**Issue:**                    **P1:  Sunrise Domain Registration Authorization**

Description:            Sunrise eligibility requirements must be met for any domain name
                        registered in the sunrise period.  Confirmation that eligibility requirements
                        have been met is called "authorization."  The Sunrise Process should
                        identify where in the process the authorization check(s) will occur.

Business
Requirements:           (1) Maximize efficiency of customer registration experience
                        (2) Ensure the process accommodates the use of authorized agents during
                        Sunrise to register new domains
                        (3) Minimize impact on registration process flows

| Approach | Advantages | Disadvantages |
|---|---|---|
| (1) Registrant provides a pre-issued code to evidence authorization<br><br>The registrant would be provided with an authorization code ("authcode") as part of the process of registering their trademarks with the clearinghouse and/or confirming sunrise eligibility. The registrant would obtain this authcode in advance from the TMCH. The code is then offered to a registrar by the registrant for validation by the registry or the registrar as part of the sunrise domain registration process.<br><br>The authcode will be verified as authentic and valid by either the registry or registrar. | ▪ Simplifies the domain registration process by reducing the number of queries<br>▪ Facilitates the ability to use agents to manage domain registration<br>▪ Accommodates diverse design approaches for location and access to clearinghouse data<br>▪ Reduces need to transmit live data | ▪ Registrant must keep track of auth codes<br>▪ Creates risk of authcode forgery, theft, or misappropriation<br>▪ Authcodes may create a new sunrise challenge stemming from erroneous acceptance or rejection.<br>▪ There is a cost to the clearinghouse associated with the systems and processes for authcode repudiation and re-issue |
| (2) Registrar queries the clearinghouse to verify authorization<br><br>The sunrise registrar(s) would query against the clearinghouse as part of the processing of the registrant's request and would confirm authorization at that time | ▪ Simplifies the registrant experience<br>▪ Effectively no change of behavior required for registrants | ▪ Requires every participating registrar to implement clearinghouse subsystems<br>▪ Requires registrars to have query access or a local cache of clearinghouse data and more complicated queries against that data<br>▪ May not accommodate agent use scenarios where the agent differs from the clearinghouse registration record |
| (3) Registry queries the clearinghouse to verify authorization<br><br>The registry would query against the clearinghouse as part of the processing the registrar's request to register a domain. | ▪ Simplifies the registrant experience<br>▪ Fewer players impacted: While registries must implement changes, avoids technical implementations in large number of registrars | ▪ Requires registries to have query access or a local cache of clearinghouse data and more complicated queries against that data<br>▪ May not accommodate agent use scenarios where the agent differs from the clearinghouse registration record |

