

Adobe Connect chat transcript for 18 January 2017:

Terri Agnew 2:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group on Wednesday, 18 January 2017 at 17:00 UTC for 60 minutes.

Terri Agnew 2:agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_JZ3DAw&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=Olf1S5a-NhtQUQAbhW0kStYSyjfDFmcZBPdmfo0jvQ8&e=

George Kirikos:Hi everyone.

Paul Tattersfield:Hi George, Everyone

Ivett Paulovics:Hello everyone, greetings from Italy.

Maxim Alzoba (FAITID):Hello All

Paul Tattersfield:For people not able to attend the meeting ICANN publishes the .mp3 – I was wondering if it would be possible for ICANN to publish a recording of the meeting?

George Kirikos:Hi Paul. How's it going?

Paul Tattersfield:So those not able to attend could 'watch' the meeting i.e. see the slides and audio in real time while listening to the audio

Mary Wong:@Paul, do you mean a live stream?

George Kirikos:@Paul: I think they technically can save the Adobe sessions. Not sure if they've been doing that, though.

Paul Tattersfield:Yes Mary

George Kirikos:*technically, even

Paul Tattersfield:something like https://urldefense.proofpoint.com/v2/url?u=https-3A_helpx.adobe.com_adobe-2Dconnect_using_recording-2Dplaying-2Dback-2Dmeetings.html&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=EksbCLiFGd7HZ7Cg6Ja-ls18tExk-geylLqEcjlRxM&e= perhaps?

Mary Wong:@Paul, during ICANN meetings there's usually a live audio stream (but not for regular WG meetings outside the ICANN meeting)

Paul Tattersfield:that's a good way to describe what I was thinking George 'save the session'

Maxim Alzoba (FAITID):do we need to log in again?

Philip Corwin:I am attempting to call in

Philip Corwin:When I call in the recording starts, cuts out, then drops me.

Maxim Alzoba (FAITID):skype to 1800 usually works

Paul Tattersfield:It would really improve the experience for those not able to attend the calls because of TimeZone considerations I was thinking

Maxim Alzoba (FAITID):I meant to one of the toll free phones in US

Philip Corwin:Just requested a dial out

George Kirikos:@Paul / @Mary: See https://urldefense.proofpoint.com/v2/url?u=http-3A_archive.icann.org_en_meetings_dakar2011_node_26775.html&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=PT0nWzOqFwZZwdrUSjgMT83bSmWjVvk8PDR8iB3DxKts&e= for how they've been archived in the past.

Terri Agnew 2:We are having the dial out to Phil

Philip Corwin:Thx Terry. Awaiting call

Terri Agnew 2:Phil has joined on audio

Philip Corwin:I am now connected by phone

Lori Schulman:Hello. Sorry that I am late.

WIPO:We have tried over a dozen times, and keep getting dropped from the line before an operator comes on.

Kristine Dorrain - Amazon Registry Services:Me too

Renee Fossen (Forum):same

WIPO:We have (finally) made it on the call.

Philip Corwin:Same here -- co-chairs get same treatment ;-)

Kristine Dorrain - Amazon Registry Services:Switched to speakers for now...no mic. will keep trying to call.

George Kirikos:Probably too many meetings scheduled at noon Eastern time. If we were to schedule the call at 11:45 am Eastern, probably easier for everyone to get on..... Alternatively, if there was an automated way to get on (i.e. with individual PIN codes), instead of requiring human intervention for each caller.

Terri Agnew 2:I am having the operator report his issue on joining audio

Terri Agnew 2:Please let me know if a dial out on the telephone is needed

Beth Bacon:I also had an issue dialing in. The line kept disconnecting.

Terri Agnew 2:@Beth, I am sending you a private AC chat

George Kirikos:For 1.(iii) do these options even exist at present?

George Kirikos:(i.e. the TMCH might clearly communicate that those options don't exist) :-)

Mary Wong:@Phil, that was the point staff had wondered too - how would people know if they can't search the database?

Mary Wong:There was a lot of community feedback - to the 2015 RPM Staff Paper - about inconsistencies and difficulties with submissions into the TMCH.

Susan Payne:perhaps you could share paul's comments since he did not send to the list

Mary Wong:@Susan we will follow up with Paul.

George Kirikos:Since the underlying TMs are public, it's difficult to justify why the TMCH records are not public.

Kathy Kleiman:Tx Beth, I think that's exactly what we are looking for (i) and (ii)

Lori Schulman:Because what you chose to record can be part of an underlying proprietary strategy...which marks may have more value or be part of a greater enforcement plan

George Kirikos:Remember, that people are registering common terms like "pizza" into the TMCH, see: https://urldefense.proofpoint.com/v2/url?u=http-3A_domainnamewire.com_2014_02_10_how-2Dcommon-2Dwords-2Dlike-2Dpizza-2Dmoney-2Dand-2Dshopping-2Dended-2Dup-2Din-2Dthe-2Dtrademark-2Dclearinghouse-2Dfor-2Dnew-2Dtlds_&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=ltM9LlmsfC_UDCBfwoVvm74aQtZkXykp6gQt6ci02no&e=

Maxim Alzoba (FAITID):in russian case it was more generic IDN name for "we"

Mary Wong:I believe TM holders and agents have to provide the relevant description of goods and services according to the Nice classification, as well as registration number and jurisdiction, when submitting a registered TM.

Kathy Kleiman:Mary: can we add what Phil just said to our Notes -- are there any troubles for multiple registrations of the same TM string by multiple trademark owners?

Mary Wong:@Kathy, I'll double check the transcript and add, yes, thank you.

Maxim Alzoba (FAITID):for example one company has right for "special kind of boots" in France and the other in China?

Mary Wong:The TMCH Guidelines provide a sample of a signed Declaration of Use, but specifically for a sample of proof of use, it's not an exhaustive list (meant to be flexible)

Maxim Alzoba (FAITID):but if a person sends only one existing item in the world to the only customer (his neighbour) is it a valid proof of use?

Susan Payne:Would it be helpful for us to pull out the comments submitted to the staff RPMs review of examples of problems. Would the Implementation Review also have anything relevant on this - apologies I do not recall?

George Kirikos:*6 to mute/unmute

Jonathan Matkowsky - RiskIQ:I'm not muted

Terri Agnew 2:@Jonathan, your mic isn't active

Kathy Kleiman:@Mary: could you kindly add the words "piecemeal approach and clarity of proof of use Maxim Alzoba (FAITID):I think we disconnected from bridge (adobe users)

Terri Agnew 2:to activate your mic, top tool bar, telephone icon and follow prompts

Jonathan Matkowsky - RiskIQ:I can type my comment

Jonathan Matkowsky - RiskIQ:Not sure what the problem is with the mic, sorry about that

Kathy Kleiman: @Mary... to the Notes. I think it will help people remember this discussion.

Mary Wong:@Susan, we have a link to the public comments and staff summary for the 2015 paper. I will check if I've uploaded it to the wiki.

Jonathan Matkowsky - RiskIQ:I am on Adobe connect

Jonathan Matkowsky - RiskIQ:In any case, I just wanted to promote transparency in the process

Jonathan Matkowsky - RiskIQ:Perhaps an analogy can be made to prosecution of a specimen in the USPTO

David McAuley (RySG):yes

Maxim Alzoba (FAITID):a screenshot of the website (anyone can create one with offers of somethings non-existent) is a valid proof of use? https://urldefense.proofpoint.com/v2/url?u=http-3A_www.trademark-2Dclearinghouse.com_help_faq_can-2Dscreen-shot-2Dwebsite-2Dbe-2Dsubmitted-2Dproof-2Duse&d=DwlFaQ&c=FmY1u3PJP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=EE05fizbJtcQGIMLKXYuyH3jquXirfNPPkCfqtbg0P4&e=

Kristine Dorrain - Amazon Registry Services:Can anyone weigh in on the process over time? did people experience troubles early on? did people have the same troubles recently? Did the issues change, get better, get worse? Was there a learning curve that the TMCH needed?

Mary Wong:The contract is not published, but there is a summary framework that was published - I will try to find it.

George Kirikos:If one eliminated proof of use, one would need to balance that with reduced benefits for TMCH records. Personally, the TMCH could be entirely eliminated if each national TM office had an automated API (some appear to have one, e.g. see aggregated search sites like TMview, https://urldefense.proofpoint.com/v2/url?u=https-3A_www.tmdn.org_tmview_welcome&d=DwlFaQ&c=FmY1u3PJP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=y4qC1OP18RfMQ42rPOk74Dn30WJK9Q3OtHVU594kTqI&e=

George Kirikos:(registrars could then query national TM offices via APIs, and create the "notice" that way to domain name registrants)

Marie Pattullo:@George: TMView is great, as a work in progress. It's still being developed (moved over to the ECP in the EUIPO) but it's really not reliable at the moment. Also TMView would never have the technical capability to interact with the registries.

