Terri Agnew:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group call held on Wednesday, 07 December 2016 at 18:00 UTC for 60 minutes.

Terri Agnew:agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_IpnDAw&d=DgIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=JHjY_s77CO2eV0El3_ewv3NT4It47pJpdNYQg3GfaNw&s=Mjt12h1hYkOuyAH4cB2oD5kwnlFsLX6Z535fYg1TF7Y&e=

yuri chumak:greetings from Toronto

Maxim Alzoba (FAITID):Hello All

Monica Mitchell:hi everybody

George Kirikos:Hi folks.

Steve Levy:Hi folks. Sorry but I may need to leave early

Kristine Dorrain - Amazon Registry:Hi all. Housekeepking question. Are we sticking with 1800 UTC going forward?

Kristine Dorrain - Amazon Registry:I seem to receive the calendar entries intermittently and thought I'd just update my own calendar...

Paul Tattersfield:Hi everyone

George Kirikos:I think it rotates, Kristine.

Mary Wong:@Kristine, we are sticking with the rotation we used before Hyderabad - 1700 UTC, 1800 UTC, 1700 UTC, 2200 UTC (allowing for daylight savings) until further notice

Monica Mitchell 2:sorry my first connection dropped so you see me twice :-(

George Kirikos:Is there a way to make the top middle pod take up the entire width of that area?

Kristine Dorrain - Amazon Registry:OK, thanks. I'll keep watching for the reminder then. :)

George Kirikos:(I have "Fit Width" for the top middle pod, but there's extra gray space on the left and right.

Terri Agnew:@George, sync is on, you can make it full screen if you wish. The four arrows top tool bar

George Kirikos:With full screen, the chat isn't visible, though. If the pod had no gray space on the left and right, the text in that pod could be larger.

George Kirikos:(i.e. try making your browser width larger, and you'll see the wasted gray space)

Susan Payne:hi all, I don't have any audio.is it just me?

Susan Payne:ah - I now do :)

Kiran Malancharuvil:There's a bad echo

Kiran Malancharuvil:Oh it's gone, it might have been my bad

George Kirikos:If only we had an insider at Adobe to help us.... ;-)

Vinzenz Heussler:I've been thinking about this too, George. Would be great if this could be adaptable

Mary Wong:@George, @Vincenz, apparently it has to do with the original document as uploaded - we are trying to see what we can do to change things.

George Kirikos:Thanks Mary.

Paul Tattersfield:j scott is very quiet here

Vinzenz Heussler:Thank you!

David McAuley (RySG):somewhat feint

Kiran Malancharuvil:I can hear you fine.

Greg Shatan:I hear you fine.

John McElwaine (Nelson Mullins):sound fine here

Kristine Dorrain - Amazon Registry:I can hear you.

Mary Wong:Document is unsync'ed

Rebecca Tushnet:I'm not sure my audio is working.

Rebecca Tushnet:I'd love to hear other perspectives on the meaning of this question though.

George Kirikos:She's typing.

Terri Agnew:increasing audio for J Scotts line, let us know if further adjustments are needed

Terri Agnew:@Rebecca, I see your mic is active and unmuted. If needed let me know if dial out on the telephone is needed

Griffin Barnett:I am hearing some background noise (music?) from an open line

Terri Agnew:finding line

George Kirikos:Q1 will be important if there are multiple providers, as there could be a "race to the bottom" and forum shopping if the criteria are too lax or contain gray areas.

Rebecca Tushnet:If you didn't hear me I may need to use my phone to dial in.

Vinzenz Heussler:yes, classical music in the background somewhere

Mary Wong:Thanks, J. Scott - Greg made my point (origin and reason for the second column)

Greg Shatan:Someone's mic was open (if you look at the phone abouve Terri Agnew's name, you can often see who has open mics.

Vaibhav Aggarwal:Hi Guys

Greg Shatan:You literally can't answer this question if you don't know with certainty what the verification criteria are. If you do answer it and you don't know, then you're blowing smoke...

Terri Agnew:@Rebecca, we did not hear you.

Mary Wong:Yup

Susan Payne:J Scott, yes agree

Philip Corwin:Finally in!

George Kirikos:Welcome, Phil.

Mary Wong:Oops, sorry for typo

Maxim Alzoba (FAITID):I hope nobody registers WHOIS mark in TMCH

Vinzenz Heussler:there should be a difference between verification criteria (probably relates to eligibility) and administrative challenges during the verification process

Kathy Kleiman:That's a good point - perhaps Staff can go back and look at the versions of the subteam

Griffin Barnett:The word "different" appeared in the original formulation of the question from the Charter: "Should further guidance on the TMCH verification guidelines for different categories of marks be considered?"

Susan Payne:Yes, makes sense

Griffin Barnett:I'm guessing that is the genesis?

Mary Wong:Sorry, where is the "different" to be deleted?

Kiran Malancharuvil:I don't see different either?

Kathy Kleiman:good suggession

Kathy Kleiman:suggestion

Susan Payne:no, that was the original question

David McAuley (RySG):Q1, middle column, near bottom

Kiran Malancharuvil:Those are notes, not the forumulation of the question,, right?

Greg Shatan:There was no suggestion to delete anything from the question. Rather to delete everything after the hyphen in column 2.

Georges Nahitchevansky:I agree on getting the verification info. In particular, it would also be useful to have easy access as to the criteria for how the TMCH evaluates an applied for mark. Seeing the criteria would be helpful for discussions about problems that have been encountered in verifications of marks applied for.

Susan Payne:We need to know what the verification criteria are before we answer the question. we don't need to know what they are before we agree that the question is one that is to be answered

George Kirikos:Is is when already registered TMCH registrations are challenged, or refused registrations get appealed??

George Kirikos:(or both, in #2)

Dominic DeLuca:As it currentlly stands, there is not a landing page that has the requirements for TMCH validation - is that correct?

Greg Shatan:"Vye-bav" is close, I think.

Mary Wong:@Dominic, we will check with Deloitte and try to figure out how to get it

George Kirikos:Because of past gaming, e.g. the "Plectrum" marks in the EU sunrise, etc.

George Kirikos:There's no law that required a TMCH in the first place.

Greg Shatan:Vaibhav, your mic is onh.

Vaibhav Aggarwal::)

Vaibhav Aggarwal:Done

Kathy Kleiman:@Mary, could you kindly include within the Notes (on the right) that we have agreed to review the sentence fragment "though one noted the need to define what "different means" (in the clarifying paragraph). Further, from the original charter questions, including the one that follows, have the issues and concerns be included in the question and clarification ("Should further guidance on the TMCH verification guidelines for different categories of marks be considered?")

Kathy Kleiman:Question 1

Vinzenz Heussler:@Vaibhav: it is easy to validate a registered trademark but what about court validated marks or marks protected by statute or treaty?

Kristine Dorrain - Amazon Registry:Agree Susan. The point is to make the charter questions less conclusory/leading. It's not to presume any conclusions or assert any positions. We can assert our positions after we finalize the questions.

Mary Wong:@Kathy, can you rephrase the latter part of your request? I'm not sure I understand. Thanks!

Vaibhav Aggarwal:@Vinzenz Excelletn - So Lets Make the Criteria Specific to the Situation

Vaibhav Aggarwal:I am finding it overreaching

Vaibhav Aggarwal:for the TMCH to Draw up a Specific Creteria for All

Vaibhav Aggarwal:Not Blanket

J. Scott Evans:Vaibav: TMCH as well as the entire ICANN relationship is a matter of contract.

Griffin Barnett:Perhaps clarification is needed: is "registration" as used in Q2 sub-part (ii) referring to challenges to the underlying TM registration (in the national/regional TM office that issued the registration) or a challenge to a mark that has been recorded in the TMCH?

Vaibhav Aggarwal:YEs I understand That - But There is Legislation involved now bacause this is drawing up a creterion for Trademarks for the Laws

Vaibhav Aggarwal:@Jeff

Vaibhav Aggarwal:@J Scott *Sorry

Marie Pattullo:Thanks for that Griffin; fully agree as I'm confused to hear registration used in (to my mind) the "wrong" way.

George Kirikos:I think we'd want to cover both scenarios.

Mary Wong:@Kathy, did you mean whether the issues and concerns noted by the comments are adequately covered by the suggested Charter question?

Edward Morris:Support Phil's suggestion.

J. Scott Evans:Vaibhav. There is no legislation involved.You present your certificate and it must fit certain criteria. It is no different than when you list a registraiton in an M&A schedule

Vaibhav Aggarwal:right which is more or less common globally

Marie Pattullo:Agree with Phil; a registered TM is a registered TM until the day it is cancelled, or not renewed.

Kristine Dorrain - Amazon Registry:I think Question 2 is trying to ask both: what are the criteria for initial entry or refusal in the TMCH and what are the criteria used to challenge a TMCH entry.

Griffin Barnett:Need to be careful when referring to "registration" vs. "recordal" - registration, to me, means the underlying TM registration, while "recordal" would refer to the record of the mark in the TMCH

Kristine Dorrain - Amazon Registry:Agree that multiple viewpoints point to an ambiguity that need to be resolved.

Vaibhav Aggarwal:So @JScott, how can it be setting a Criterion ? At All ? The Certificate is either Yes or No. Cant Reviwe it !

Vinzenz Heussler:+Griffin

Susan Payne:J Scott, that is correct. It should be recordals rather than registrations

Mary Wong:Noted

Griffin Barnett:perhaps (ii) could read: "what to do when a mark is rejected by the TMCH?"

Greg Shatan:the passive voice should not be used in the second part of this question. Can't tell who is the person who would be "doing" something.

George Kirikos:So, changing the word to "recordal" would then allow for both scenarios to be covered, great.

Greg Shatan:What WHO should do?

Marie Pattullo:Do we need a legend at the bottom - registration = TM registration, recordal = a record of the TM in the TMCH etc.?

Susan Payne:Kathy - recall that we have a whole host of other questions about cancelled registrations later on

Mary Wong:@Marie, staff will review the document to make sure that the right terms are used consistently

George Kirikos:That's why this group review is good, as we can clear up all these ambiguities.

Steve Levy:Sorry but I need to drop off. Speak with you all again soon

Kristine Dorrain - Amazon Registry:And this question category is about Guidance...meaning how well is the TMCH communicating procedures and criteria, right? So this question is specific communication.

Vaibhav Aggarwal:+1 Greg

Marie Pattullo:Thanks Mary; I was think more of the people to whom we ask the questions, who may have the same confusion. Just to head off questions at the pass if we can.

Mary Wong:It has to mean TMCH rejection, right? Why would the TMCH communicate challenges brought before national TM offices of a registration of a TM?

Griffin Barnett:Agree Mary

Beth Allegretti:Hi - I need to drop off. Talk to you all soon.

Griffin Barnett:My understanding is the Q is directed at how the TMCH communicates to TM owners about (i) criteria for accepting or rejecting a mark into the TMCH, and (ii) what to do when the TMCH rejects a mark from being added to the TMCH

George Kirikos:Perhaps since column #3 is blank, we can add those clarifications in that box for Q2.

Mary Wong:@Griffin, that was staff's understanding too, so we will make the suggested clarifications

George Kirikos:(i.e. the two scenarios)

Griffin Barnett:(i) seems to be directed to TM owners as guidance before a TM owner applies to record a mark in the TMCH, while (ii) is directed at next steps for TM owner in the event the TM is rejected from the TMCH

Griffin Barnett:THanks Mary

Kristine Dorrain - Amazon Registry:+1 Griffin

Kiran Malancharuvil:+1 Griffin

Kathy Kleiman:I liked J.Scott's rephrasing with three parts (paraphased as): is the TMCH clearly communicating its criteria for registration/recording; letting TM Owners know what to do when TM rejected; and letting others know what to do if as 3d parties they have challenges or questions.

Griffin Barnett:Not sure about the suggested 3rd part of the formulation Kathy states above -- if a mark is accepted by the TMCH, this is not generally known by the public at large (I believe there are other questions going to whether this data should be public)

Georges Nahitchevansky:I read 2 as simply saying what does TMCH communicate as to the criteria for accepting a mark and what it communicates when it rejects a mark. and how the applicant can challenge that determination The issue of third party attacks on marks registered in the TMCH is a separate issue

Griffin Barnett:I should say, not known unless or until it triggers a TM Claims notice

George Kirikos:It's another side of the coin of the same issue, Georges (i.e. appeals of the TMCH decisions).

Kathy Kleiman:This discussion suggests that further reordering of the questions might be useful...

George Kirikos:"potential domain registrants" would be more precise. :-)

Greg Shatan:I think we should ask both. But we need to think about how the fact and opinion questiions relate to each other, and how they're presented. 2 and 3 are kind of aligned and kind of different. If they were more similar we might have more fruitful results.

George Kirikos:(i.e. add the word domain before the 2nd "registrants")

Paul Tattersfield:Please can we change 'trademark owners' to 'rights holders'?

Griffin Barnett:AGree it needs to be clear what the scope of the "education" is: about TMCH services?

Susan Payne:@Kathy - I think we should consider what order we work on them - ie we don't have to start with the first one. But I don't believe we need to spend time in this context worrying too much about what order they are in on the document

George Kirikos:It might also include education when a domain name registrant does research after receiving a notice at their registrar.

Griffin Barnett:Perhaps to resolve the scope of "education" issue: Should the TMCH be resonsible for educating trademark owners, domain name registrants, and potential domain name registrants about the TMCH and the services it provides? If so, how? If not, who should be responsible?

Susan Payne:Can we just put both terms in both questions and have done with it?

Marie Pattullo:Surely there can be a landing page and link from the obvious sites, Griffin?

Greg Shatan:But why is question 2 so narrowly focused?

Greg Shatan:+1 Susan regarding using "communication and education" in both 2 and 3.

George Kirikos:+1 Phil

Kathy Kleiman:I like Phil's note about what is missing on Q3

Paul Tattersfield:Can we change 'trademark owners' to 'rights holders'? Because it's important to provide guidance for marks protected by statue and treaty as well as trademarks.

Vinzenz Heussler:Potential distinction: Q3 is more about "TMCH and RPM literacy" and Q2 is helping in concrete situations

Kiran Malancharuvil:I need to jump off the call a few minutes early. I support keeping this as simple and straightforward as possible.

Kiran Malancharuvil:+1 J Scott

Kathy Kleiman:+2 J Scott

Susan Payne:+1 re keeping it simple

Kiran Malancharuvil:Agreed. These are simple concepts. We are spending WAY too much time on this.

Greg Shatan:Do we know what TMCH currently does with regard to "education"? Are we saying that they're not doing it and should be? Or that they are doing it but shouldn't?

Edward Morris:+1 Phil

Maxim Alzoba (FAITID):rising awareness?

Greg Shatan:Phil, I think that's good enough to get the information we need. Support your last formulation.

Kiran Malancharuvil:Awareness is impossible to measure.

Greg Shatan:Awareness is different from education.

Kristine Dorrain - Amazon Registry:you can't evaluate awareness.

Kristine Dorrain - Amazon Registry:Education is the provision of actual information.

Greg Shatan:Awareness is binary -- I know about it vs. WTF.

Kiran Malancharuvil:Education is something that is concrete

Kristine Dorrain - Amazon Registry:I support Phil's last iteration.

Kathy Kleiman:"education services" was in the original charter question - so "education" is fine. Other words may offer confusion.

George Kirikos:lol Greg

Greg Shatan:I also think that education embraces awareness. Assuming that is not a violation of ICANNs new anti-harassment policy.

David McAuley (RySG):Greg, you are on a roll. Your comment yesterday about my age, 4154, is however a violation.

George Kirikos:#4 should be quick.

Griffin Barnett:No problem with the formulation of Q4

George Kirikos:Figurative marks.

George Kirikos:Figurative marks with text.

Susan Payne:@John - yes

Griffin Barnett:Agree with John MacElwaine -- TMCH uses some alternative terminology for design marks (device etc.)

John McElwaine (Nelson Mullins):Instead of "design mark" - either "device/image marks" or "Marks that do not exclusively consist of letters, words, numerals, special characters". Trademark Clearinghouse Guidelines p. 20

George Kirikos:https://urldefense.proofpoint.com/v2/url?u=https-3A__euipo.europa.eu_ohimportal_en_trade-2Dmark-2Ddefinition&d=DgIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=JHjY_s77CO2eV0El3_ewv3NT4It47pJpdNYQg3GfaNw&s=hHVSsYPBhNsQgXOPQvnfyt10GOrxZJ_ZbNHZHh0c7XQ&e=

George Kirikos:It'd be interesting to know how they handle sound and colour marks. :-)

George Kirikos:I trademark a certain Pantone colour close to "red" --- give me Red.TLD :-)

Griffin Barnett:FYI, I believe what John was referencing, at least in part, is here: https://urldefense.proofpoint.com/v2/url?u=http-3A__www.trademark-2Dclearinghouse.com_content_what-2Dabout-2Ddeviceimage-2Dmarks&d=DgIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=JHjY_s77CO2eV0El3_ewv3NT4It47pJpdNYQg3GfaNw&s=qAhWmN-zWbIO1Bz44kUvtBcmhUtdYig2NYcoB0k98Qk&e=

Greg Shatan:Can I ask who were asking these questions to? That governs how accessible these questions need to be.

Maxim Alzoba (FAITID):bye all , have to drop the call

J. Scott Evans:ciao, ciao

Terri Agnew:Next call: 14 December 17:00 UTC

Kathy Kleiman:Bye All

Vaibhav Aggarwal:ciao

Kathy Kleiman:Great thanks to David Tait!

Greg Shatan:Thank you, David!

David Tait:Thanks Mary et al!

Vaibhav Aggarwal:Thanks to David it was fun meeting you in Hyderabad

Greg Shatan:Will miss you and your scarves.
David Tait:Thanks greg!
Mary Wong:Will do, Phil
Vaibhav Aggarwal:India ill have a role in Brexit - Let m eknow If I can assist.
Marie Pattullo:Blimey. You poor thing. Good luck with that David...
George Kirikos:We can try to work through Q1-Q4 on the mailing list.
John McElwaine (Nelson Mullins):@Griffin that is correct. We might be able to deep link to the TMCH Guidelines PDF
Greg Shatan:Scotch Egg-sit?
Paul Tattersfield:Bye everyone
Vinzenz Heussler:bye everyone
Griffin Barnett:Thanks all, bye
George Kirikos:Bye folks.
Marie Pattullo:Don't make me cry, Greg. Bye all.
David McAuley (RySG):thanks, bye all
Greg Shatan:Bye all.
Darcy Southwell:Thank you.
John McElwaine (Nelson Mullins):Notes q1.4 excessively should be exclusively