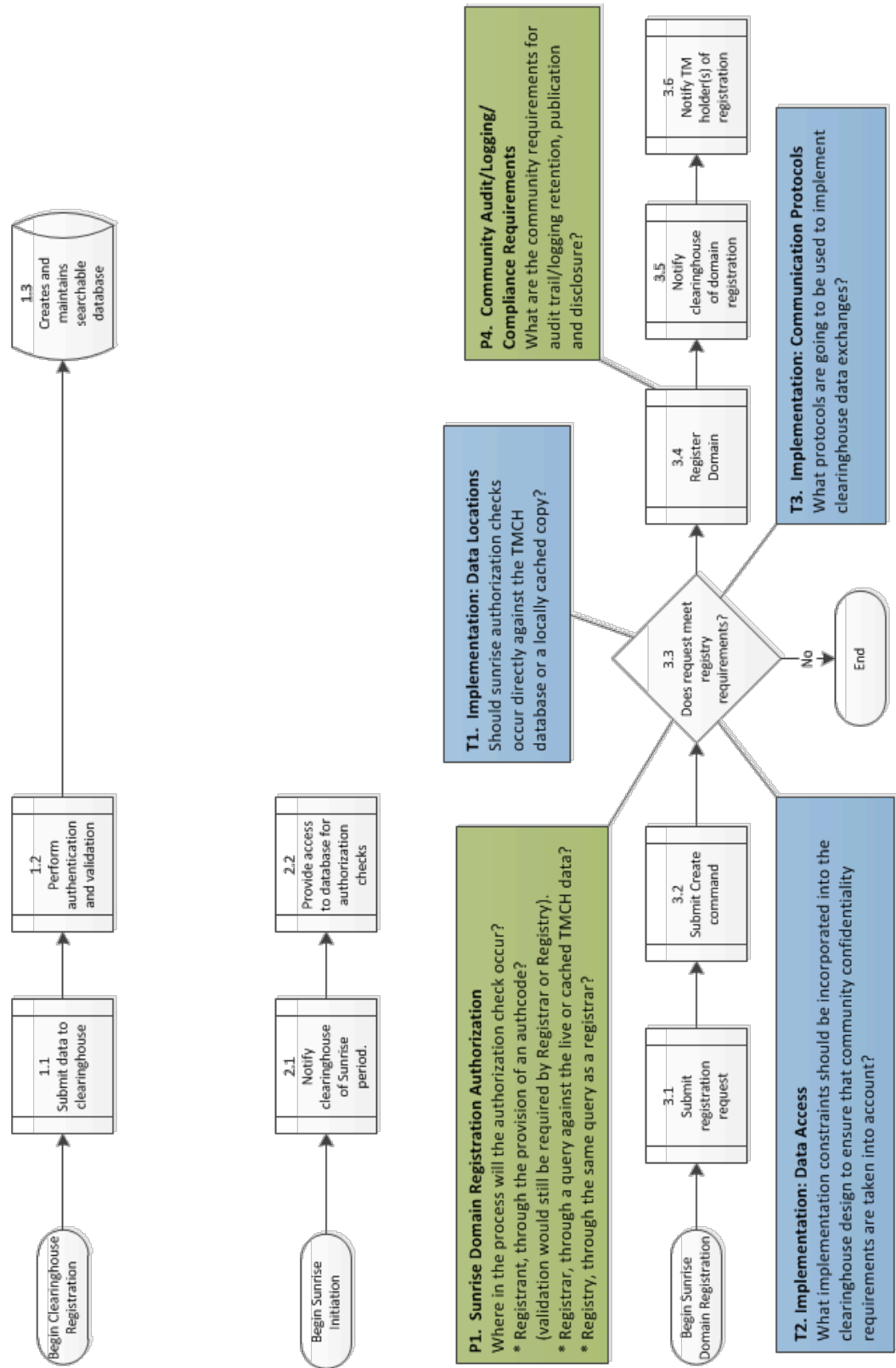**Issue:**              **P2 Responsibility for Registrant Claims Notice**

