

Instructions:

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

- In the **Sunrise 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.

Sunrise Charter Question 9:

In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse?

| Sub Team Member Name | Do the previously collected data help answer this Sunrise 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 |
|----------------------|---|---|---|---|
| George Kirikos | Not directly, but take note of capability should we adopt it as policy | | Answer to Q17 of January 2017 Deloitte responses to initial questions from TMCH Data Gathering Sub Team documents that the technical capability exists on their end.as the SMD file appears to pass along the goods and services. | January 2017 Deloitte responses to initial questions from TMCH Data Gathering Sub Team, Q17 |
| KKleiman | Yes | Question | Deloitte's detailed responses show acceptance of a wide range of data never | Follow-up |

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| | | above | <p>anticipated in the TMCH rules passed by the Council and the Board. Named the "Trademark Clearinghouse" on purpose, it was designed for acceptance of federally registered marks, with a few exceptions (such as court-validated common law marks). Now, however, we see in Question 7 and 6 we see that Deloitte has gone much further -- seeming on its own authority -- to include geographical indications, protected designations of origin, and protected appellations of of origin, although not trademarks, although widely disputed as trademarks in international negotiations. Ditto for extraction of words and letters of design marks in Question 6. One way to deal with the overbreadth is to limit Sunrise Registrations to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse. This would create fewer "side effects," and allow more good faith registrants to register logical domain names in appropriate gTLDs.</p> | <p>questions from Deloitte (5 March 2017), Ques 6 and 7</p> |
| Griffin Barnett | Yes | | <p>Deloitte Response:</p> <ul style="list-style-type: none"> - Upon request of the community, the SMD-file was designed in such a way that the Registry Operator had at all times the necessary information to limit registration by goods and services themselves. As such the TMCH has not been involved in the management or decisions in relation to any restrictions implemented by the Registry Operator. <p>RO Responses:</p> <ul style="list-style-type: none"> - Have you used the TMCH option to limit registrations by goods and services in a particular registration period? PIR: No. DONUTS: No. AFNIC: No. | <p>Listed in Prior Column--??</p> |
| David McAuley | No | | <p>This 'no' refers to AG Independent Review of TMCH and follow-ups</p> | |

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| Greg Shatan | Limited | | <p>We would have liked to also incorporate the goods or services sold by trademark holders into another set of permutations (e.g., "apple-computer" for the trademark string "apple" registered by Apple, Inc.). However, due to the lack of detail in the Nice classification codes available in the TMCH data, we were unable to include these types of variations in our analysis. The two-digit Nice codes provide very high-level industry characteristics that are not always product names that are likely to be included in domain names. For example, Nice Class 1 is described as "Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry." In addition to the difficulty of determining what industry key words to associate with a trademark string's Nice classification, many TMCH-recorded trademarks are associated with multiple Nice codes, making a goods and services string variation so broad that it loses its relevance.</p> <p>Regardless of the source of industry classification (i.e., Nice classes or SIC codes), the ability to associate pertinent keywords to the trademarks in the TMCH will be limited because TMCH-recorded trademarks may be associated with multiple industries and a wide variety of products. For example, "apple" has Nice Class 9, which includes "apparatus and instruments for scientific research in laboratories; apparatus and instruments for controlling ships, such as apparatus and instruments for measuring and for transmitting orders; protractors; punched card office machines; all computer programs and software regardless of recording media or means of dissemination, that is, software recorded on magnetic media or downloaded from a remote computer network." There are many products one could assign to Nice Class 9, some of which would apply to products generated by Apple, Inc., and some of which would not.</p> | 26 |

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| | | | Additionally, there may be many words that some people may consider to be key words associated with a trademark or a trademark holder (e.g., Apple, Inc.), that would not be apparent based on the definition of the broad industry that applies to the trademark or the trademark holder. This problem would be exacerbated for trademarks associated with multiple Nice classes or SIC industry codes. We are therefore unable to generate an objective list of key words associated with each industry that would be provide meaningful color to this analysis. Future analyses of keyword criteria may require additional research and interviews of industry representatives to identify the proper set of words for each industry. | |
| David McAuley | No | | Referring to INTA Cost Impact Survey | |
| Michael Karanicolas | Somewhat | | <p>Costs for proof of use filings are relatively low (more than half are less than USD 1000 over 2015 and 2016 – suggesting that the imposition of additional requirements are not necessarily adding to a system which is already too burdensome.</p> <p>Sub Team Comments:</p> <ul style="list-style-type: none"> ● Michael K: Notes costs associated with suggested changes. | Inta Cost Impact Report p. 30 |
| Michael Karanicolas | Somewhat | | | |
| David McAuley | No | | This refers to TLD Startup Information, Staff-compiled Sunrise Launch metrics, and DT transcript with Jon N. In the latter, Jon does mention categories in answer to question at bottom of page 6 to top of page 7 - in context of both blocking and Sunrise | |

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