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<p><b>Michael Karanicolas</b></p> <p>New gTLD Program: Rights Protection Mechanisms Review Draft Report</p> <p><a href="https://www.icann.org/public-comments/rpm-review-2015-02-02-en">https://www.icann.org/public-comments/rpm-review-2015-02-02-en</a></p> <p>==</p> <p>Sum of TLDs with initiated Claims periods 297; Sum of Claims Transactions 96,471; Sum of Claims Notices Generated 25,221,479</p>	<p>Claims 1(b) Is the Trademark Claims service having any unintended consequences, such as deterring good-faith domain name applications?</p> <p>Claims 4(b) Should the matching criteria for Notices be expanded?</p> <p>==</p> <p>The very high number of claims notices which have been generated, compared to the comparatively low number of claims transactions, is noteworthy, as it suggests that there is a substantial chilling effect associated with receiving the claims notices. While, in some respect, this may be seen as a feature of the system rather than a bug, given that the intention of these notices is to deter illegitimate registrants, the presence of a substantial chilling effect requires a careful consideration of how these notices are being sent out to potentially legitimate registrants – particularly as we know there are a number of dictionary words registered in the TMCH. At the</p>	<p>George Kirikos: I agree with Michael's analysis. We have never data, though, from the Analysis Group's report, which covers a longer time period, with similar findings.</p>
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	<p>very least, the volume of notices being sent out argues against a need to expand the system further, and supports that we consider whether it needs to be scaled back in its application, to prevent legitimate registrants from being impacted.</p>	
<p><b>Michael Karanicolas</b></p> <p>How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</p> <p><a href="https://domainnamewire.com/2014/02/10/how-common-words-like-pizza-money-and-shopping-ended-up-in-the-trademark-clearinghouse-for-new-tlds/">https://domainnamewire.com/2014/02/10/how-common-words-like-pizza-money-and-shopping-ended-up-in-the-trademark-clearinghouse-for-new-tlds/</a></p> <p>==</p> <p>The article contains a long list of dictionary words protected in the TMCH, including: active, adventure, auto, balance, bank, best, bet, bicycling, bliss, blues, brand, brand, car, insurance, chef, Christ, Christmas, city, cloud, compassion, craft, credit, credit, direct,</p>	<p>Claims: 1(b) Is the Trademark Claims service having any unintended consequences, such as deterring good-faith domain name applications; 4(a) What is the evidence of harm under the existing system?</p> <p>==</p> <p>I would call this clear evidence of abuse, as it expands the applicability of trademark protections in the domain name space vastly beyond what might be permitted under any domestic legal framework. Moreover, unlike dictionary words like “mini” or “apple”, which are at least associated with a well-known brand, the inclusion of words like “Christ” and “luxury” seems strongly suggestive that the system is being</p>	<p>George Kirikos: I agree with Michael’s analysis. I think it also helps answer 4(b), i.e. expanded matches when the “base” consists of many common dictionary words will generate more warnings, compared to “fanciful” base terms like “Verizon” or “Exxon”. Even charter question 2(c) would be helped by this data (whether trademarks claims should mandatory).</p>

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<p>dirt, diy, domain, sex, press, finance, fire, flex, flip, gold, gourmet, groove, heart, holiday, hotel, ilove, internet, jazz, karma, kilt, kiss, lifestyle, lux, luxury, Madison, memo, money, natural, ninja, party, philosophy, physics, pizza, power, radio, realestate, rentacar, shopping, skinny, speed, spirit, storage, strategy, style, swing, tango, Texans, texas, ticket, time, travel, vacation, wedding</p>	<p>gamed. == Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of demonstrated use.</p>	
<p><b>Rebecca L Tushnet</b> Are We Running Out of Trademarks? <a href="https://harvardlawreview.org/2018/02/a-re-we-running-out-of-trademarks/">https://harvardlawreview.org/2018/02/a-re-we-running-out-of-trademarks/</a> == The extent to which common words are already subject to registration in the US</p>	<p>Multiple questions, particularly those having to do with expanding from exact match == It indicates that (1) most common terms are already subject to at least one national registration, (2) new market entrants are having increasing difficulty finding marks, and (3) new market entrants are increasingly incorporating existing words into longer marks, bearing on the wisdom of expanding exact match ==</p>	<p>George Kirikos: I agree with Rebecca's analysis. I believe this paper helps in answering charter questions 1(b), 2(c), and 4(b). As I noted above in comments for the DNW blog post, expanded matches when the base terms are all common dictionary terms will results in more matches than if the base terms are fanciful. If registrants attempt to register 2-word domains, they'll potentially generate many claims notices against those dictionary terms in the TMCH.</p>

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	Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of demonstrated use.	
<p><b>Kathy Kleiman</b></p> <p>WIPO FAQ on Geographical Indications</p> <p><a href="https://www.wipo.int/geo_indications/en/faq_geographicalindications.html">https://www.wipo.int/geo_indications/en/faq_geographicalindications.html</a></p> <p>==</p> <p>Shedding light on what is a GI and what is a trademark.</p>	<p>Claims Q1, Q2, Q3 and Q4</p> <p>==</p> <p>The scope of the registrations within the TMCH impacts the Sunrise and Claims service broadly and specifically. If the scope of registrations is different from what the rules intended, that would change the way we evaluate the mechanisms, e.g., Sunrise and Claims, operating off the data in the TMCH.</p>	<p>George Kirikos: I agree with Kathy's analysis.</p>
<p><b>Christine Farley</b></p> <p>Trademark Claims Notice Rewrite</p> <p><a href="https://community.icann.org/download/attachments/102145818/ICANN%20Trademark%20Claims%20Notice-%20WCL.pdf?version=1&amp;modificationDate=1550164071304&amp;api=v2">https://community.icann.org/download/attachments/102145818/ICANN%20Trademark%20Claims%20Notice-%20WCL.pdf?version=1&amp;modificationDate=1550164071304&amp;api=v2</a></p>	<p>TM Claims Q3(a) and (ii)</p> <p>==</p> <p>This proposed revision suggests the possibility of the WG working with law school students and/or a law school IP Clinic to rewrite the TM Claims to make them more readable, less intimidating,</p>	<p>George Kirikos: the document provided by Christine is more of a member's proposal for rewriting the trademark claims notice, rather than "data" in itself (i.e. it's more of a response to the data, than data). As an aside, it's good to be able to compare this proposed claims notice with the current one, see <a href="https://domainnamewire.com/2014/01/30/trademark-claims-notice/">https://domainnamewire.com/2014/01/30/trademark-claims-notice/</a></p>

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<p>==</p> <p>Trademark Claims Notice rewritten by IP Clinic students who work with entrepreneurs and are familiar with ways to communicate legal concepts to them clearly</p>	<p>and more able to address the scope and limitations of the trademark holders' rights.</p>	
<p><b>Kathy Kleiman</b></p> <p>Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</p> <p><a href="https://sched.ws/hosted_files/icann58copenhagen2017/81/Transcript%20RPM%20OWG%2011%20March%20Copenhagen.pdf">https://sched.ws/hosted_files/icann58copenhagen2017/81/Transcript%20RPM%20OWG%2011%20March%20Copenhagen.pdf</a></p> <p>==</p> <p>Discussion with Deloitte re: entry of GI into database &amp; Questions raised by USPTO about marks protected by statute or treaties, including GIs.</p>	<p>Claims Q1-Q4,</p> <p>==</p> <p>Expanding the scope of words entered into the TMCH changes the scope and impact of the systems that use the TMCH, including Sunrise and Claims. These are important considerations for our review.</p>	<p>George Kirikos: I agree with Kathy's analysis,</p>