Description:            The trademark claims service requires a registrant to be notified (prior to completing domain name registration) that a claim has been asserted for a colliding string associated with one or more registered marks in the clearinghouse.   The content of the notice is currently expected to inform the domain registrant of potential trademark claims against the domain name and to enumerate the conflicts known by the trademark clearinghouse.  This will require information collected by the clearinghouse to be transmitted in the notice, allowing the registrant to decide whether or not to proceed with the registration. The party responsible for transmitting these notices to the applicable recipient, and the specific data contained in the notice, must be defined as part of completing the model.  (The model notice contained in the Trademark Clearinghouse model is appended at the end of this document for reference.)
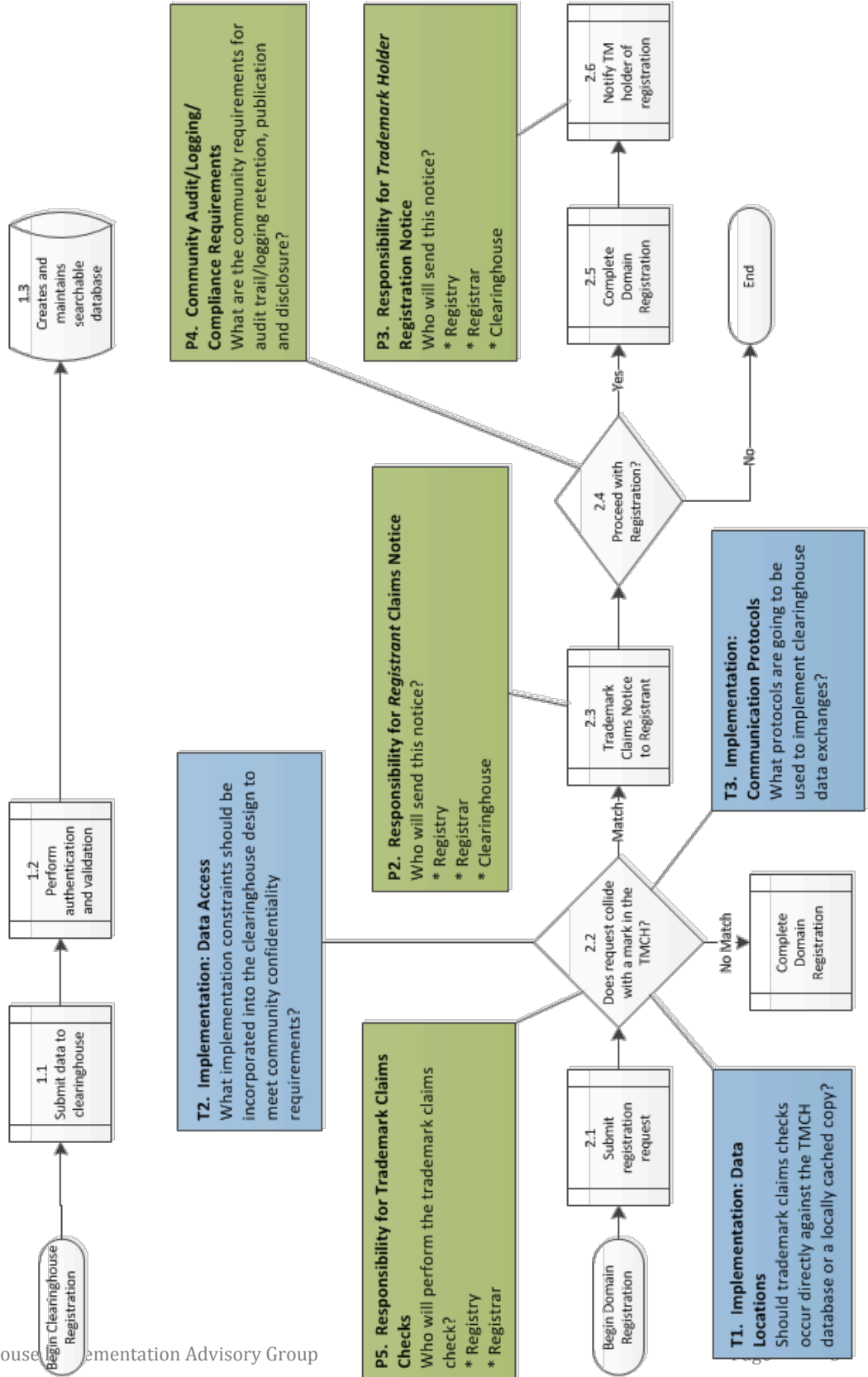
Business
Requirements:          (1) Notifications should be sent by a party that the registrant has an existing relationship with.
                       (2) Transmission of notices must be verifiable.

| Approach | Advantages | Disadvantages |
|---|---|---|
| (1) Registrar provides trademark claims notices to domain registrants | ▪ Communication with known party follows existing relationship | ▪ Requires implementation at every participating registrar<br>▪ May require EPP protocol enhancements<br>▪ Registrar must have access to mark holder contact information<br>▪ Difficult for clearinghouse or registry to verify that notice was sent |
| (2) Registry provides trademark claims notices to domain registrants | ▪ Less work for the registry to verify that claims notices are sent to registrant | ▪ Difficult for clearinghouse to verify that notice was sent<br>▪ Registrant communication with a possibly unknown or unfamiliar party<br>▪ Registry must have access to mark holder contact information |
| (3) Clearinghouse provides trademark claims notices to domain registrants | ▪ Implementation primarily required with the clearinghouse (limited registrar to clearinghouse transmission implementation required)<br>▪ Straightforward to demonstrate claims notices were transmitted<br>▪ Reduces need for transmission of clearinghouse data | ▪ Registrant communication with an unknown or at least unfamiliar party<br>▪ Clearinghouse must be informed that trademark claims notice is required<br>▪ Clearinghouse must receive domain name registrant information |

