

Attendance:

Brian Beckham
George Kirikos
Greg Shatan
Kathy Kleiman
Martin Silva Valent
Michael Graham
Philip Corwin
Rebecca Tushnet
Roger Carney
Sara Bockey
Susan Payne
Zak Muscovitch

Apologies:

Kristine Dorrain

Staff:

Mary Wong
Julie Hedlund
Ariel Liang
Michelle DeSmyter

AC chat:

Michelle DeSmyter:Dear all, Welcome to The Review of all Rights Protection Mechanisms (RPMs) Sub Team for Trademark Claims Data Review call on Wednesday, 27 February 2019 at 17:00 UTC.

Michelle DeSmyter:Agenda wiki page: <https://community.icann.org/x/958WBg>

George Kirikos:Hi folks.

Martin Silva Valent:Hi !

George Kirikos:Hi Martin.

rebecca.tushnet:I'm the 1703 number

Roger Carney:3959 is me :)

Julie Hedlund:Thanks Roger!

Kathy Kleiman:Hi All!

Kathy Kleiman:2.1?

Kathy Kleiman:2.2?

Martin Silva Valent:in the agenda of today

George Kirikos:Top right pod.

Kathy Kleiman:Tx!

George Kirikos:<https://mm.icann.org/pipermail/gnso-rpm-wg/2019-February/003651.html>

Ariel Liang:All the submitted additional data is also on the wiki already for all to review: <https://community.icann.org/x/Gp8WBg>

Kathy Kleiman:Note: these are previously submitted documents...

Mary Wong:Both sub teams will also present to the full WG during the first session in Kobe.

George Kirikos:It is changing the process, though. I submitted those documents in good faith, just didn't have time to jump through the hoops to post them in the Google Docs, categorize them, etc.

Mary Wong:@George, the process was to submit additional sources through the Google form.

George Kirikos:My comment on Doc #1 was memorializing last week's oral input, correct.

Julie Hedlund 2:@All: We skipped over the updates to Statements of Interest -- If anyone has any updates please let us know in the chat.

Kathy Kleiman:This link does not appear to be working -

- https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.ica&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwww ehFBfjrsjWv9&m=-TpTZ9TAzQ6KTTCU38CbtfOcyN4-IAAeLcz1aUjfZoU&s=Aq3NgnNk6C0jqchcNjXP6yErG4v9yMYNccuASWAfc1k&e=

Kathy Kleiman:Is it working for others?

Martin Silva Valent:no

Kathy Kleiman:Can we post the docs?

Julie Hedlund 2:@Kathy and Martin -- we'll check the link.

George Kirikos:We're past Q4.

Mary Wong:Yes, that is correct - and the various periods are listed on ICANN's new gTLDs website: https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.icann.org_en_program-2Dstatus_sunrise-2Dclaims-2Dperiods&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWI

https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.icann.org_en_program-2Dstatus_sunrise-2Dclaims-2Dperiods&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWI PqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwww ehFBfjrsjWv9&m=-TpTZ9TAzQ6KTTCU38CbtfOcyN4-IAAeLcz1aUjfZoU&s=Fm4S71Fzodj-CVGeqz9QMIGRNKTGS-tzCQnoo01ITsY&e=

Kathy Kleiman:q4

George Kirikos:We can hear you.

George Kirikos:We should be on Agenda Item #3 now, right.

Greg Shatan:That link looks like a fragment.

Sara Bockey:Apologies for joining late

Mary Wong:@Kathy, were you referring to the ICANN microsite for new gTLDs? I've pasted the full link to the page that contains all the sunrise and claims periods. The home

page is here: https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.icann.org&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwww ehFBfjrsjWv9&m=-TpTZ9TAzQ6KTTCU38CbtfOcyN4-IAAeLcz1aUjfZoU&s=SmpCUo5tWAWj8Jtm0pU8zmJpYjzT6KD_zepVagmd9pE&e=

Julie Hedlund 2:@George: Yes, the link is fragmented. The full link is what Mary has posted above.

