4qNC2zEoLs-0C8_yylxavy6UApOXO7temzue6MJg">https://drive.google.com/open?id=10R4qNC2zEoLs-0C8_yylxavy6UApOXO7temzue6MJg</a></p>	<p><b>Details</b>  <a href="https://docs.google.com/document/d/1af4ONTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4ONTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing</a> (pp.4-6)</p>
<p><b>Sub Team Discussion:</b> <a href="#">16 January 2019</a>, <a href="#">23 January 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>
<p><b>Summary of Discussions/Individual Comments</b>                      The AG survey results assist in answering this question, including all of its sub questions (a), (a)(i), (a)(ii), (a)(iii), and (b):</p>	<p><b>Summary of Discussions/Individual Comments</b>                      The previously collected data assist in answering this question, including sub questions (a), (a)(i), and (a)(ii).</p>	<p><b>Summary of Discussions/Individual Comments</b>                      As the Trademark Claims service “operates off the data in the TMCH”, the broad scope of the records in the TMCH (including Geographical Indications and other marks</p>



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<p>(a) The Claims Notice to domain name applicants seems to fall short of meeting its intended purpose, although there is evidence that the Claims Notice does affect the applicant’s decision whether or not to proceed with a registration.</p> <p>(a)(i) The Claims Notice seems intimidating and hard to understand to the majority of actual and potential registrant respondents, implying the need for improvement. Some registrar respondents hold the same opinion. Trademark and brand owner respondents have mixed responses on its adequacy.</p> <p>(a)(ii) The Claims Notice does not seem to adequately inform domain name applicants of the scope and limitations of trademark holders’ rights based on many actual and potential registrants’ responses. Some registrar respondents hold the same opinion.</p> <p>(a)(iii) There are issues with regard to translations of the Claims Notice in informing domain name applicants of the scope and limitation of trademark holders’ rights. Some Registrar respondents do not translate the Claims Notice into all of the languages that they use when doing business with new gTLD registrants. As the survey data shows that the</p>	<p>(a) The Claims Notice to domain name applicants does not seem to meet its intended purposes, although some trademark owner respondents to the INTA Survey believe the Claims Notice helped. Limited insight can be gleaned from Deloitte responses as they only provided what is factually presented in the Claims Notice. Analysis Group’s caveated findings (e.g., the common words, such as “cloud” and “hotel”, that seem to trigger the Claims Notice) seem to suggest that the Claims Notice may have an unintended deterrence effect on legitimate domain name applicants.</p> <p>(a)(i) The Claims Notice seems to be intimidating, hard to understand, or otherwise inadequate. Deloitte provided anecdotal evidence of consumer confusion after receiving the Claims Notice. As Trademark Claims service “operates off the data in the TMCH”, some Sub Team members believe the Claims Notice is especially inadequate when the TMCH registration is not a trademark (e.g., geographical indication, protected designation of origin,</p>	<p>protected by statute or treaties) may be a factor to consider in the Working Group’s discussion of whether the Trademark Claims Notice to domain name applicants meets its intended purpose.</p> <p>To assist with answering sub questions (a) and (a)(ii), Christine Farley submitted a rewritten Trademark Claims Notice done by IP Clinic students. It is more of a member’s proposal rather than additional “data” in itself.</p>

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<p>Claims Notice does not work well in the language in which it was initially drafted, it is implied that it would unlikely be more comprehensible in translation.</p> <p>(b) The majority of trademark and brand owner respondents think the Claims Notice should be sent to registrants who are attempting to register domain names that are matches to entries in the TMCH. Registrar respondents have mixed opinions, but half think that the Claims notice should be sent to registrants when they proceed to check out the domain names. Some Registrar respondents report challenges regarding sending the Claims Notice for pre-order names, including expired Claims Notice and order flow issues. Registry Operator respondents mostly find that Claims Notice would not add too much cost.</p>	<p>protected appellation of origin) or is a design mark.</p> <p>(a)(ii) The Claims Notice does not seem to sufficiently inform domain name applicants of the scope and limitations of trademark holder’s rights, especially when the TMCH registration is not a trademark or is a design mark. One potential improvement may be the inclusion of the registration number and creation date of the trademark in the Claims Notice.</p> <p>The previously collected data do not assist in answering the sub questions (a)(iii) and (b).</p>	
<p><b>QUESTION 4</b></p> <p>Is the exact match requirement for Trademark Claims serving the intended purposes of the Trademark Claims RPM? In conducting this analysis, recall that IDNs and Latin-based words with accents and umlauts are currently not serviced or recognized by many registries.</p> <p>(a) What is the evidence of harm under the existing system?</p> <p>(b) Should the matching criteria for Notices be expanded?</p> <p>(i) Should the marks in the TMCH be the basis for an expansion of matches for the purpose of providing a broader range of claims notices?</p> <p>(ii) What results (including unintended consequences) might each suggested form of expansion of matching criteria have?</p> <p>(iii) What balance should be adhered to in striving to deter bad-faith registrations but not good-faith domain name applications?</p> <p>(iv) What is the resulting list of non-exact match criteria recommended by the WG, if any?</p>		