## Sunrise Process Model Draft



**1.3** Creates and maintains searchable database

**1.2** Perform authentication and validation

**1.1** Submit data to clearinghouse

Begin Clearinghouse Registration

**2.2** Provide access to database for authorization checks

**2.1** Notify clearinghouse of Sunrise period.

Begin Sunrise Initiation

**P1.  Sunrise Domain Registration Authorization**
Where in the process will the authorization check occur?
* Registrant, through the provision of an authcode? (validation would still be required by Registrar or Registry).
* Registrar, through a query against the live or cached TMCH data?
* Registry, through the same query as a registrar?

**3.1** Submit registration request

Begin Sunrise Domain Registration

**3.2** Submit Create command

**3.3** Does request meet registry requirements?

No

End

**T1.  Implementation: Data Locations**
Should sunrise authorization checks occur directly against the TMCH database or a locally cached copy?

**T2. Implementation: Data Access**
What implementation constraints should be incorporated into the clearinghouse design to ensure that community confidentiality requirements are taken into account?

**3.4** Register Domain

**3.5** Notify clearinghouse of domain registration

**3.6** Notify TM holder(s) of registration

**P4.  Community Audit/Logging/ Compliance Requirements**
What are the community requirements for audit trail/logging retention, publication and disclosure?

**T3.  Implementation: Communication Protocols**
What protocols are going to be used to implement clearinghouse data exchanges?

# Trademark Claims Process Model Draft

**1.3** Creates and maintains searchable database

**1.2** Perform authentication and validation

**1.1** Submit data to clearinghouse

Begin Clearinghouse Registration

**P4.  Community Audit/Logging/ Compliance Requirements**
What are the community requirements for audit trail/logging retention, publication and disclosure?

**P3.  Responsibility for Trademark Holder Registration Notice**
Who will send this notice?
* Registry
* Registrar
* Clearinghouse

**2.6** Notify TM holder of registration

**2.5** Complete Domain Registration

End

**2.4** Proceed with Registration?

Yes

No

**T2.  Implementation: Data Access**
What implementation constraints should be incorporated into the clearinghouse design to meet community confidentiality requirements?

**P2.  Responsibility for Registrant Claims Notice**
Who will send this notice?
* Registry
* Registrar
* Clearinghouse

**2.3** Trademark Claims Notice to Registrant

Match

**T3.  Implementation: Communication Protocols**
What protocols are going to be used to implement clearinghouse data exchanges?

**P5.  Responsibility for Trademark Claims Checks**
Who will perform the trademark claims check?
* Registry
* Registrar

**2.2** Does request collide with a mark in the TMCH?

No Match

Complete Domain Registration

**2.1** Submit registration request

Begin Domain Registration

**T1.  Implementation: Data Locations**
Should trademark claims checks occur directly against the TMCH database or a locally cached copy?

**<u>TRADEMARK NOTICE</u>**

[In English and the language of the registration agreement]

You have received this Trademark Notice because you have applied for a domain name which matches at least one trademark record submitted to the Trademark Clearinghouse.

You may or may not be entitled to register the domain name depending on your intended use and whether it is the same or significantly overlaps with the trademarks listed below. ***Your rights to register this domain name may or may not be protected as noncommercial use or "fair use" by the laws of your country. [in bold italics or all caps]***

Please read the trademark information below carefully, including the trademarks, jurisdictions, and goods and service for which the trademarks are registered. Please be aware that not all jurisdictions review trademark applications closely, so some of the trademark information below may exist in a national or regional registry which does not conduct a thorough or substantive review of trademark rights prior to registration.

***If you have questions, you may want to consult an attorney or legal expert on trademarks and intellectual property for guidance.***

If you continue with this registration, you represent that, you have received and you understand this notice and to the best of your knowledge, your registration and use of the requested domain name will not infringe on the trademark rights listed below.

The following [number] Trademarks are listed in the Trademark Clearinghouse:

1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

[with links to the TM registrations as listed in the TM Clearinghouse]

2. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant:

Trademark Registrant Contact:
****** [with links to the TM registrations as listed in the TM Clearinghouse]

X. 1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact: