

**Attendance:**

Claudio DiGangi  
Cynthia King  
Greg Shatan  
Kathy Kleiman  
Kristine Dorrain  
Martin Silva Valent  
Michael Graham  
Petter Rindforth  
Rebecca Tushnet  
Roger Carney  
Susan Payne  
Zak Muscovitch

**Apologies:**

Philip Corwin

**Staff:**

Ariel Liang  
Julie Hedlund  
Mary Wong  
Andrea Glandon

**Zoom Chat:**

11:58:03 From julie.hedlund : @All: Just a reminder that this call ends at 5 minutes to the top of the hour to allow for a transition to the next call.

12:02:41 From Zak Muscovitch : You know what, the sounds seems clearer on zoom compared to Adobe, for me at least...Hmmm.

12:03:09 From Roger Carney : +1 Zak

12:03:10 From Kristine Dorrain : I've heard people say that...

12:06:30 From Kathy Kleiman : I've had to unmute my cellphone in prior meetings -- by \*6, I think. After that, I controlled it by my own phone's mute button.

12:07:27 From Kathy Kleiman : Susan: it looks like your video might be on.

12:08:35 From Ariel Liang : You are welcome to download the file from the chat and go scroll through document on your own

12:10:50 From Kristine Dorrain : Is Q2(a) trying to say: We do not recommend changing the policy to mandate an extension, however, ROs should have option to extend the claims period if that supports their business model?

12:11:05 From Kristine Dorrain : Because that actually sort of answers the stated question.

12:11:08 From Ariel Liang : Hands up

12:11:31 From Martin Silva Valent : True, will be extra careful with the chat

12:11:52 From Kristine Dorrain : I feel like the drafting is in the passive voice which is confusing. but I could be wrong.

12:12:18 From Kristine Dorrain : (look at me commenting in passive voice)

12:13:32 From Kathy Kleiman : +1 Kristine

12:13:41 From Zak Muscovitch : Sounds reasonable to me.

12:15:36 From Andrea Glandon : Please make sure you phones and microphones are muted  
12:15:49 From Rebecca Tushnet : I'd like to get on the queue--I am using my phone.  
12:17:04 From Susan Payne : Lowering my hand because I was going to say something similar to  
Kristine, but probably with less clarity  
12:17:12 From Martin Silva Valent : ok, thanks  
12:17:22 From Kristine Dorrain : and furthermore, the recommendation section below that  
further asks for more community input  
12:17:32 From Kristine Dorrain : on when the claims period can be flexible....  
12:17:52 From Kathy Kleiman : good point!  
12:17:57 From Zak Muscovitch : yes, good point.  
12:20:45 From Susan Payne : @Kathy, ah I understand. and I think we agreed to discuss the  
choice question in sunrise and not have the same discussion in both subs  
12:21:56 From Kathy Kleiman : Tx Susan -- good to know where the discussion took place!  
12:22:30 From migraham : I do not believe we agreed to this answer in Claims discussion and  
object strenuously to introducing conclusion from Sunrise group to Claims. This should be discussed  
further here.  
12:22:56 From Susan Payne : oh no - we have not had the discussion in sunrise  
12:23:19 From Susan Payne : all I meant was we agreed in this claims sub not to duplicate a  
discussion which will happen in the sunrise sub  
12:23:20 From Kristine Dorrain : Yeah, I don't recall either.,  
12:24:11 From migraham : Kathy: What would you include in "suitable business model"?  
12:25:15 From migraham : @Kristine -- Agree +1  
12:26:04 From Kristine Dorrain : Agree Susan.  
12:26:09 From Kathy Kleiman : hand up  
12:26:13 From Kristine Dorrain : Thanks for clarifying.  
12:26:33 From migraham : @Susan -- Agree. C should be clarified that "flexibility" is to enlarge  
period, not to shorten it or do away with it.  
12:27:02 From Zak Muscovitch : Re Susan's comment, indeed, what TLD's would be exempt - its a  
big gap, no?  
12:27:32 From Kristine Dorrain : @Kathy, and TM owners want claims in perpetuity. I think we  
left this at the current balance.  
12:27:41 From migraham : @Kathy -- The number of respondents was so low that I don't think  
we can rely upon them. If this is something we think the responses are suggesting, we need to deeper  
dive.  
12:27:53 From Kristine Dorrain : I don't think we've seen anything in the data that would insist  
we alter the careful balance.  
12:27:55 From Susan Payne : but kathy there were hardly any ROs who answered full stop  
12:28:01 From Kathy Kleiman : It is the data we have  
12:28:10 From Kathy Kleiman : We spent a lot of time gathering it.  
12:28:12 From Rebecca Tushnet : It sounds like part of this is uncertainty about when the  
suitability would be determined (e.g. initial application to run a new gTLD) and I have to admit I wonder  
if that's within our remit  
12:28:36 From Rebecca Tushnet : +1 Kathy on the data collection from various groups, which  
does point in different directions  
12:28:37 From migraham : @Kathy -- It is the data we have -- and unfortunately it is insufficient  
to support such major Answers.  
12:29:56 From Susan Payne : @Kristine - yes!  
12:30:13 From Rebecca Tushnet : Raising hand please

12:31:07 From migraham : @Kristine -- +1 absolutely! As many have pointed out, the RPMs were a careful balance to which no one was entirely happy or disappointed. We should not tip that balance without some clear evidence and support for a preferable alternative. Oh, and any alternative should be balanced with any opposing or divergent opinions/concerns. I think Kristine has made the best points here.

12:31:25 From Kristine Dorrain : I think the data generally supports our current understanding. I don't think any of us was surprised by any of the data.

12:32:46 From julie.hedlund : Staff hand up

12:32:55 From migraham : @Cyntia -- Great point!

12:33:40 From julie.hedlund : Hand down — my suggestion was to move to 2(e) and then to the recommendation — noting that staff will open an email thread for further discussion.

12:34:42 From julie.hedlund : Cyntia has her hand up

12:34:51 From julie.hedlund : @Martin: Cyntia's hand is up.

12:34:58 From migraham : I think we all know the positions of various stakeholders. But supporting those is not the charter of this PDP -- 1) Are the RPMs working as intended (with all their potential faults)? and 2) Are there improvements we would propose based on data and experience?

12:35:10 From Susan Payne : can you remind what (e) is as we can't scroll please

12:35:17 From Susan Payne : or can we scroll?

12:35:23 From Kristine Dorrain : ) Should the proof of use requirements for Sunrise be extended to include the issuance of TMCH notices

12:35:27 From Ariel Liang : Should the proof of use requirements for Sunrise be extended to include the issuance of TMCH notices?

12:35:33 From Susan Payne : Thanks!!

12:35:34 From Cyntia King : SOrry I thiought I removed the hand.

12:35:45 From julie.hedlund : Gremlins Cyntia ;-)

12:36:04 From Cyntia King : Gremlins, indeed!

12:36:21 From Ariel Liang : hand up

12:38:14 From mary.wong : Basically, the document includes potential recs and suggested answers, up to where the Sub Team stopped. Hope that's helpful.

12:39:00 From Kathy Kleiman : Could Staff open Proposal#2? It's not open below.

12:40:13 From Ariel Liang : Staff wasn't sure whether proposal #2 is actually related to this charter question, as when George mentioned it, he did not specify exactly which proposal he was referring to. Hence we put a "?" next to the proposal number

12:40:13 From migraham : @Kristine -- Agree. We need to make the determination of the proposal -- otherwise why have the subteams?

12:40:15 From mary.wong : Correct - staff only inserted what was said and suggested. Most of the "editing" we did was to clean up grammar and, for the draft recs, to place the suggestions into "recommendation-like" language.

12:40:20 From Susan Payne : oh, me neither, I don't think we should send to full WG to decide. Well full WG gets to approve all of our work, but we have to come up with our own recommendation to send to the full WG

12:40:35 From Ariel Liang : When George submitted this proposal, he said it was related to agreed Sunrise charter question

12:42:12 From migraham : @Rebecca -- Disagree as to requirement of Use. Registration creates rights in trademarks in most countries regardless of use.

12:44:21 From migraham : Comment <I believe the question whether to require evidence of use may be premature. Revision of the Notice should include consideration of the purpose of the Notice.>

12:45:21 From migraham : @Rebecca and Kathy: If there were a proof of use requirement, how often would this have to be affirmed? Also, would this place additional burdens on any party -- TM owner, Registrar, TMCH -- that could have a financial/effort effect?

12:46:45 From Cyntia King : Npt at all

12:47:15 From julie.hedlund : @All: Staff will be opening an email thread on this question and related proposals for Sub Team members to continue to provide edits to the recommendations and answers after this call.

12:48:24 From Kathy Kleiman : Tx Claudio!

12:48:30 From migraham : @Kathy -- Could you type in the reference to pages you made earlier - I believe 10 and 11 -- but of which document?

12:48:36 From Greg Shatan : Trademarks are often words. That does not diminish the validity of the trademark in question.

12:49:07 From mary.wong : Re Claudio's comments - the Working Group wiki has the Explanatory Memo that was published when the "proof of use" requirement was first introduced into the AGB. We can circulate the link if that will be helpful.

12:49:22 From Greg Shatan : Some have advanced the view that there is a Very Big Problem. That does not make it so.

12:49:54 From Kathy Kleiman : @Ariel - could you provide the link to Proposal #2. The download knocked me off.

12:50:09 From Ariel Liang :  
<https://community.icann.org/download/attachments/102146375/Proposal%232.pdf?version=1&modificationDate=1553614254000&api=v2>

12:50:29 From migraham : @Cyntia -- Agree totally! "Courtesy notification" to enable applicants to determine whether to continue expending time/effort/money on domain name application in light of information they can research regarding TM registration.

12:50:55 From Ariel Liang : Staff hand up for AOB

12:51:53 From Kathy Kleiman : "overdeterrence" is an important term.

12:52:00 From migraham : @Rebecca -- "Not being a problem" should not be the basis for deciding whether to require additional procedure and cost.

12:52:29 From Kathy Kleiman : that's what the evidence showed, and many additional data postings.

12:52:58 From migraham : I have not see any evidence of "overdeterrence" at all. Please illuminate.

12:53:08 From Cyntia King : Sorry, I disagree that the evidence shows the TM is the problem. I believe the wording of the Notice was teh biggest problem.

12:53:23 From Susan Payne : +1 Cyntia

12:53:33 From claudio digangi : @rebecca - many non-famous marks are cybersquatter, it is by no means a problem limited to a certain class of marks

12:53:33 From Kathy Kleiman : sigh, time delays -- overdeterrence is the Analysis Group evidence showed, and many additional data postings.

12:53:36 From Kristine Dorrain : +1 Cyntia

12:53:44 From Greg Shatan : "Overdeterrence" is a theory, which is not supported by the evidence. We have insufficient evidence to determine whether the deterrence is "over-" or not.

12:53:49 From migraham : @Cyntia -- Agree -- issue is the notice, not the registration of trademark.

12:54:34 From Kathy Kleiman : How can the registration of the trademark not be a linked to the cybersquatting issue? They are intricately tied...

12:54:35 From Kristine Dorrain : I mean, I do think there are too many speed limit signs...perhaps fewer of them would make me more comfortable with my decision to speed.

12:54:41 From migraham : @Kathy -- Are you harping on the 93% figure? It proves nothing and supports no conclusion whatsoever.

12:54:44 From mary.wong : Does anyone have questions?

12:54:49 From Greg Shatan : Beyond the wording issue, I do not read the AG report to provide evidence of overdeterrence.

12:55:35 From migraham : @Greg -- Agree. The theory of overdeterrence is not supported by evidence. The evidence does support the effectiveness of notices, however.

12:55:39 From Kathy Kleiman : It's been in virtually every type of evidence.