From: Karen.Lentz@icann.org
To: Karen Lentz
Subject: Adobe Connect - Chat Transcript from Trademark Clearinghouse
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Karen Lentz:Hello everyone
Karen Lentz:Can people see the slides advancing?
Hong Xue:hi, Karen, Happy the Year of Dragon.
Tom Barrett:viewing T1 slide
Karen Lentz:@Hong thank you, happy new year to you also
Karen Lentz:@Tom good thanks
Tom Barrett:I think the concern of tm owners is distribution of the data outside the tmch
Hong Xue:Could the speakers identify themselves in the room? we are pretty large group now.
William Yang:John McElwaine is currently speaking.
James Mitchell:Is the concern regarding abuse related to the association of mark and registered entity?
Francisco Arias:I believe so
Francisco Arias:Tom also mentioned the risk of the data going stale in the registry or registrar by lack of synchronization
James Mitchell:Then can't we just leave the registered entity out of the data we give to the registry/registrars?
Kristine Dorrain:And it's not so much an issue of people seeing occasional IP Claims Notices, but repeated pinging to mine data
Tom Barrett:the claims data is of two types: 1. the registrable strings that match an authenticated record and 2: the claims info for a record matching a requested domain name
Tom Barrett:number 1 is string only
Will:@Francisco, Hi, Will Shorter here. No matter what method chosen there will be a lag in data synchronization from the time a registrar / registrant passes an application to the registry and onto the clearinghouse..
Karen Lentz:@James - I think we could, but the recipient of a claims notice might want to have a contact for it
Karen Lentz:although that doesn't necessarily mean the registry/registrar would need to keep that info
James Mitchell:@karen - the potential registrant can go to the clearinghouse for that information
Karen Lentz:right
James Mitchell:The only thing I 'really' need to know is the class(es) of the mark right?
Tom Barrett:@francisco...are you suggesting the claims notice contains a link for the registrant to go to the tmch?
Tom Barrett:insteadof displaying the trademark data itself?
Hong Xue:Contact data is an issue of data protection like whois. It might be different from management of trademark data.
Francisco Arias:@Tom: the proxy idea would be instead of the contact info.
Tom Barrett:I think it does
Hong Xue:I don't believe proxy would be a good idea. Could confidentiality be maintined thru other means? Such as tier access.
Francisco Arias:@Hong: why do you think the proxy is a bad idea?
James Mitchell:+1 to the idea of the current speaker
Hong Xue:Take a look at the PTO certificate, the registrant's address is actually listed there. Now the only issue is the email address. It should be as real as the physical address.
William Yang:current speaker is Tom Barrett.
Francisco Arias:if that link is not protected (e.g.., by password) it is available to the world
Tom Barrett:i don't think a tmch
Francisco Arias:isn't that worst than passing the information through the registrar/registry?
Tom Barrett:i dont think a tmch "whois" should be protected
Will:link could be authenticated with known partners/user password
James Mitchell:one cannot get around data mining - this is available to all potential registrants of all new TLDs
Tom Barrett:there needs to be a public query access
Francisco Arias:@James: yes, that's my impression
Kristine Dorrain:I think mark holders are adamantly opposed to public query access...

Tom Barrett:any potential user should be able to enter a domain name string and see if there are tmch records that have claims against it
Kristine Dorrain:@Tom...outside of the domain name registration process?
Hong Xue:We did not talk about a publicly available queiry last time. It is not the original design for TMCH.
Tom Barrett:i can go to any registrar today and see if a domain is available
James Mitchell:I could go through every registrar, for every TLD to get the claims notice for as many strings as I desire..
Will:the lookup could be yes or no, string is in the tMCH
Tom Barrett:in 2013, that action would also generate claims
Francisco Arias:@Tom, Will: the check for existence in the TMCH is easy to implement and I believe that's not an issue for TM holders
Tom Barrett:agreed
Francisco Arias:but you also need to have the claims notice
Francisco Arias:that's where problem lays
Hong Xue:+1
Hong Xue:I wonder the sequence of look-up process and claim process. To my understanding, potential registrant is only access to the info after being notified.
