Instructions:

This table was built to assist the Trademark Claims Data Review Sub Team in its analysis as to whether, and how, the previously collected Trademark Claims data (between December 2016 and March 2018) answer each of the final agreed Charter questions.

- In the **Trademark Claims Tab** of the analysis tool, Staff have included excerpts, as well as the relevant page/slide reference, from the previously collected data that staff believe may assist in answering the final agreed Charter questions. Summaries of the excerpts are included in Column B.
- The excerpts cited by Staff are nonexclusive; Sub Team members are welcome to download and reference the actual documents, linked from the **Source Tab,** to cite relevant information that may help answer the final agreed Charter questions.
- When providing input, please note the source name and page/slide number of the previously collected data.

Claims Charter Question 2:

If the answers to Claims Charter 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)?

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(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?

Sub Team Member Name	Do the previously collected data help answer this Claims Charter Question?	If yes, which sub question(s) do the survey results assist?	How do the data assist (e.g. "Information X in document Y demonstrate Z")?	Source Name & Page/Slide Reference
Kathy	No		First four documents on our list don't seem to shed much light on this question.	(Ques to Registries and Deloitte)

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George Kirikos	Yes		(no for first 4 documents, will adjust this later on as we go through the other 8) Page 18 of the Analysis Group Report documents 113,338 non-disputed registrations, 346 disputed, and 1,696,862 abandoned registrations (p. 18). Fees and costs too high for registries and trademark holders (p. 64-65). Trademark holders want longer claims, registrars find it costly and oppose (p. 14-15).	AG Report, p. 18, 64-65, 14-15
Griffin Barnett	No		Kathy: to first 4 documents?	
KKleiman	Yes	2a, b, c	"In addition, extending the Claims Service period or expanding the matching criteria used for triggering Claims Service notifications may be of limited benefit to trademark holders and may be associated with costs incurred by other stakeholder groups, such as registries, registrars, and non-trademark-holder domain registrants. Although our data do not permit us to perform a cost-benefit analysis of extending the Claims Service or expanding the matching criteria, the tradeoffs felt by different stakeholder groups should be considered when weighing those policy decisions." "When evaluating whether the Claims Service period should be extended, one should consider how many potential registrations would be affected by the extension. That is, the effectiveness of Claims Service notifications depends on how many registration attempts are being made: if there are few registration attempts being made, then there are fewer potentially-infringing registrations being made. We find that registration activity declines after the 90-day Claims Service	Independent Review of Trademark Clearinghouse (TMCH) Services Revised Report, Analysis Group, p.3

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			period ends, so any additional months added to the Claims Service period will likely have diminishing value. We also find that trademark holders infrequently dispute registrations that are variations of trademark strings. Given the low dispute rates, an expansion of the matching criteria may bring little benefit to trademark holders and only harm nontrademark-holder domain registrants, who may be deterred from registering trademark string variations that would otherwise not be considered a trademark infringement by trademark holders or authorities who make such determinations."	
KKleiman	yes	2a,b,c	"However, the over-regulation of domain name registration activity can also harm non-trademark holders who have legitimate intentions behind domain name registrations that are identical or similar to trademarked strings. In addition, services that are put into place to protect trademark holders, like those provided by the TMCH, impose costs on various stakeholder groups, such as registries, who must pay a fee to the TMCH for each gTLD operated, and registrars, who must develop software systems to query the TMCH."	AG Revised Report, p. 6
KKleiman	yes	2a, b,c	"In consideration of expanding the Claims Service period, we find no evidence that bad faith registrations are timed strategically to avoid triggering Claims Service notifications. Further, registrations in new gTLDs decline after the Claims Service period ends and remain below the registration levels during the Claims Service period. This indicates that an extension of the Claims Service period would result in a declining marginal benefit to trademark holders while potentially increasing the	AG Revised Report, p. 17

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			monitoring and administrative costs of registrars. It is also possible that by extending the Claims Service period, any deterrent effect of Claims Service notifications on non-trademark-holder registrants would continue, thus decreasing registrations overall or slowing the registration adoption of new gTLDs."	
KKleiman	yes	2a, b and c	"Figure 1 shows that there is a gradual decline in the number of exact-match registrations made by third-party registrants following the Claims Service period. This chart indicates that it is unlikely that potentially-infringing registrants strategically time registrations to avoid Claims Service notifications."	P. 19
KKleiman	yes	2a, b, c	"Table 5 shows that there is no discernible increase in the dispute rate of exact-match domain registrations when those registrations are made after the Claims Service period ends. This indicates that it is unlikely that bad faith registrants strategically time their registrations relative to the Claims Service period. Therefore, it is unclear whether extending the Claims Service period would help to deter or delay bad faith registrations from being made. Anecdotal evidence also suggests that extending the Claims Service period could be costly for non-trademark-holder stakeholders: a number of questionnaire respondents identified administrative costs associated with expanding the Claims Service period."	P. 21
Susan Payne	Only to a limited extent	2a,b,c	"We note that our data and analyses are descriptive in nature, and we are only able to draw conclusions regarding whether the results of the evaluation are consistent with what one would expect to see if the TMCH services were effective (or not) at	AG Revised Report p6; C IV Data

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			helping to deter domain name abuse. Our data also do not quantify the costs and benefits associated with the present state of the TMCH services, nor the potential costs and benefits of expanding or altering the way the services function, making concrete cost-benefit analyses outside the scope of this report"	
Susan Payne	Limited - anecdotal;	2a	"Initial questionnaire feedback that we received from trademark holders, TMCH agents, and law firms indicated an interest inthe extension of the Claims Service period, but some registrars find implementing the Claims Service to be costly and oppose extending the Claims Service period. In addition, some non-trademark holder registrants oppose the extension of the Claims Service period due to concerns that Claims Service notifications reduce good-faith registrations of domain names that happen to match trademark strings"	AG Revised Report p14-15
Susan Payne	Yes	2a	"The high enrollment rate in the Ongoing Notifications program indicates that the perceived benefit of receiving ongoing notifications outweighs the costs of filtering any notifications that would be received through the program."	AG Revised Report p22
Rebecca Tushnet	Yes	(a)-(c)	High abandonment rate and low dispute rate among those registrations that actually issue suggest that there are substantial uncertainties about the role that the notice is providing and whether it deters enough bad faith registrations to justify the effects on ordinary registrants	AG Revised Report, p. 8-9, 16-17

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