Mary Wong:Summary of Validation Framework agreement (Deloitte):

https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.icann.org_en_about_trademark-2Dclearinghouse_validation-2Dframework-2D02jul13-

[2Den.pdf&d=DwIFaQ&c=FmY1u3Pj6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=zi51ZSSXmkXBSd0hZ8jgg32Bhpd_0ObB149OAV3HH5o&e=](https://www.icann.org/en/about/trademark-2Dclearinghouse-database-2Dframework-2D02jul13-2Den.pdf&d=DwIFaQ&c=FmY1u3Pj6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=zi51ZSSXmkXBSd0hZ8jgg32Bhpd_0ObB149OAV3HH5o&e=)

Lillian Fosteris:Kristine - I'd say the TMCH has been inconsistent in how stringent it is in its review of each TMCH registration (both errors in the TMCH submission and then whether the POU was accepted or not). For example, a lot of marks were marked as "Incorrect" a year after the marks were submitted and accepted to the TMCH. In some cases, there were errors in the TMCH information submitted originally and in other cases, the POU was marked as insufficient (even though it had been approved originally). So, I'd say a little bit of learning at the beginning, but generally an issue with consistency across marks and time.

George Kirikos:@Marie: right. Perhaps the money would be better spent making that system more reliable (a "carrot" by ICANN to national TM offices), rather than trying to duplicate and reinvent things via the TMCH.

Mary Wong:Summary of Database Framework agreement (IBM):
https://urldefense.proofpoint.com/v2/url?u=https-3A_newgtlds.icann.org_en_about_trademark-2Dclearinghouse-database-2Dframework-2D02jul13-2Den.pdf&d=DwIFaQ&c=FmY1u3Pj6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=YzGNrd29dueSI0ckF6IXw7QgGAIWtfHuKjheYwgbvBc&e=

Lori Schulman:Not all TM offices require proof of use upon initial registration

Jeff Neuman (Valideus):@Kathy - You state "a lot of frustration in the community". Can you point to a source where the community has stated that they are frustrated?

Lori Schulman:US is an outlier I think. It's been a while since I have done global registrations but I recall that standards vary from jurisdiction to jurisdiction

Maxim Alzoba (FAITID):I wonder how transparent is a secret contract with ICANN (conflict of interests potentially exists) ?

George Kirikos:Right, Lori. The "benefits" for TM holders would need to be scaled back accordingly (i.e. no more "first dibs" in sunrise).

Jonathan Matkowsky - RiskIQ:Broad stakeholder discussions took place to develop the proof of use requirement, intended to ensure that all registered trademarks are treated equally in order to be eligible to participate in Sunrise periods. Requirements related to proof of use may be taken into account as a larger topic for consideration in policy development and other community discussions.

Lori Schulman:George, that is not the point. The point is that unique proof of use for sunrise makes sense since global practice varies.

Jonathan Matkowsky - RiskIQ:This is from the 2015 Rights Protection Mechanisms Review Revised Report

Marie Pattullo:@George - it's already funded but by the EUIPO - many, many carrots have been held out to the NPTOs under the new EUTMR and this is one of them... ;-).

George Kirikos:i.e. if the goal of the TMCH is simply to reduce cybersquatting, increased notice to prospective registrants is a sufficient safeguard. Jumping to the front of the line (which is a "benefit" diminished in many ways due to "premium" pricing by registry operators in any event) should be an entirely separate discussion (one that I don't see as justified).

Jonathan Matkowsky - RiskIQ:There's no mention of the concern of transparency or inconsistency

George Kirikos:@Lori: I agree with you.

George Kirikos:Since the average number of sunrise registrations is around 300 or so, the "actual" benefits to those companies routinely registering in all gTLDs (e.g. Apple, Microsoft, Google) are really small, when you think about it.

Marie Pattullo:5 years to prove use in the EU.

George Kirikos:*actual benefits overall, I mean (I'm sure those 300 companies like jumping to the front of the line)

George Kirikos:Presumably the TMCH goes to shows run by folks like INTA, etc. to drum up business (i.e. "educate").

Kurt Pritz:Proactive: The TMCH conducts webinars for agents and also for individual TLDs to announce their sunrise periods

David McAuley (RySG):very feint

George Kirikos:Volume low for Kristine.

David McAuley (RySG):that is better sound

George Kirikos:Here's what a TMCH notice looks like:

https://urldefense.proofpoint.com/v2/url?u=http-3A__domainnamewire.com_2014_01_30_trademark-2Dclaims-2Dnotice_&d=DwIFaQ&c=FmY1u3PjP6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=xIF2JKXAKrwlOkcBS0k5DnE5_AF6_gqw1wvebrm4nXc&e= It doesn't seem to link to the TMCH itself for further details, etc.

George Kirikos:(I don't register new gTLDs, so I've never seen one personally)

Kristine Dorrain - Amazon Registry Services:For sake for arguement: Education about notices still seem odd. The TMCH didn't write it. They are providing a token to the registrar who then displays a form notice.

