

# Summary Table of Final Agreed Trademark Claims Questions, Data & Discussions

*Draft as of 8 March 2019 - Prepared by ICANN staff for use by the Trademark Claims Sub Team*

ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
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## Background

In December 2018, the Trademark Claims Sub Teams was formed to review all three sets of Trademark Claims related data with a view toward answering the agreed questions, which are also based on refinements of the original Charter questions. The data the sub teams were tasked to review encompass the following:

- Results of Analysis Group’s Sunrise and Trademark Claims surveys
- Data collected prior to the launch of the Analysis Group’s Sunrise and Trademark Claims surveys
- Additional data submitted by Working Group members in February 2019

See attached Appendix for a list of the data reviewed by the Sub Team up to date. The Sub Team completed their review and discussion of all data on 27 February 2019.

For the actual text of the agreed questions submitted by the Trademark Claims Charter Questions Sub Team to the full Working Group, please see the Status of TMCH & Related RPM Discussions summary document also circulated by ICANN staff ([3 December 2018](#)). Between the date of the Sub Team’s report and the submission of a Working Group data request to the GNSO Council in September 2017, the Working Group discussed the Sub Team’s suggestions for refining the original Charter questions as well as for data collection.

## Disclaimer

The contents of this summary table reflect the input/comments provided by Sub Team members via Google Doc homework assignments and during Sub Team meetings.

## Clarifying Notes

Under each agreed question, the following section is included in the summary table:

- “Data” refers to the data quoted by Sub Team members in their input/comments. Sub Team members used the [Survey Analysis Tool](#) to review the Analysis Group survey data, referenced the [Source Tab](#) to review the previously collected data, and reviewed the additional data submitted via the Google Docs set up for this purpose (direct links to the submitted sources are provided in this summary table).
- “Details” points to the Google Doc homework assignments where Sub Team members provide their input/comments; high level notes of Sub Team meeting discussions are also included in the Google Docs.
- “Sub Team Discussions” points to the wiki page link(s) of Sub Team meeting(s) when the agreed question was discussed.
- “Summary of Discussions/Individual Comments” is a summary of comments/input provided by the Sub Team members.

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- “Not Applicable” refers to the situation where the data reviewed do not really assist in answering the agreed question.

QUESTION 1		
<p>Is the Trademark Claims service having its intended effect? Consider the following questions specifically in the context both of a Claims Notice as well as a Notice of Registered Name:</p> <p>(a) Is the Trademark Claims service having its intended effect of deterring bad-faith registrations and providing Claims Notice to domain name applicants?</p> <p>(b) Is the Trademark Claims service having any unintended consequences, such as deterring good-faith domain name applications?</p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b>                      Actual &amp; Potential Registrants tab: cells D-E-F12-27                      Registrant - Q11b tab                      Registrant - Q11c tab                      TM &amp; Brand Owners tab: F50-52, F81                      Registry - Q26 tab: cells B8-14                      Registry - Q28 tab: cells D-E-G-H-I-J5-7                      Registrar - Q10 tab: cells D6-8                      Registrar - Q11 tab: cells A7, A25, B6-8, D5</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b>                      Deloitte Responses: Questions 2, 4, 10, 14                      Deloitte Follow Up: Questions 2, 5, 6                      Deloitte TMCH Report                      Analysis Group Report: pp.2-3, 6-9, 15-19, 64-65, C IV Data                      INTA Survey: pp.2, 6, 15, 51-52</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>• <a href="#">New gTLD Program: Rights Protection Mechanisms Review Draft Report</a></li> <li>• <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>• <a href="#">Are We Running Out of Trademarks?</a></li> <li>• <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>• <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET (pp.1-6)</a></li> </ul>
<p><b>Details</b>  <a href="https://docs.google.com/document/d/1A5PSNNrAFS2bFvNoMFx-5DQUNhXpnocOrEbT1XL480E/edit?usp=sharing">https://docs.google.com/document/d/1A5PSNNrAFS2bFvNoMFx-5DQUNhXpnocOrEbT1XL480E/edit?usp=sharing</a></p>	<p><b>Details</b>  <a href="https://drive.google.com/open?id=1xldqJc89FkVStHuceMBeShWVWDOJRD185FY5ZUjySLo">https://drive.google.com/open?id=1xldqJc89FkVStHuceMBeShWVWDOJRD185FY5ZUjySLo</a></p>	<p><b>Details</b>  <a href="https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing</a></p>

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<p><b>Sub Team Discussion:</b> <a href="#">19 December 2018</a>, <a href="#">2 January 2019</a>, <a href="#">9 January 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">30 January 2019</a>, <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>
<p><b>Summary of Discussions/Individual Comments</b></p> <p>The AG survey results assist in answering this question, including both of its sub questions (a) and (b).</p> <p>(a) The Trademark Claims service is clearly providing Claims Notice to domain name applicants. The Trademark Claims service may be having its intended effect of deterring bad-faith registrations to some extent, as there is evidence that the Claims Notice does affect the applicant’s decision whether or not to proceed with a registration. Nevertheless, the survey data do not permit a conclusion about the proportion of bad faith registrants deterred by the Claims Notice versus good faith registrants deterred, or the percentage of bad faith intended registrants who receive the Claims Notice and are affected by it.</p> <p>(b) The Trademark Claims service may have unintended consequences, such as deterring good-faith domain name applications, due to the collateral damage caused by its confusing</p>	<p><b>Summary of Discussions/Individual Comments</b></p> <p>The previously collected data assist in answering this question, including both of its sub questions (a) and (b).</p> <p>(a) The Trademark Claims service may have its intended effect of deterring bad-faith registrations. 36% of INTA Survey respondents agreed the Claims Notice helped. Analysis Group found the 93.7% abandonment rate of domain registration after receiving the Claims Notice, as well as the 0.3% dispute rate. Nevertheless, Analysis Group notes that the assumptions, caveats, and limitations that the findings are based on could render these results disproportionate.</p> <p>(b) The Trademark Claims service may have unintended consequences, such as deterring good-faith domain name applications. As Trademark Claims service “operates off the data in the TMCH”, the unintended</p>	<p><b>Summary of Discussions/Individual Comments</b></p> <p>The additional data assist in answering the sub question (b).</p> <p>The Trademark Claims service may be having unintended consequences, such as deterring good-faith domain name applications. This is suggested by the very high number of Claims Notices generated compared to the relatively low number of Claims transactions. As Trademark Claims service “operates off the data in the TMCH”, the long list of dictionary words protected in the TMCH (including Geographical Indicator and other marks protected by statute or treaties) and the extent to which common words are already subject to registration in the US seem to cause the unintended consequences.</p>

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<p>and/or intimidating wording perceived by some potential and actual registrant respondents. Notably, the abandonment rate of non-ICANN-experienced potential and actual registrant respondents seem to be materially higher than those involved in ICANN. Other unintended consequences include the reduced publicity for the marks that are being protected or the conflicting domains that are being registered, negative impacts to Registry Operator and Registrar respondents.</p>	<p>consequences might be caused by issues regarding the TMCH operations, including: undeleted mark records (note that the TMCH deactivates a mark when a trademark holder informs them about the cancellation), acceptance of design marks, registration of marks for a registry’s individual requirements, TMCH’s confidential database, etc. Unintended consequences may also be suggested by the confusion of the Claims Notice recipients, high costs for registries and trademark owners, as well as Analysis Group’s caveated findings (e.g., 93.7% abandonment rate; common words, such as “cloud” and “hotel”, that seem to trigger the Claims Notice).</p>	
<p><b>QUESTION 2</b>                      If the answers to the agreed Claims 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)?                      (b) Should the Claims period be shortened?                      (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?</p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED

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<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b>                      Registries &amp; Registrars tab: cells D-H60-62, F29, F31, F-G63-66, F81, G74                      Registry - Q26 tab: cells B8-14                      Registry - Q28 tab                      Actual &amp; Potential Registrants tab: cells E-F12-27                      TM &amp; Brand Owners tab: D-G45-55, F84-85</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b>                      Analysis Group Report: pp.3, 6, 8-9, 14-19, 21-22, 64-65                      INTA Survey: pp.53, 59                      ICANN61 Transcript: pp.25-26</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">Are We Running Out of Trademarks?</a></li> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>
<p><b>Details</b>  <a href="https://docs.google.com/document/d/1hvt63HvVdNdYIzXKVMXHq3fIEFxfnweT0F3ZXsJU_Q8/edit?usp=sharing">https://docs.google.com/document/d/1hvt63HvVdNdYIzXKVMXHq3fIEFxfnweT0F3ZXsJU_Q8/edit?usp=sharing</a></p>	<p><b>Details</b>  <a href="https://drive.google.com/open?id=1P2mckW_nLHiyffxLhT6h2NCWfpjwAcXQ4zjG1-c2sac">https://drive.google.com/open?id=1P2mckW_nLHiyffxLhT6h2NCWfpjwAcXQ4zjG1-c2sac</a></p>	<p><b>Details</b>  <a href="https://docs.google.com/document/d/1af4ONTqAF59tMBI_JY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4ONTqAF59tMBI_JY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing</a> (pp.1-6)</p>
<p><b>Sub Team Discussion:</b> <a href="#">23 January 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">30 January 2019</a>, <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>
<p><b>Summary of Discussions/Individual Comments</b>                      The AG survey results assist in answering the sub questions (a), (b), (c), and (e), although the survey data do not permit a conclusion about the proportion of bad faith registrants deterred by the Claims Notice versus good faith registrants deterred, or the percentage of bad faith intended registrants who receive the Claims Notice and are affected by it.</p>	<p><b>Summary of Discussions/Individual Comments</b>                      The previously collected data assist in answering the sub questions (a), (b), and (c).                       (a) Many Generic TLDs and Brand TLDs, as well as some GeoTLDs already have Claims periods longer than 90 days, including indefinite length. Trademark owner respondents to the INTA Survey and Analysis</p>	<p><b>Summary of Discussions/Individual Comments</b>                      The additional data assist in answering the sub question (c).                       As Trademark Claims service “operates off the data in the TMCH”, the long list of dictionary words protected in the TMCH (including Geographical Indicator and other marks protected by statute or treaties) and</p>

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<p>(a) Most trademark and brand owner respondents seek an extension of the Claims Period. Some Registry Operator and Registrar respondents support an extended Claims period, including a “perpetual” length.</p> <p>(b) Most trademark and brand owner respondents believe the Claims period should not be shortened. The majority of Registry Operator and Registrar respondents believe that the Claims period should be shortened. Registrants would experience fewer problems with a shorter Claims Period, including fewer good faith registrants turning back when they encounter the Claims Notice or are confused by it. Data shows substantial confusion and uncertainty about the meaning of the Claims Notice, as well as an inappropriate deterrent effect of the period on legitimate actual and potential registrants, according to detailed summaries of AG and discussion in the Sub Team.</p> <p>(c) Most trademark and brand owner respondents think the Claims period should be mandatory. The majority of Registry Operator and Registrar respondents think the Claims Period should not be mandatory.</p> <p>(e) Some Registry Operator responses imply</p>	<p>Group’s questionnaire believe that the Claims period should be extended; there is interest in extending it for at least one year, or permanently. Registrars and non-trademark owner registrants that responded to Analysis Group’s questionnaire are opposed to the extension of the Claims period. Analysis Group believes that extending the Claims period may be of limited benefit to trademark owners and may be associated with costs incurred by registries and registrars, as well as potential deterrence to good-faith registration. Nevertheless, Analysis Group did not conduct a concrete cost-benefit analysis of extending the Claims service.</p> <p>(b) Trademark owners believe that the Claims period should not be shortened based on their responses to the INTA Survey and Analysis Group’s questionnaire. Opinions from other stakeholders on whether the Claims period should be shortened are unclear.</p> <p>(c) Trademark owners believe that the Claims period should be mandatory based on their</p>	<p>the extent to which common words are already subject to registration in the US may be a factor to consider in the Working Group’s discussion of whether the Claims period should be mandatory.</p>

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<p>the desire of extending the proof of use requirements for Sunrise to include the issuance of TMCH notices due to overly generic terms.</p> <p>The survey results do not assist in answering the sub question (d).</p>	<p>responses to the INTA Survey and Analysis Group’s questionnaire. Nevertheless, Analysis Group’s caveated findings of high abandonment rate and low dispute rate seem to suggest substantial uncertainties about the effectiveness of the Trademark Claims service.</p> <p>The previously collected data do not assist in answering the sub questions (d) and (e).</p>	
<p><b>QUESTION 3</b></p> <p>(a) Does the Trademark Claims Notice to domain name applicants meet its intended purpose?</p> <p>(i) If not, is it intimidating, hard to understand, or otherwise inadequate? If inadequate, how can it be improved?</p> <p>(ii) Does it inform domain name applicants of the scope and limitations of trademark holders’ rights? If not, how can it be improved?</p> <p>(iii) Are translations of the Trademark Claims Notice effective in informing domain name applicants of the scope and limitation of trademark holders’ rights?</p> <p>(b) Should Claims Notifications only be sent to registrants who complete domain name registrations, as opposed to those who are attempting to register domain names that are matches to entries in the TMCH?</p>		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b></p> <p>Actual &amp; Potential Registrants tab: cells D-E-F12-27</p> <p>Registrant - Q11 tab</p> <p>Registrant - Q11b tab</p> <p>Registrant - Q11c tab</p> <p>Registry &amp; Registrars tab: cell D-F56, G70,</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b></p> <p>Deloitte Responses: Question 2</p> <p>Deloitte Follow Up: Questions 2, 6, 7</p> <p>Analysis Group Report: pp.8-9</p> <p>INTA Survey: pp.15, 51-52</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Trademark Claims Notice Rewrite</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>

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G72, G74, G67-68, G75 Registry - Q26 tab TM & Brand Owners tab: cells F50-55, F56 TM Owner - Q27 tab		
<b>Details</b> <a href="https://docs.google.com/document/d/1WLE91cg73avpWHkzczNCnxw1ALWYhWqGZOnnrmqTsH4/edit?usp=sharing">https://docs.google.com/document/d/1WLE91cg73avpWHkzczNCnxw1ALWYhWqGZOnnrmqTsH4/edit?usp=sharing</a>	<b>Details</b> <a href="https://drive.google.com/open?id=10R4qNC2zEoLs-0C8_yylxavy6UApOXO7temzue6MJg">https://drive.google.com/open?id=10R4qNC2zEoLs-0C8_yylxavy6UApOXO7temzue6MJg</a>	<b>Details</b> <a href="https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4QNTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing</a> (pp.4-6)
<b>Sub Team Discussion:</b> <a href="#">16 January 2019</a> , <a href="#">23 January 2019</a>	<b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>	<b>Sub Team Discussion:</b> <a href="#">27 February 2019</a>
<b>Summary of Discussions/Individual Comments</b> The AG survey results assist in answering this question, including all of its sub questions (a), (a)(i), (a)(ii), (a)(iii), and (b):  (a) The Claims Notice to domain name applicants seems to fall short of meeting its intended purpose, although there is evidence that the Claims Notice does affect the applicant’s decision whether or not to proceed with a registration.  (a)(i) The Claims Notice seems intimidating and hard understand to the majority of actual	<b>Summary of Discussions/Individual Comments</b> The previously collected data assist in answering this question, including sub questions (a), (a)(i), and (a)(ii).  (a) The Claims Notice to domain name applicants does not seem to meet its intended purposes, although some trademark owner respondents to the INTA Survey believe the Claims Notice helped. Limited insight can be gleaned from Deloitte responses as they only provided what is factually presented in the Claims Notice.	<b>Summary of Discussions/Individual Comments</b> As the Trademark Claims service “operates off the data in the TMCH”, the broad scope of the records in the TMCH (including Geographical Indications and other marks protected by statute or treaties) may be a factor to consider in the Working Group’s discussion of whether the Trademark Claims Notice to domain name applicants meets its intended purpose.  To assist with answering sub questions (a) and (a)(ii), Christine Farley submitted a