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<p>(c) What is the feasibility of implementation for each form of expanded matches? (d) If an expansion of matches solution were to be implemented: (i) Should the existing TM Claims Notice be amended? If so, how? (ii) Should the Claim period differ for exact matches versus non-exact matches?</p>		
<p><b>Proposed Answers &amp; Preliminary Recommendations:</b></p> <p><b>Q4</b> <b>Answer:</b> The Sub Team has differing opinions on whether the exact match requirement is serving the intended purposes of the Trademark Claims RPM.</p> <p><b>Q4(a)</b> <b>Answer:</b> The Sub Team has differing opinions on whether there is evidence of harm under the existing system of exact match.</p> <p>Some Sub Team members believe that the existing system does not have a clear deterrence effect against registrations of confusingly similar matches, including typosquat variants and “exact trademark plus word” domain name applications. They believe that this system harms trademark owners’ ability to protect their trademarks in a cost-effective manner and increases their curative mechanisms burden after the harm has already taken place (especially the harm from cybersquatters). They also believe it harms the prospective registrants who may be unaware that some non-exact matches can be “actionable” under trademark laws or dispute resolution mechanisms for trademark infringement.</p> <p>One Sub Team member does not believe there is evidence of harm under the existing system, but that nevertheless the exact match requirement for Trademark Claims already harms registrants.</p> <p><b>Q4(b)</b> <b>Answer:</b> The Sub Team has differing opinions on whether the matching criteria for the Claims Notice should be expanded.</p> <p><b>Recommendation (Staff Note):</b> As of 14 May, the Trademark Claims Sub Team has not yet developed a preliminary recommendation, but has discussed some related issues.</p>		

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1) The Sub Team acknowledged the usefulness of the Abused Domain Name Labels service (“50 Plus”), which allows rights holders to register up to 50 abused labels related to a registered trademark in the TMCH. However, 50 Plus is limited to abused labels that have already been adjudicated, and those labels will unlikely be reregistered.

2) One Sub Team member mentioned the issue of registrars selling domain names to registrants who are not allowed to own them due to potential trademark infringement. Another Sub Team member commented that it is impossible for a registrar to know the registrant’s intent to register/use a domain name, hence registrars cannot be held responsible for the registrant’s subsequent infringement.

3) Some Sub Team members discussed the [Ongoing Notification](#) service provided by the TMCH. It will notify the trademark owner, following the 90 day Trademark Claims Period, when someone has activated a domain name in a new gTLD that contains the exact match or additional variation labels of the registered trademark in the TMCH.

One Sub Team member suggested that the Sub Team may consider discussing whether the Ongoing Notification service for additional variation labels should *also* be provided during the Trademark Claims Period. This would raise several follow-up questions:

- Will domain name applicants also receive notice?
- Should there be any cost for the service during the Trademark Claims Period?
- How do the specific variations accepted by the Ongoing Notifications service stack up against the ideas for expanded match currently being discussed in the Sub Team?

#### Q4(b)(i)

**Answer:** If the matching criteria for the Claims Notice were to be expanded, the marks in the TMCH should be the basis for an expansion of matches for the purpose of providing a broader range of Claims Notice.

#### Q4(b)(ii)

**Answer:** Some Sub Team members believe that expansion of matching criteria, in general, might help trademark owners better protect their trademarks in a cost-effective manner. Otherwise, trademark owners are forced to “engage in curative mechanisms for the variants that skirt the exact-match notice rules”.