Francisco Arias:@Hong: which happens before the registration is done
Tom Barrett:@john. you could place registrations in a pending state after payment and then the send the claims notice. but registrars and registries would hate this.
Tom Barrett:@hong. I agree. there should be a public query access that registrants can use after registration
Tom Barrett:the claims process could also include an email to the registrant after registration with the claims notice (slong with the email to the tm owner)
Kristine Dorrain:@Tom...would the folks querying be required to have a login so their use of the TMCH could be tracked?
James Mitchell:@Tom and this has the benefit of 'validating' the email address also
Francisco Arias:@Tom: but then the notice would not be shown to the potential registrant before registration
Tom Barrett:@Kristine if this was desired. do we track of whois?
Tom Barrett:use of whois
Scott Harlan:Potential registrants should not be able to access through TMCH lookups or otherwise trademarks that are not an exact match of their applied-for domain name.
Kristine Dorrain:I think many Whois providers limit by IP Address, but I was thinking that TM owners are going to be reluctant to approve free access...if they knew the TMCH could track queries, they might feel more comfortable
Hong Xue:Thank, Scott, answer my question.
Tom Barrett:@scott, agreed. they are entering a domain name and receiving back tmch records that match
Tom Barrett:@Kristine this is easy enough to include
Francisco Arias:@Scott: agreed, that's not have been proposed, I think
Kristine Dorrain:Agreed, Scott
Tom Barrett:@will do we want to add "Sunrise domain name registration"?
Hong Xue:already there. line 3
James Mitchell:@Scott agree - however if registries could get a list of all names and relevant data then those registries could provide a like-match sunrise process
Roger Carney:do we have a "responsibility" to holders that register into the TMCH, that there are domains that already exist that conflict
Tom Barrett:@hong #3 is a check, not a registration
Hong Xue:oh, I see.
Will:@Tom, agree
Tom Barrett:@roger in all pre-existing tlds?
Roger Carney:no, with the new prorgam
Hong Xue:Do we have consensus on the data caching issue?
Tom Barrett:I meant pre-existing new gtlds..so if new gtlds launch in jan, 2013 and a tm owner authenticates in jan, 2014, you want to know if the tmch should inform them if domains were reg'ed prior to their authentication in the tmch?
Roger Carney:yes, that was what I was thinking
John McElwaine:I'm on the iPad and don't have that function. yes

Tom Barrett:the claims period is already over for those gtlds
Karen Lentz:@tom and roger, i haven't heard anyone propose that
Roger Carney:Good point, thanks Tom, at least it is a small window
Kristine Dorrain:I would think that regular TM watch services would be taking care of that?
John McElwaine:yes
John McElwaine:Tom that is a good point
Scott Harlan:Is there the same technical data mining concern that some mentioned re scripts if (1) domain name registrant attempts to register; (2) registrar queries TMCH for exact match; (3) TMCH confirms exact match to registrar; (4) TMCH sends AGB notice with exact match marks and information to prospective registrant without going through registrar; (5) registrar waits for registrant warranty regarding notice.
Tom Barrett:@margie: so let tm owners have a "thin" and "thick" claims notice?
Francisco Arias:@Will user and password for potential registrants?
Will:@Francisco, not necessarily registrants, but registrars for instance who serve up the claims notice
Francisco Arias:@Will: but the abuse can come from users of registrars
Francisco Arias:@Scott: I think the issue is in (4)
James Mitchell:on the lag issue - we should prescribe a maximum lag that is acceptable - I don't think we need to discuss the actual value of 'acceptable' now
Will:@Francisco, understood but if the partner manages the access to the clearinghouse database they should be able to limit queries
Francisco Arias:@Will: ok, but that can only mitigate the issue, not eliminate it
Will:agree
Hong Xue:to avoid chilling effect: class and juris info is needed.
Tom Barrett:+1
Tom Barrett:thin could mean include just a link whereas thick could mean display the full notice
Karen Lentz:yes, i think there are some ideas to explore here
Tom Barrett:should include all billable transactions
Karen Lentz:Thank you all
Karen Lentz:espeically those who got up early or stayed up late
Hong Xue:thank you!
Kristine Dorrain:thanks everyone
James Mitchell:thanks
Tom Barrett:talk to you in 4 hours
Hong Xue:not late