

FINAL LIST OF TMCH CHARTER QUESTIONS
22 December 2016 (updated 6 January 2017)

Category 1: ~~Guidance~~Education

Should the verification criteria used by the TMCH to determine if a submitted mark meets the eligibility and other requirements of the TMCH be clarified or amended? If so how? (NOTE: See the TMCH Guidelines at http://trademarkclearinghouse.com/sites/default/files/files/downloads/TMCH%20guidelines%20v1.2_0.pdf)

Commented [MW1]: Moved to Verification category (below)

1. Is the TMCH clearly communicating: (i) the criteria it applies when determining whether or not to accept marks for entry into the TMCH; (ii) options for rights-holders when their submissions are rejected; and (iii) options for third parties who may have challenges to or questions about records in the TMCH?

2. Should the TMCH be responsible for educating rights-holders, domain name registrants and potential registrants about the services it provides? If so, how? If the TMCH is not to be responsible, who should be?

~~(a) How are design marks currently handled by the TMCH provider? (NOTE: The Working Group is using the more commonly used term "design marks" to refer to what the TMCH Guidelines describe as "device" or "image" marks, or otherwise marks that do not exclusively consist of letters, words, numerals, special characters (see TMCH Guidelines p. 20))~~

Commented [MW2]: Moved to Scope category (below)

~~(b) How are geographical indications, protected designations of origin, and protected appellations of origin currently handled by the TMCH provider?~~

Commented [MW3]: Moved to Scope category (below)

3. What information on the following aspects of the operation of the TMCH is available and where can it be found?

(a) TMCH services;

(b) Contractual relationships between the TMCH providers and private parties; and

(c) With whom does the TMCH share data and for what purposes?

Category 2: Verification & Updating of TMCH Data

4. Should the verification criteria used by the TMCH to determine if a submitted mark meets the eligibility and other requirements of the TMCH be clarified or amended? If so how? (NOTE: See the TMCH Guidelines at http://trademark-clearinghouse.com/sites/default/files/files/downloads/TMCH_guidelines_v1.2_0.pdf)

Commented [MW4]: Moved from Category 1

4.5. Should there be an additional or a different recourse mechanism to challenge rejected submissions for records in the TMCH?

5-6. How quickly can and should a cancelled trademark be removed from the TMCH Database?

Category 3: ~~Balance~~Breadth and Reach (Scope)

Does the scope of the TMCH and the protection mechanisms which flow from it, reflect the appropriate balance between the rights of trademark holders and the rights of non-trademark registrants?

Commented [MW5]: Moved to Balance category (below)

7. How are design marks currently handled by the TMCH provider? (NOTE: The Working Group is using the more commonly-used term “design marks” to refer to what the TMCH Guidelines describe as “device” or “image” marks, or otherwise marks that do not exclusively consist of letters, words, numerals, special characters (see TMCH Guidelines p. 20))

6-8. How are geographical indications, protected designations of origin, and protected appellations of origin currently handled by the TMCH provider?

Commented [MW6]: Moved from Category 1

Should the scope of the ~~RPMs associated with the~~ TMCH be limited to apply only to ~~TLDs that are related to~~ the categories of goods and services in which the dictionary term(s) within a trademark are protected?

Commented [MW7]: Moved to become Question 11 in this same category

7-9. Should the TM+50¹ be retained as is, amended or removed?

10. Should the TMCH matching rules be retained, modified, or expanded, e.g. to include plurals, ‘marks contained’ or ‘mark+keyword’, and/or common typos of a mark?

¹ Trademark owners can add up to 50 variations that are similar to each valid submission in the TMCH—within the notification process—provided that the variant of the mark was awarded to the trademark holder in a prior UDRP case.

~~8~~-11. Should the scope of the RPMs associated with the TMCH be limited to apply only to TLDs that are related to the categories of goods and services in which the dictionary term(s) within a trademark are protected?

Category 4: Costs & Other Fundamental TMCH Features

12. Are there concerns about operational considerations (such as cost, reliability, global reach, service diversity and consistency) due to the TMCH Database being provided by a single Provider? If so, how may they be addressed?

13. Are the costs and benefits of the TMCH reasonably proportionate amongst rights holders, registries, registrars, registrants, other members of the community and ICANN?

Category 5: Access & Accessibility

14. How accessible² is the TMCH Database and RPM Rights Protection Actions and Defenses to individuals, organizations and rights-holders; as well as trademark agents in developing countries?

15. What concerns are being raised about the TMCH Database being confidential, what are the reasons for having/keeping the TMCH Database private, and should the TMCH Database remain confidential or become open?

Category 6: Balance

~~9~~-16. Does the scope of the TMCH and the protection mechanisms which flow from it, reflect the appropriate balance between the rights of trademark holders and the rights of non-trademark registrants?

Commented [MW8]: Moved up from original Category 5 (swap with previous Category 4)

Commented [MW9]: Moved down to Category 5 (originally was Category 4)

Commented [MW10]: Moved from original position (from category now re-labeled Scope) to a separate category

² This word is used in the sense of asking whether the TMCH (its existence, purposes and how it is to be used) is known to the types of stakeholders mentioned.