In a previous study, the Analysis Group had concluded that the unintended consequences may include an increase of the implementation costs for registries and registrars. However, this conclusion was not based on any cost-benefit analysis. One Sub Team member commented that the

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expanded matching criteria still cannot usefully capture the “bewildering variety” of non-exact matches.

### **Q4(b)(iii)**

**Answer:** The balance is between generating a comprehensive non-exact match criteria that covers as many applicable scenarios as possible *and* avoiding a potential overflow of false positives due to “bad matches”.

Prospective registrants should be appropriately notified by a well-crafted Claims Notice regarding a potential problem with their chosen domain names.

### **Q4(b)(iv)**

**Answer:** The Sub Team has not developed a proposed list of non-exact match criteria, if the matching criteria for the Claims Notice were to be expanded.

**Recommendation (Staff Note):** As of 14 May, the Trademark Claims Sub Team has not yet developed a preliminary recommendation, but has discussed some initial ideas/concepts/proposals for the expanded match, if the matching criteria for the Claims Notice were to be expanded.

1) Some Sub Team members suggested that the expansion of match criteria, if any, should not be limitless and should be narrowly based on real work experience with infringement, as well as technical implementability by the TMCH. They include:

- term indicating the product/service related to the business of the trademark owner;
- business descriptor indicating the type of an entity (e.g., INC, CO, CROP, LLC, GMBH, SARL);
- industry keyword related to the trademark;
- accent and umlaut.

2) One Sub Team member suggested that the list of non-exact match criteria can possibly be developed based on the domain names challenged in URS and UDRP cases.

Another Sub Team member commented that based on URS cases, there is no “pattern” suggesting that trademarks plus brand related keywords make up a significant portion of cybersquatting domains.

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Other Sub Team members commented that the URS is underutilized due to the limitations of the remedy, hence it is not an appropriate basis upon which to discern the “pattern” of problematic new gTLD registrations.

3) One Sub Team member suggested that the Claims Notice be issued for a domain name where the string contains the exact match of the trademark registered in the TMCH. This idea did not receive wide support from the Sub Team.

4) One Sub Team member suggested that the “[Proposal for Smarter Non-Exact Matches](#)” submitted during the TMCH discussion in 2017 should be reconsidered. The Sub Team has not yet discussed this proposal.

### Q4(c)

**Answer:** The Sub Team team has differing opinions on the feasibility of implementing expanded matches.

Some Sub Team members believe it is feasible due to the existence of the 50 Plus service. One Sub Team member explained that the 50 Plus service is still technically based on exact match.

Some Sub Team members believe that the feasibility is low due to the difficulty of amending the Trademark Claims Notice in order to effectively explain the issue of non-exact matches to prospective registrants. They believe that there is a likelihood that the Claims Notice may become even more intimidating, hard to understand, or otherwise inadequate. Furthermore, these Sub Team members believe it is difficult to strike a balance between generating a comprehensive non-exact match criteria that covers many applicable scenarios and avoiding a potential overflow of false positives due to “bad matches”.

### Q4(d)(i)

**Answer:** If an expansion of matches solution were to be implemented, the existing Trademark Claims Notice should be amended.

The Sub Team was unsure what additional Implementation Guidance should be included besides those outlined in the Sub Team’s recommendations for Question 3 with regard to revising the language of the Claims Notice (above).

It was also unclear from the Sub Team discussion who should receive the notification of the non-exact match. One Sub Team member noted that a “broader” notice, which refers to both the Claims Notice to the prospective registrants and the NORN to trademark owners, should be provided to appropriately notify all affected parties of a non-exact match.

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<p><b>Q4(d)(ii)</b>  <b>Answer:</b> TBD</p> <p>--</p> <p><b>Sub Team Discussions:</b>  <a href="#">2 May 2019</a>, <a href="#">8 May 2019</a>, WG Mailing List (<a href="#">8 May 2019</a>)</p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b>                      TM &amp; Brand Owners tab: cells F9, F55, F66-68, F70-73, F80-81                      Registry - Q29a tab: cell A7                      Actual &amp; Potential Registrants: G12, E13, G19, F27</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b>                      Registry Operator Responses: pp.3-4                      Deloitte Responses: Q16                      Deloitte TMCH Report: Sections 2.1.1, 2.1.2, 2.2.1.2, 2.3.1                      Analysis Group Report: pp.2, 6, 8-9, 25-26, 28-29, 32, C IV Data                      INTA Survey: p.54</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">New gTLD Program: Rights Protection Mechanisms Review Draft Report</a></li> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">Are We Running Out of Trademarks?</a></li> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>
<p><b>Details</b>  <a href="https://docs.google.com/document/d/1WBfc0bWkyiDY4Ijr2l_-5hRjnYKPDjSYw9DQnlh7WHY/edit?usp=sharing">https://docs.google.com/document/d/1WBfc0bWkyiDY4Ijr2l_-5hRjnYKPDjSYw9DQnlh7WHY/edit?usp=sharing</a></p>	<p><b>Details</b>  <a href="https://drive.google.com/open?id=1qS4ZzkfVQXxytjji0vPuq_B85UsV8ivwr5YKKbWhex5E">https://drive.google.com/open?id=1qS4ZzkfVQXxytjji0vPuq_B85UsV8ivwr5YKKbWhex5E</a></p>	<p><b>Details</b>  <a href="https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XbQvYLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XbQvYLI7EXmVHpazLrIA/edit?usp=sharing</a> (pp.1-6)</p>

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<p><b>Sub Team Discussion:</b> <a href="#">23 January 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>
<p><b>Summary of Discussions/Individual Comments</b>                      The AG survey results assist in answering its sub question (a).                       Trademark and brand owner responses indicate that there is evidence of harm under the existing exact match system. Examples include the constraints of registering a company mark including a ‘Co’, IDN issues, as well as limitations in deterring potential bad faith registration of confusingly similar names, creative misspelling, combination of exact match with other terms/charters, etc. Consequently, Trademark and brand owner respondents have to pursue greater enforcement actions.                       The survey results do not assist in answering the other sub questions. Nevertheless, Trademark and brand owner respondents, on one hand, overwhelming desire expanded matches (answer to sub question (b)); the anecdotal evidence cited above (sub question (a)) supports this idea. On the other hand,</p>	<p><b>Summary of Discussions/Individual Comments</b>                      The previously collected data assist in answering Q4 and sub questions(b), (b)(i), (b)(iv), (c):                       (Q4) The exact match requirement for Trademark Claims seems to serve the intended purposes of the Trademark Claims RPM, as the exact-match registrations account for a disproportionately large share of registrations in WHOIS data found by Analysis Group.                       (b) Some trademark owner respondents to the INTA Survey believe the matching criteria for Claims Notices should be expanded. Trademark holder and TMCH agent respondents to Analysis Group’s questionnaire also expressed interest in expanding the matching criteria; registries and registrars expressed concerns regarding the associated costs. Analysis Group believes</p>	<p><b>Summary of Discussions/Individual Comments</b>                      The additional data assist in answering the sub questions (a) and (b).                       (a) As the Trademark Claims service “operates off the data in the TMCH”, some Sub Team members view the list of dictionary words protected in the TMCH as a possible indicator of harm under the existing system. The concern is that the breadth of the TMCH seems to expand the applicability of trademark protections in the domain name space beyond what might be permitted under domestic legal frameworks. Some Sub Team members support stronger scrutiny over how marks are validated and entered into the TMCH and its services applied, including the possibility of limiting their scope to categories of demonstrated use.                       (b) The very high number of Claims Notices generated compared to the relatively low</p>



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<p>based on responses from some actual and potential registrant respondents, Claims Notice are misunderstood even as to exact matches, so a change in match criteria may cause more confusion from the Claims Notice recipients.</p>	<p>that expanding the matching criteria may be of limited benefit to trademark owners and may be associated with costs incurred by registries and registrars, as well as potential deterrence to good-faith registration and increased abandonment rate. Analysis Group’s caveated findings (e.g., low dispute rate; common words that seem to trigger the Claims Notice) also suggest that the matching criteria should not be expanded. Nevertheless, Analysis Group did not conduct a concrete cost-benefit analysis of expanding the matching criteria; their analysis also did not include variations such as goods or services sold by trademark holders.</p> <p>(b)(i) The marks in the TMCH may not be the basis for an expansion of matches for the purpose of providing a broader range of Claims Notices. The reasons include the relatively few abused labels indicated in the Deloitte TMCH Report, as well as the doubled amount of domain names/labels derived from the trademark records.</p> <p>(b)(iv) The list of non-exact match criteria could include slight spelling variations (INTA</p>	<p>number of Claims transactions, the list of dictionary words and breadth of terms protected in the TMCH (including Geographical Indications and other marks protected by statute or treaties), as well as the extent to which common words are already subject to registration as trademarks (including in the US) may be a factor to consider in the Working Group’s discussion of whether the matching criteria for the Claims Notice should be expanded. Some Sub Team members support considering “scaling back” the matching criteria to prevent legitimate registrants from being deterred.</p>

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	<p>Survey respondents), plural typos and character removal typos (Analysis Group findings). Nevertheless, Analysis Group was unable to tell what portion of the typo registrations have been made in bad faith.</p> <p>(c) It does not seem to be feasible to implement each form of expanded matches, as some common words already seem to trigger the Claims Notice based on Analysis Group’s caveated finding.</p> <p>The previously collected data do not assist in answering the sub questions (a), (b)(ii), (b)(iii), (d), (d)(i), (d)(ii).</p>	
<p><b>QUESTION 5</b> Should the Trademark Claims period continue to be uniform for all types of gTLDs in subsequent rounds?</p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b> Registries &amp; Registrars tab: cells F31, F59, F60, G65, F61, G63-64, G78, F79, F81, F84-85 TM &amp; Brand Owners tab: cell F84 TM Owner - Q27 Tab: rows 5, 8, 9 TM Owner - Q27a tab: column A Registries &amp; Registrars tab: cells D-F30-31,</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b> Analysis Group Report: p.7 ICANN61 Transcript: pp.25-26</p>	Not Applicable

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ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
D-F54, C-F59-66 Registry - Q26 tab Registry - Q28 tab Registry - Q29 tab Registry -Q29a tab Registrar-Q4i tab Registrar - Q10 tab Registrar - Q11 tab		
<b>Details</b> <a href="https://docs.google.com/document/d/1mzlgFxnleG1zrJGKap0zllmQaKfu4U3UMuSp8FhcYc8/edit?usp=sharing">https://docs.google.com/document/d/1mzlgFxnleG1zrJGKap0zllmQaKfu4U3UMuSp8FhcYc8/edit?usp=sharing</a>	<b>Details</b> <a href="https://drive.google.com/open?id=1wrnU1X98UE89muaDDvrYfgdPhuBXHuH6VBIO07ebtMM">https://drive.google.com/open?id=1wrnU1X98UE89muaDDvrYfgdPhuBXHuH6VBIO07ebtMM</a>	Not Applicable
<b>Sub Team Discussion:</b> <a href="#">23 January 2019</a>	<b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>	
<b>Summary of Discussions/Individual Comments</b> The AG survey results assist in answering this question.  Registry Operator responses seem to indicate that Registry Operators would likely be neutral with respect to a uniform Trademark Claims period for all types of gTLDs in subsequent rounds. Registrar responses seem to indicate that they may not desire a uniform	<b>Summary of Discussions/Individual Comments</b> The previously collected data assist in answering this question.  There does not seem to be a need for Trademark Claims period to be uniform for all types of gTLDs in subsequent rounds, as it is already not uniform currently. As the great majority of marks are Latin script with	Not Applicable

## Summary Table of Final Agreed **Trademark Claims** Questions, Data & Discussions

*Draft as of 17 May 2019 - Prepared by ICANN staff for use by the Trademark Claims Sub Team*

ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p>Trademark Claims period. Registry Operator and Registrar responses show that: (1) Trademark Claims period is not uniform at present, (2) there is flexibility desire to add non-trademarks in some geoTLDs, (3) there are varying opinions on the ideal length of the Claims period, possibly due to consideration of operating cost/technical burden.</p>	<p>records dominated by US customers, it seems to be difficult to force uniformity for Trademark Claims period for all types of gTLDs in subsequent rounds, especially pertaining to the IDN TLDs and geoTLDs outside the US.</p>	

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ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
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## APPENDIX: Data Reviewed by the Trademark Claims Sub Team