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<p>and potential registrant respondents, implying the need for improvement. Some registrar respondents hold the same opinion. Trademark and brand owner respondents have mixed responses on its adequacy.</p> <p>(a)(ii) The Claims Notice does not seem to adequately inform domain name applicants of the scope and limitations of trademark holders’ rights based on many actual and potential registrants’ responses. Some registrar respondents hold the same opinion.</p> <p>(a)(iii) There are issues with regard to translations of the Claims Notice in informing domain name applicants of the scope and limitation of trademark holders’ rights. Some Registrar respondents do not translate the Claims Notice into all of the languages that they use when doing business with new gTLD registrants. As the survey data shows that the Claims Notice does not work well in the language in which it was initially drafted, it is implied that it would unlikely be more comprehensible in translation.</p> <p>(b) The majority of trademark and brand owner respondents think the Claims Notice should be sent to registrants who are attempting to register domain names that are</p>	<p>Analysis Group’s caveated findings (e.g., the common words, such as “cloud” and “hotel”, that seem to trigger the Claims Notice) seem to suggest that the Claims Notice may have an unintended deterrence effect on legitimate domain name applicants.</p> <p>(a)(i) The Claims Notice seems to be intimidating, hard to understand, or otherwise inadequate. Deloitte provided anecdotal evidence of consumer confusion after receiving the Claims Notice. As Trademark Claims service “operates off the data in the TMCH”, some Sub Team members believe the Claims Notice is especially inadequate when the TMCH registration is not a trademark (e.g., geographical indication, protected designation of origin, protected appellation of origin) or is a design mark.</p> <p>(a)(ii) The Claims Notice does not seem to sufficiently inform domain name applicants of the scope and limitations of trademark holder’s rights, especially when the TMCH registration is not a trademark or is a design mark. One potential improvement may be</p>	<p>rewritten Trademark Claims Notice done by IP Clinic students. It is more of a member’s proposal rather than additional “data” in itself.</p>

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<p>matches to entries in the TMCH. Registrar respondents have mixed opinions, but half think that the Claims notice should be sent to registrants when they proceed to check out the domain names. Some Registrar respondents report challenges regarding sending the Claims Notice for pre-order names, including expired Claims Notice and order flow issues. Registry Operator respondents mostly find that Claims Notice would not add too much cost.</p>	<p>the inclusion of the registration number and creation date of the trademark in the Claims Notice.</p> <p>The previously collected data do not assist in answering the sub questions (a)(iii) and (b).</p>	
<p><b>QUESTION 4</b></p> <p>Is the exact match requirement for Trademark Claims serving the intended purposes of the Trademark Claims RPM? In conducting this analysis, recall that IDNs and Latin-based words with accents and umlauts are currently not serviced or recognized by many registries.</p> <p>(a) What is the evidence of harm under the existing system?</p> <p>(b) Should the matching criteria for Notices be expanded?</p> <p>(i) Should the marks in the TMCH be the basis for an expansion of matches for the purpose of providing a broader range of claims notices?</p> <p>(ii) What results (including unintended consequences) might each suggested form of expansion of matching criteria have?</p> <p>(iii) What balance should be adhered to in striving to deter bad-faith registrations but not good-faith domain name applications?</p> <p>(iv) What is the resulting list of non-exact match criteria recommended by the WG, if any?</p> <p>(c) What is the feasibility of implementation for each form of expanded matches?</p> <p>(d) If an expansion of matches solution were to be implemented:</p> <p>(i) Should the existing TM Claims Notice be amended? If so, how?</p> <p>(ii) Should the Claim period differ for exact matches versus non-exact matches?</p>		
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<p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b></p> <p>TM &amp; Brand Owners tab: cells F9, F55, F66-68,</p>	<p><b>Data (See: <a href="#">Source Tab</a>)</b></p> <p>Registry Operator Responses: pp.3-4</p>	<p><b>Data</b></p> <ul style="list-style-type: none"> <li>• <a href="#">New gTLD Program: Rights Protection</a></li> </ul>

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F70-73, F80-81 Registry - Q29a tab: cell A7 Actual & Potential Registrants: G12, E13, G19, F27	Deloitte Responses: Q16 Deloitte TMCH Report: Sections 2.1.1, 2.1.2, 2.2.1.2, 2.3.1 Analysis Group Report: pp.2, 6, 8-9, 25-26, 28-29, 32, C IV Data INTA Survey: p.54	<a href="#">Mechanisms Review Draft Report</a> <ul style="list-style-type: none"> <li>• <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>• <a href="#">Are We Running Out of Trademarks?</a></li> <li>• <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>• <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>
<b>Details</b> <a href="https://docs.google.com/document/d/1WBfc0bWkyIDY4ljr2l_-5hRjnYKPDjSYw9DQnlh7WHY/edit?usp=sharing">https://docs.google.com/document/d/1WBfc0bWkyIDY4ljr2l_-5hRjnYKPDjSYw9DQnlh7WHY/edit?usp=sharing</a>	<b>Details</b> <a href="https://drive.google.com/open?id=1qS4ZzkfVQXxytjji0vPuq_B85UsV8ivwr5YKKbWhex5E">https://drive.google.com/open?id=1qS4ZzkfVQXxytjji0vPuq_B85UsV8ivwr5YKKbWhex5E</a>	<b>Details</b> <a href="https://docs.google.com/document/d/1af4ONTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing">https://docs.google.com/document/d/1af4ONTqAF59tMBI_IY-QMr4XBQvyLI7EXmVHpazLrIA/edit?usp=sharing</a> (pp.1-6)
<b>Sub Team Discussion:</b> <a href="#">23 January 2019</a>	<b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>	<b>Sub Team Discussion:</b> <a href="#">27 February 2019</a>
<b>Summary of Discussions/Individual Comments</b> The AG survey results assist in answering its sub question (a).  Trademark and brand owner responses indicate that there is evidence of harm under the existing exact match system. Examples include the constraints of registering a company mark including a 'Co', IDN issues, as	<b>Summary of Discussions/Individual Comments</b> The previously collected data assist in answering Q4 and sub questions(b), (b)(i), (b)(iv), (c):  (Q4) The exact match requirement for Trademark Claims seems to serve the intended purposes of the Trademark Claims	<b>Summary of Discussions/Individual Comments</b> The additional data assist in answering the sub questions (a) and (b).  (a) As the Trademark Claims service “operates off the data in the TMCH”, some Sub Team members view the list of dictionary words protected in the TMCH as a possible

## Summary Table of Final Agreed **Trademark Claims** Questions, Data & Discussions

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ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<p>well as limitations in deterring potential bad faith registration of confusingly similar names, creative misspelling, combination of exact match with other terms/charters, etc. Consequently, Trademark and brand owner respondents have to pursue greater enforcement actions.</p> <p>The survey results do not assist in answering the other sub questions. Nevertheless, Trademark and brand owner respondents, on one hand, overwhelming desire expanded matches (answer to sub question (b)); the anecdotal evidence cited above (sub question (a)) supports this idea. On the other hand, based on responses from some actual and potential registrant respondents, Claims Notice are misunderstood even as to exact matches, so a change in match criteria may cause more confusion from the Claims Notice recipients.</p>	<p>RPM, as the exact-match registrations account for a disproportionately large share of registrations in WHOIS data found by Analysis Group.</p> <p>(b) Some trademark owner respondents to the INTA Survey believe the matching criteria for Claims Notices should be expanded. Trademark holder and TMCH agent respondents to Analysis Group’s questionnaire also expressed interest in expanding the matching criteria; registries and registrars expressed concerns regarding the associated costs. Analysis Group believes that expanding the matching criteria may be of limited benefit to trademark owners and may be associated with costs incurred by registries and registrars, as well as potential deterrence to good-faith registration and increased abandonment rate. Analysis Group’s caveated findings (e.g., low dispute rate; common words that seem to trigger the Claims Notice) also suggest that the matching criteria should not be expanded. Nevertheless, Analysis Group did not conduct a concrete cost-benefit analysis of expanding the matching criteria; their analysis also did</p>	<p>indicator of harm under the existing system. The concern is that the breadth of the TMCH seems to expand the applicability of trademark protections in the domain name space beyond what might be permitted under domestic legal frameworks. Some Sub Team members support stronger scrutiny over how marks are validated and entered into the TMCH and its services applied, including the possibility of limiting their scope to categories of demonstrated use.</p> <p>(b) The very high number of Claims Notices generated compared to the relatively low number of Claims transactions, the list of dictionary words and breadth of terms protected in the TMCH (including Geographical Indications and other marks protected by statute or treaties), as well as the extent to which common words are already subject to registration as trademarks (including in the US) may be a factor to consider in the Working Group’s discussion of whether the matching criteria for the Claims Notice should be expanded. Some Sub Team members support considering “scaling back”</p>

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	<p>not include variations such as goods or services sold by trademark holders.</p> <p>(b)(i) The marks in the TMCH may not be the basis for an expansion of matches for the purpose of providing a broader range of Claims Notices. The reasons include the relatively few abused labels indicated in the Deloitte TMCH Report, as well as the doubled amount of domain names/labels derived from the trademark records.</p> <p>(b)(iv) The list of non-exact match criteria could include slight spelling variations (INTA Survey respondents), plural typos and character removal typos (Analysis Group findings). Nevertheless, Analysis Group was unable to tell what portion of the typo registrations have been made in bad faith.</p> <p>(c) It does not seem to be feasible to implement each form of expanded matches, as some common words already seem to trigger the Claims Notice based on Analysis Group's caveated finding.</p>	<p>the matching criteria to prevent legitimate registrants from being deterred.</p>

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	The previously collected data do not assist in answering the sub questions (a), (b)(ii), (b)(iii), (d), (d)(i), (d)(ii).	
<b>QUESTION 5</b> Should the Trademark Claims period continue to be uniform for all types of gTLDs in subsequent rounds?		
ANALYSIS GROUP SURVEY RESULTS	DATA PREVIOUSLY COLLECTED	ADDITIONAL DATA SUBMITTED
<b>Data (See: <a href="#">Survey Analysis Tool</a>)</b> Registries & Registrars tab: cells F31, F59, F60, G65, F61, G63-64, G78, F79, F81, F84-85 TM & Brand Owners tab: cell F84 TM Owner - Q27 Tab: rows 5, 8, 9 TM Owner - Q27a tab: column A Registries & Registrars tab: cells D-F30-31, D-F54, C-F59-66 Registry - Q26 tab Registry - Q28 tab Registry - Q29 tab Registry -Q29a tab Registrar-Q4i tab Registrar - Q10 tab Registrar - Q11 tab	<b>Data (See: <a href="#">Source Tab</a>)</b> Analysis Group Report: p.7 ICANN61 Transcript: pp.25-26	Not Applicable
<b>Details</b> <a href="https://docs.google.com/document/d/1mzlgFxnleG1zrJGKap0zllmQaKfu4U3UMuSp8FhcYc8/edit?usp=sharing">https://docs.google.com/document/d/1mzlgFxnleG1zrJGKap0zllmQaKfu4U3UMuSp8FhcYc8/edit?usp=sharing</a>	<b>Details</b> <a href="https://drive.google.com/open?id=1wrnU1X98UE89muaDDvrYfgdPhuBXHuH6VBIO07ebtMM">https://drive.google.com/open?id=1wrnU1X98UE89muaDDvrYfgdPhuBXHuH6VBIO07ebtMM</a>	Not Applicable

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<p><b>Sub Team Discussion:</b> <a href="#">23 January 2019</a></p>	<p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>	
<p><b>Summary of Discussions/Individual Comments</b>                      The AG survey results assist in answering this question.</p> <p>Registry Operator responses seem to indicate that Registry Operators would likely be neutral with respect to a uniform Trademark Claims period for all types of gTLDs in subsequent rounds. Registrar responses seem to indicate that they may not desire a uniform Trademark Claims period. Registry Operator and Registrar responses show that: (1) Trademark Claims period is not uniform at present, (2) there is flexibility desire to add non-trademarks in some geoTLDs, (3) there are varying opinions on the ideal length of the Claims period, possibly due to consideration of operating cost/technical burden.</p>	<p><b>Summary of Discussions/Individual Comments</b>                      The previously collected data assist in answering this question.</p> <p>There does not seem to be a need for Trademark Claims period to be uniform for all types of gTLDs in subsequent rounds, as it is already not uniform currently. As the great majority of marks are Latin script with records dominated by US customers, it seems to be difficult to force uniformity for Trademark Claims period for all types of gTLDs in subsequent rounds, especially pertaining to the IDN TLDs and geoTLDs outside the US.</p>	<p>Not Applicable</p>

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## APPENDIX: Data Reviewed by the Trademark Claims Sub Team

- Analysis Group Revised Report on the TMCH (February 2017):  
<https://community.icann.org/download/attachments/64066042/Analysis%20Group%20Revised%20TMCH%20Report%20-%20March%202017.pdf?version=1&modificationDate=1490349029000&api=v2>
  - Analysis Group responses to questions from the Working Group:
    - June 2017: <https://mm.icann.org/pipermail/gnso-rpm-wg/2017-June/002043.html>
    - July 2017: <https://mm.icann.org/pipermail/gnso-rpm-wg/2017-July/002257.html>
- Registry Operator responses to initial survey from TMCH Data Gathering Sub Team (December 2016):  
<https://community.icann.org/download/attachments/64066042/Registry%20Responses%20to%20TMCH%20Data%20Sub%20Team%20-%202013%20Dec.pdf?version=1&modificationDate=1485897782000&api=v2>
  - RPM Data Sub Team meeting with Jon Nevet, Donuts (March 2018):  
<https://community.icann.org/download/attachments/79438928/Transcription%20ICANN61%20GNSO%20RPM%20Data%20Sub%20Team%20Meeting%2010%20March%202018.pdf?version=1&modificationDate=1521579214000&api=v2>
- Deloitte responses to initial questions from TMCH Data Gathering Sub Team (January 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20responses%20to%20TMCH%20Data%20Gathering%20Sub%20Team%20questions%20-%20Jan%202017.docx?version=1&modificationDate=1485897782000&api=v2>
  - Follow up questions from Working Group (March 2017):  
<https://community.icann.org/download/attachments/64066042/Follow%20Up%20Questions%20for%20Deloitte%20-%20updated%205%20March%202017.docx?version=1&modificationDate=1488753827000&api=v2> and  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%2004%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>
  - Deloitte response to follow up questions (April 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%2004%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>
  - Deloitte numbers report as discussed with the Working Group at ICANN58 (March 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%2004%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>

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- INTA cost impact survey:  
<https://community.icann.org/download/attachments/69277722/INTA%20New%20gTLD%20Cost%20Impact%20Study%20Presentation%20-%2030%20Aug.pdf?version=1&modificationDate=1504147055000&api=v2> and  
[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_community.icann.org\\_download\\_attachments\\_61606864\\_INTA-2520Cost-2520Impact-2520Report-2520revised-25204-2D13-2D17-2520v2.1.pdf-3Fversion-3D1-26modificationDate-3D1500376749000-26api-3Dv2&d=DwMGaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=ML0yWdAdSdj4cRa39aHRCVYsVa9ub30XpFPLr1fc51I&s=KXW3vtHBAKxxiT4X6sLxZQO2dIKSW8Zc-BhfZ1t7IAA&e](https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_61606864_INTA-2520Cost-2520Impact-2520Report-2520revised-25204-2D13-2D17-2520v2.1.pdf-3Fversion-3D1-26modificationDate-3D1500376749000-26api-3Dv2&d=DwMGaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=ML0yWdAdSdj4cRa39aHRCVYsVa9ub30XpFPLr1fc51I&s=KXW3vtHBAKxxiT4X6sLxZQO2dIKSW8Zc-BhfZ1t7IAA&e)
- ICANN Org-maintained list of Registry Operators and relevant dates for Sunrise, Trademark Claims and other specific approved program periods (e.g. Limited Registration Periods, Qualified Launch Programs):  
<https://newgtlds.icann.org/en/program-status/sunrise-claims-periods>
- Analysis Group Sunrise & Trademark Claims survey results:
  - Inception Report (September 2018):  
<https://community.icann.org/download/attachments/90771305/9.6.2018%20Inception%20Report.pdf?version=1&modificationDate=1536257221000&api=v2>
  - Final Report (October 2018):  
<https://community.icann.org/download/attachments/90773066/Final%20ICANN%20RPM%20Survey%20Report%202018.10.18.pdf?version=1&modificationDate=1540302625000&api=v2>
  - All data files reported: <https://community.icann.org/pages/viewpage.action?pageId=90771305>
  - Analysis Group response to follow up questions (November 2018):  
<https://community.icann.org/download/attachments/99483940/Questions%20%26%20Comments%20-%20Final%20Report%20RPM%20Survey%20-%20AG%20comments.pdf?version=1&modificationDate=1543271647000&api=v2>
- Additional data related to Sunrise and Trademark Claims submitted by Working Groups members in February 2019:  
<https://community.icann.org/x/Gp8WBg>