

Adobe Connect: 11

Cyntia King	Kristine Dorrain
George Kirikos	Lori Schulman
Greg Shatan	Martin Silva Valent
Justine Chew	Philip Corwin
Kathy Kleiman	Susan Payne
	Zak Muscovitch

On Audio only:

Rebecca Tushnet

Apologies:

Griffin Barnett	Michael Graham
-----------------	----------------

Staff:

Ariel Liang	Mary Wong
Julie Hedlund	Berry Cobb
	Terri Agnew

Terri Agnew: Welcome to the RPMs Sub team for Trademark Claims Data Review on Wednesday, 27 March 2019 at 17:00 UTC for 60 minutes.

Terri Agnew: Agenda wiki page: <https://community.icann.org/x/oA5IBg>

George Kirikos: Hi folks.

George Kirikos: Oops, Hi folks.

Martin Silva Valent: Hi George

George Kirikos: Hi Martin.

Kathy Kleiman: Hi Julie and Ariel -- just confirming that we end 5 minutes before the hour for the transition to next subteam?

Julie Hedlund: @Kathy: Yes, that's correct.

George Kirikos: Is audio having dropouts?

Julie Hedlund: I was hearing that too.

Kathy Kleiman: yes

Julie Hedlund: Let's see if it continues

Cyntia King: Sounds good now.

Julie Hedlund: The document is unsynced and you can go to Question 2

George Kirikos: I think the Members list might not be accurate, as it still lists Sara Bockey:

<https://community.icann.org/display/RARPMRIAGPWG/Members+and+email+archives+-+RPM+WG+Sub+Team+for+Trademark+Claims+Data+Review> who appears to have left the RPM PDP?
<https://community.icann.org/pages/viewpage.action?pageId=58729950>

Julie Hedlund: @George: I'm not sure that she's left, but staff can confirm.

George Kirikos: (members list of the sub team, that is)

George Kirikos: Comparison of last 2 versions shows she was removed:

<https://community.icann.org/pages/diffpagesbyversion.action?pageId=58729950&selectedPageVersion=383&selectedPageVersions=382>

Lori Schulman: Hi, Sorry I am late.

George Kirikos: Will we go one subpart at a time, or all 5 subparts?

Martin Silva Valent:we are on question 2

Kathy Kleiman:a and b?

Martin Silva Valent:we can refer to a.b and c, since all of them talk about the period

Terri Agnew:I confirm Sara Bockey has requested to be removed from this group. Wiki membership page is updated

Mary Wong:Yes, the TMCH currently offers an extended claims period service (optional).

Lori Schulman:I think optional is fair.

Kathy Kleiman:I'm not sure the legacy question is before us now...

Lori Schulman:Many legacy TLDs have adopted RPMs but, notably, not .com or .net.

Cyntia King:+1 George

Kathy Kleiman:There is a question before Sunrise Subteam that perhaps we should consider here -- the "or question" -- should new gTLD registries be allowed to choose Sunrise or TM Claims?

George Kirikos:@Kathy: right, that should be a 2(f).

George Kirikos:@Kristine: this is TM claims, not sunrise.

Lori Schulman:Agree that we should keep in mind that the RPM's were a community compromise

Lori Schulman:Right Susan. This about TM owner notice.

Cyntia King:Agree Kristine & Lori - we should consider as a factor the community compromise.

Mary Wong:@Susan, yes indeed - thanks for the clarification. It is not the same scope as what the ICANN implementation of "TM Claims Notices" (i.e. both to the potential registrant and the validated TM owner) is.

George Kirikos:I thought Justine Chew changed to "Observer"?

<https://community.icann.org/display/RARPMRIAGPWG/Members+and+email+archives+-+RPM+WG+Sub+Team+for+Trademark+Claims+Data+Review>

Susan Payne:@Greg - but there is no point extending to legacy TLDs unless it is permanent claims since they are all well past 90 days of GA

Susan Payne:permanent

Lori Schulman:Excellent point Cyntia. Making the claim notice more accessible and understandable would certainly help make this RPM more effective.

Philip Corwin:@Greg -- unless we have consensus agreement to make the Claims Period permanent (doubtful, in my personal opinion) there would be no point to extending the Claims Notice to legacy gTLDs as it runs for a set number of days from the opening of a gTLD -- which occurred decades ago for legacy ones.

Susan Payne:@Kathy - bearing in mind hardly any Rys or Rrs responded at all

Lori Schulman:Only URS would apply to legacy's if RPMs were adopted. I should have been clear in my note in the chat. My comment was general not specific to claims and sunrise.

Cyntia King:@Phil - kinda - except that situations can arise that may apply - like the release of single-character domain names (i.e. O.cmo).

Kathy Kleiman:I agree with many things Cyntia said -- and her summary of our discussion.

Kristine Dorrain:@Susan - +1 on the Ry/Rr comment. I think the main thrust was Rrs that didn't like the cost of onboarding. That feels like something we could discuss in implementation.

Greg Shatan:There are reserved names in the legacy TLDs that may be coming up for reservation for the first time, such as o.com.

Susan Payne:Kristine is a RySG member

Kristine Dorrain:@George, I'm here with the Registries.

Cyntia King:@George there's only 12 of us on this call. But we can't not move forward.

Lori Schulman:That is the nature of the beast. How do we get people to engage when this review has gone on for so long?

Cyntia King:[double negative alert]

Lori Schulman:I do depart from my IP colleague at times but not this time.

George Kirikos:If it's not a representative group, then it shouldn't have a veto over proposals, then.

Cyntia King:+ Lori

Kathy Kleiman:I think the new time may be an issue for some folks.

Cyntia King:@George - we must move forward whether everyone shows up for a particular call or not.

Lori Schulman:I took several months off as you all know. I am re-engaging now.

Susan Payne:I think we also have to assume that if someone feels strongly they will speak up. If they are comfortable with direction of travel they may not feel the need to make a verbal +1

George Kirikos:The IPC doesn't get a veto, sorry. Just as we saw in the EPDP on WHOIS, consensus can be reached by the broader community despite the IPC's opposition.

Cyntia King:Keeping in mind, that this sub-team will make recommendations to the full RPM working group for review/discussion, I think some folks are willing to wait until the matter goes to the full WG.

Susan Payne:who is veto'ing? you should also note George that the "IPC" participants here do not all have a unified view. I think that there has been support expressed for permanent claims. Greg doesn't agree with me

Susan Payne:Cyntia also doesn't agree with me

Cyntia King:@Phil - that sounds it was a fun convo

Susan Payne:We're all expressing our own views

Greg Shatan:No one is looking for a veto, and I'm not speaking for the IPC. As for the EPDP, that is definitely a discussion for another time. It may prove something, but whether it proves something good is something else entirely.

Lori Schulman:I speak for INTA in most cases, in some cases, I express a personal view and signal when I do that.

Cyntia King:Agree we should have community feedback on extending new RPMs to existing TLDs.

Kathy Kleiman:Since there is real concern among some members of this subteam with the current length of the TM Claims period, I don't think a permanent TM claims would have general support. Probably reflecting what Susan wrote above (but not sure).

Susan Payne:agree with Cyntia re need for consistency to make this as easy for users as possible

George Kirikos:I don't know who's taking notes in the sidebar, but none of (d) and (e) comments from Kathy or I show up.

Julie Hedlund 2:@George: That's me and I've tried to capture what I can, but I'm not always able to keep up. I also got kicked out of the Adobe Connect room at a couple of points. Thus, the recording and transcript will be the accurate record and what should be referenced for the Sub Team and WG deliberations (as always noted in the caveat that goes with the brief notes).

Cyntia King:I absolutely support asking specific questions of the community in addition to a call for their thoughts.

Julie Hedlund 2:Furthermore, with the difficulties I've been having on this call, I suggest that the brief notes should be included, only action items, as they are in any case incomplete.