Mary Wong:Again - all the dates for all sunrise and claims periods for delegated new gTLDs is https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.icann.org_en_program-2Dstatus_sunrise-2Dclaims-2Dperiods&d=DwIFaQ&c=FmY1u3Pj6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWGIBLwwwehFBfjrsjWv9&m=-TpTZ9TAzQ6KTTTCU38CbtFOcyN4-IAAeLcz1aUjfZoU&s=Fm4S71Fzodj-CVGeqz9QMIGRNKTGS-tzCQnoo01ITsY&e=

Mary Wong:Staff hand up :)

George Kirikos:It's not just an "opinion piece" -- it contains raw data, too.

Julie Hedlund 2:@All: Note that in the interest of time we don't need to read through the comments in the Google doc, as these are to be taken as read. Only if there are new comments (agreeing/disagreeing) with the commenters re: the usefulness of the data to answering the charter questions.

Kathy Kleiman:then he adds: Unfortunately, the actions of both the well-meaning and the gamers will affect the everyday Joe looking to register a domain name.\

George Kirikos:That was Greg, not me.

Julie Hedlund 2:@Martin: Mary Wong has her hand up.

Susan Payne:@Kathy - I think this comes back to the Claims notice wording again doesn't it

Greg Shatan:If by "affect" you mean receiving a claims notice, yes, that's true.

Greg Shatan:The issue of gaming is one that we need to consider specifically. It makes no sense to punish brandowners for the transgressions of "gamers."

Julie Hedlund 2:@All: Just a reminder -- if you have comments on whether the data help to answer the charter questions that you have not yet entered in the document, please do enter it when the document opens after this call.

George Kirikos:@Greg: but those "gamers" are also brand owners. :-)

George Kirikos:@Greg: "it makes no sense to punish domain name registrants for the transgressions of cybersquatters" (e.g. imposing the UDRP, etc.)

Julie Hedlund 2:@All: Time check -- the Sub Team must finish the discussion of additional data by the end of this call, that ends at 5 minutes to the top of the hour.

Greg Shatan:They may own trademark registrations; that doesn't make them brandowners.

Mary Wong:Also, staff hand still up :)

Julie Hedlund 2:@Greg: Your staff is up -- is that an hold hand?

Philip Corwin:why am i muted?

Greg Shatan:The UDRP doesn't punish domain name registrants generally.

Julie Hedlund 2:@Phil: I don't know, but I've unmuted you.

Philip Corwin:thx

rebecca.tushnet:I'm not sure I understand Mary's comment. Should we not pay attention to these data sources? What is her comment directed at excluding from our consideration?

George Kirikos:Let's go through the homework assignment.

George Kirikos:There are only 5 pages for this document.

Mary Wong:@Rebecca, apologies for not being clear. What staff is suggesting is that the possibility that the scope of the TMCH affected the utility of the Claims Service be noted for the full WG in your report. It isn't within the remit of this Sub Team (esp given the caveats around abandonment given by AG) to discuss problems with the TMCH.

Mary Wong:So basically a "bookmark" that the WG can come back to when they get back to looking at the TMCH.

rebecca.tushnet:Strongly disagree, then.

George Kirikos:Disagree with Mary's analysis. Problems with the TMCH definitely affect our recommendations.

rebecca.tushnet:But much appreciate the clarification, Mary.

George Kirikos:Are folks going to address the additional data sources on screen?

Mary Wong:@George, @Rebecca - it may be something to clarify with the rest of the WG, whether looking at TMCH is useful. We are concerned that, without more specific framing, this could open up the Sub Team work to more than was anticipated.

George Kirikos:It'll affect both subteams, though, because problems with the TMCH also affect sunrise.

Mary Wong:And it can be up to the WG to agree on how to deal with the "bookmarked" topic(s) - whether through another sub team (as Kathy is mentioning) or otherwise.

rebecca.tushnet:(all 10 were common words)

Mary Wong:@George, exactly.

George Kirikos:i.e. gaming of marks like "HOTEL", etc. affect both claims and sunrise.

rebecca.tushnet:and none of them were Apple

George Kirikos:+1 Rebecca. None were Facebook, Google, Bloomberg, etc.

George Kirikos:(Bloomberg had many URS filings)

Philip Corwin:The full WG's review of the TMCH will occur after we have completed the Claims and Sunrise subteam work, and will be informed by it

Mary Wong:@Rebecca, I did say that it probably affects the Claims Service - staff is just concerned about scope of work at this time for this Sub Team (and perhaps Sunrise too). If one/both teams now have to go and look at the TMCH, that alters the approach and potentially the timeline. That's why we think this is a decision to be made by the WG, not at Sub Team level.

George Kirikos:With expanded match, "CLOUD" might trigger "CLOUDS" (plural), and many other domains, depending on the nature of expansion (and Rebecca's submitted document about longer marks is also relevant).

Susan Payne:@rebecca, why do you say they are not going out for apple? of course they are, if apple is in the TMCH - and I'd be astonished if it wasn't

Susan Payne:absolutely Greg

Julie Hedlund 2:@All: Per Martin's reminder on the time, if you have comments on whether or not you think the additional data answers a charter question (or not) please add your comments to the Google doc when we reopen it after the call.

rebecca.tushnet:I agree Apple is probably in there, but it's not in the top 10 which is all the data about incidence we were given.

Kathy Kleiman:Andrew Allemann: I'm going to pick on my alma mater for a minute here.The University of Texas has an entry in the database for "Texas". While the trademark field of use is for education, the registration effectively gives the university first right of refusal on texas.TLD across all TLDs during sunrise. (There are ways for registries to deny such registrations, as I'll explain more below).I can understand the university wanting to register texas.university or texas.college. But texas.camera?

Kathy Kleiman:or bliss :-)

Greg Shatan:I happen to like Bliss skin care products...

George Kirikos:I repeatedly asked for the list of Top 500 terms, but ICANN never supplied it.

George Kirikos:(so we could know if those famous brands are anywhere near the top of the list of strings where the deterrence is happening)

Philip Corwin:Yes, Bliss is TM'd for a very popular line of skin care products that might well be counterfeited https://urldefense.proofpoint.com/v2/url?u=https-3A_www.blissworld.com_&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGIBLwww ehFBfjrsjWv9&m=-TpTZ9TAzQ6KTTCU38CbtfOcyN4-IAAeLcz1aUjfZoU&s=pfRyBDQjofuv7og5EPsD2W0PJXeXaoCqrxpy4AhbNuw&e=

Greg Shatan:Once we stop talking about the documents, it's hard to get back to them. But we should try.

Kathy Kleiman:That's a very good point, Susan. I think these additional articles have given us great food for thought!

George Kirikos:Or, get rid of the notice entirely.

George Kirikos:(along with the TMCH)

Greg Shatan:We could also get rid of the secondary market for domain names, while we're at it...

George Kirikos:lol Right after we eliminate assignments of TMs. ;-)

Kathy Kleiman:what is COB EST?

George Kirikos:"CLOS of business"

George Kirikos:*close

Kathy Kleiman:Tx Julie!

Susan Payne:great - it's already COB for me

Greg Shatan:In the US "trafficking" in trademarks (i.e., assigning intent to use trademarks, "assignments in gross" without the goodwill, etc.) are prohibited.

Kathy Kleiman: Safe travels!!

Greg Shatan:To be slightly less simplistic, an ITU app can be assigned with the business to which it pertains, but not otherwise.

George Kirikos:@Greg: but, assignment of TMs is generally a secondary market for TMs. i.e. transfer of an intangible asset.

George Kirikos:Company goes belly up, there's an auction for its IP, etc.

Roger Carney:Thanks everyone!!

George Kirikos:Or, even when it's not bankrupt, just reorganizing its assets.

Michael Graham:COB today has already occurred, so I will not be able to respond to chart

Philip Corwin:Safe travel to Kobe!

Greg Shatan:The difference is that TMs must be used to be registered (in most systems) so not a good comparison to parked domain names....

Martin Silva Valent:Safe travels