- Analysis Group Revised Report on the TMCH (February 2017):  
<https://community.icann.org/download/attachments/64066042/Analysis%20Group%20Revised%20TMCH%20Report%20-%20March%202017.pdf?version=1&modificationDate=1490349029000&api=v2>
  - Analysis Group responses to questions from the Working Group:
    - June 2017: <https://mm.icann.org/pipermail/gnso-rpm-wg/2017-June/002043.html>
    - July 2017: <https://mm.icann.org/pipermail/gnso-rpm-wg/2017-July/002257.html>
- Registry Operator responses to initial survey from TMCH Data Gathering Sub Team (December 2016):  
<https://community.icann.org/download/attachments/64066042/Registry%20Responses%20to%20TMCH%20Data%20Sub%20Team%20-%202013%20Dec.pdf?version=1&modificationDate=1485897782000&api=v2>
  - RPM Data Sub Team meeting with Jon Nevet, Donuts (March 2018):  
<https://community.icann.org/download/attachments/79438928/Transcription%20ICANN61%20GNSO%20RPM%20Data%20Sub%20Team%20Meeting%2010%20March%202018.pdf?version=1&modificationDate=1521579214000&api=v2>
- Deloitte responses to initial questions from TMCH Data Gathering Sub Team (January 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20responses%20to%20TMCH%20Data%20Gathering%20Sub%20Team%20questions%20-%20Jan%202017.docx?version=1&modificationDate=1485897782000&api=v2>
  - Follow up questions from Working Group (March 2017):  
<https://community.icann.org/download/attachments/64066042/Follow%20Up%20Questions%20for%20Deloitte%20-%20updated%205%20March%202017.docx?version=1&modificationDate=1488753827000&api=v2> and  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%204%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>
  - Deloitte response to follow up questions (April 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%204%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>
  - Deloitte numbers report as discussed with the Working Group at ICANN58 (March 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%204%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>

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ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
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- INTA cost impact survey:  
<https://community.icann.org/download/attachments/69277722/INTA%20New%20gTLD%20Cost%20Impact%20Study%20Presentation%20-%2030%20Aug.pdf?version=1&modificationDate=1504147055000&api=v2> and  
[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_community.icann.org\\_download\\_attachments\\_61606864\\_INTA-2520Cost-2520mpact-2520Report-2520revised-25204-2D13-2D17-2520v2.1.pdf-3Fversion-3D1-26modificationDate-3D1500376749000-26api-3Dv2&d=DwMGaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=ML0yWdAdSdj4cRa39aHRCVysVa9ub30XpFPLr1fc51I&s=KXW3vtHBAKxxiT4X6sLxZQO2dIKSW8Zc-BhfZ1t7IAA&e](https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_61606864_INTA-2520Cost-2520mpact-2520Report-2520revised-25204-2D13-2D17-2520v2.1.pdf-3Fversion-3D1-26modificationDate-3D1500376749000-26api-3Dv2&d=DwMGaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=ML0yWdAdSdj4cRa39aHRCVysVa9ub30XpFPLr1fc51I&s=KXW3vtHBAKxxiT4X6sLxZQO2dIKSW8Zc-BhfZ1t7IAA&e)
- ICANN Org-maintained list of Registry Operators and relevant dates for Sunrise, Trademark Claims and other specific approved program periods (e.g. Limited Registration Periods, Qualified Launch Programs):  
<https://newgtlds.icann.org/en/program-status/sunrise-claims-periods>
- Analysis Group Sunrise & Trademark Claims survey results:
  - Inception Report (September 2018):  
<https://community.icann.org/download/attachments/90771305/9.6.2018%20Inception%20Report.pdf?version=1&modificationDate=1536257221000&api=v2>
  - Final Report (October 2018):  
<https://community.icann.org/download/attachments/90773066/Final%20ICANN%20RPM%20Survey%20Report%202018.10.18.pdf?version=1&modificationDate=1540302625000&api=v2>
  - All data files reported: <https://community.icann.org/pages/viewpage.action?pageId=90771305>
  - Analysis Group response to follow up questions (November 2018):  
<https://community.icann.org/download/attachments/99483940/Questions%20%26%20Comments%20-%20Final%20Report%20RPM%20Survey%20-%20AG%20comments.pdf?version=1&modificationDate=1543271647000&api=v2>
- Additional data related to Sunrise and Trademark Claims submitted by Working Groups members in February 2019:  
<https://community.icann.org/x/Gp8WBg>