Julie Hedlund 2:*NOT be included

Cyntia King:Exactly - I believe the Claims Notice may be th most impactful thing we can do to reduce user confusion & enhance brand protection.

Greg Shatan:Susan — good point on .brands.

Kathy Kleiman:I think the summary here is that there is general support for the need for consistency and constancy -- a possible exemption for purely noncommercial gTLDs, in the event they are created

Lori Schulman:Its not about good guys and bad guys. It's about what is practical and effective.

Greg Shatan:It's not a matter of "good guys" — it's a question of whether there are third party registrants in a particular gTLD.

Julie Hedlund 2:@All: Time check -- 5-minute warning.

Kathy Kleiman:2(e) briefly?

Cyntia King:@Susan - exactly, the claims period won't stop .Brand from making any registration.

Susan Payne:@George - true. so yes if we decide to recommend permanence then we should definitely consider the position of .Brands

George Kirikos:@Susan: agree, these interactions between the various questions need to all be considered at a later date; we've can't just go through things sequentially and say "done".

George Kirikos:(and also interactions between the 2 subteams, as Kathy noted)

Cyntia King:@Susan - So apply RPMs to open registries, but not closed registries. Seems like that should be simple enough. (famous last words, right?)

Lori Schulman:I agree with George -- Please Note this date...the questions relate to each other. Very hard to analyze sequentially.

Julie Hedlund 2:@All: One minute warning.

Kristine Dorrain:@Kathy, remember the Claims notice is just a caution flag. It doesn't enforce rights. It's a courtesy to the public.

Susan Payne:deterrent effect that we are all assuming. we don't "know about" it

Kathy Kleiman:@Kristine, agreed, but it's a powerful caution flag :-)

Kristine Dorrain:Sunrise is different because the brand owner actually gets something...it's a preventative right that gives the DN to the brand owner.

George Kirikos:Please say names before speaking (the transcripts can get very confusing). I often see Georges N and me mixed up, for example.

Lori Schulman:We wouldn't require proof of use for rights that are asserted in Jurisdictions outside of commonwealth countries. EU doesn't require use at time of registration, for example.

Julie Hedlund 2:@All: We are going over time.

Kathy Kleiman:Cyntia, perhaps somethign for us to research before next week?

Kristine Dorrain:@Kathy, we can disagree about it's power. someone decides not to register a domain in a particular TLD and chooses a different TLD? Meh.

Susan Payne:+1 Kristine's comments

Cyntia King:Thnak you, Greg!

Kristine Dorrain:I'm bailing for a bio break before the next call. Catch you all shortly.

George Kirikos:Here's the new rules for Canada.

Susan Payne:time check

George Kirikos:https://urldefense.proofpoint.com/v2/url?u=https-3A__www.dentons.com_en_insights_alerts_2018_june_11_major-2Dchanges-2Dto-2Dcanadas-2Dtrademark-2Dlaws&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIGN-H4xR2EBk&m=DmQi2TtVo18yJ9t6hn0p02cAEPmbQ1pKZPOsx8iG6bc&s=llofRPeSgSQICv4zWRKAQ_xg8bWJsr65qt-S6ddUoMk&e=

Kathy Kleiman:Tx All!

George Kirikos:1. Removal of "use" as a requirement for registrationThis revision is by far the most significant one, as it changes what has been a fundamental requirement under Canadian trademark law for many decades. Under prior Canadian law, no registration could be issued until the applicant claimed or declared that it had "used" the trademark in Canada. Applications based on use in Canada had to contain a date of first use, and applications based on proposed use could not proceed to registration until a Declaration of Use was provided (the one exception to this requirement is an application based on "use and registration abroad" under Section 16(2) of the current Trade-marks Act, although that filing basis will no longer exist once the revisions come into force). Now, the use requirement will be

removed, and an applicant will be able to file for and obtain a trademark registration in Canada without ever having used that mark anywhere in the world.

George Kirikos:Bye folks. See most of you in 10 minutes in sunrise! :-)