Mary Wong:Note that we have a specific Charter question (in a subsequent category) about outreach, at least w.r.t. developing countries: "How accessible 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?"

Kristine Dorrain - Amazon Registry Services:Yes, Susan, +1, thats that I was saying.

Maxim Alzoba (FAITID):ICANN's part of TMCH?

Lori Schulman:My response dove tails Susan's. I think that end users who receive notices probably do need education.

Lori Schulman:But not necessarily TMCH

Kristine Dorrain - Amazon Registry Services:but the TMCH is a rather neutral provider of data. I think training for registrants would fall on ICANN, as directed by the community.

Maxim Alzoba (FAITID):the language of the claim notice is horrible

Lori Schulman:doing the training

Lori Schulman:TM owners would agree that the language is horrible. Not clear.

Lori Schulman:Confusing and inconsistent.

Kristine Dorrain - Amazon Registry Services:and how do you provide notice without giving legal advice

Susan Payne:Kathy - that sounds like relevant feedback - perhaps you could ask them to submit it to the WG if we are to take it into account

Jonathan Matkowsky - RiskIQ:https://urldefense.proofpoint.com/v2/url?u=https-3A__www.google.com_url-3Fq-3Dhttps-3A__newgtlds.icann.org_en_about_trademark-2Dclearinghouse_summary-2Diag-2Dinput-2D26sep12-2Den.pdf-26sa-3DU-26ved-3D0ahUKewjVvJ-2D5oczRAhXJwlQKHTGqARIQFggHMAE-26client-3Dinternal-2Duds-2Dcse-26usg-3DAFQjCNFe6QRdXYzyNm6fwZvHbg-5FVW2gWFA&d=DwIFaQ&c=FmY1u3PjP6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=bje7dj7kBHxdIzJkBI6M7BEDX0HhqvfvJpsKq2erQk&e=

Mary Wong:That is the final input from the Implementation Assistance Group for the TMCH, I think

Mary Wong:(Jonathan's link, I mean)

George Kirikos:With ICANN staff away for their retreat, etc. next week, are we having a call next Wednesday?

Mary Wong:2012

Mary Wong:This is the IAG

Kathy Kleiman:Tx for the link!

Mary Wong:That document has been uploaded to the TMCH information page on the WG wiki :)

Paul Tattersfield:@George isn't it at the new time of 4.00am GMT?

Terri Agnew 2:Next call: Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group is scheduled for Wednesday, 25 January 2017 at 04:00 UTC for 60 minutes.

Maxim Alzoba (FAITID):most people can not read in English , and it is a must to use it in the claim notice

George Kirikos:So, that'll be Tuesday night Eastern time.

Mary Wong:Staff will be available to staff the call but NamesCon may be a bigger problem

Mary Wong:TMCH informational page: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_0AusAw&d=DwlFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSfPcIgmKXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=p8jt1yVha0hpDoyp5zdyiq1VCu-tXmQigKkN6irCxZo&s=O_q6gS9MikU_FQ1fydOKJ2ZKjkPuc6gInB4XLEm-274&e= (IAG report is the final entry under Operational Requirements)

Kristine Dorrain - Amazon Registry Services:What was the result of the straw poll staff sent around?

George Kirikos:I'd vote to skip it....maybe have a vote?

Susan Payne:unless we have no chairs I think we should proceed

Griffin Barnett:@Maxim, I thought that Claims notices must be presented in English as well as the language of the domain name registration agreement but staff or others may be able to confirm this

George Kirikos:Skip = Agree, Don't skip = disagree.

Kristine Dorrain - Amazon Registry Services:Nevermind. the straw poll was for a differnt group

Mary Wong:@Griffin, correct

Beth Allegretti:I'd also vote to skip it because of NamesCon

Lori Schulman:George is multitasking...

Maxim Alzoba (FAITID):if the first part in English - most do not scroll

Susan Payne:why would we skip? routinely some people cannot make calls but we don't cancel

Kristine Dorrain - Amazon Registry Services:Agree to proceed

George Kirikos:I can make it....won't affect me.

Maxim Alzoba (FAITID):and the wording in rpm requirement - in English and in other language

Paul Tattersfield:Agreee proceed

Mary Wong:0400 UTC

George Kirikos:Tuesday night eastern time (0400 UTC Wednesday)

Maxim Alzoba (FAITID):bit early for EU

Mary Wong:Evening/night for North America, daytime for APAC

Terri Agnew 2:20:00 PST (Tuesday), 23:00 EST (Tuesday), 04:00 London,05:00 CET

Kathy Kleiman:Our first meeting at the AP-friendly time.

David McAuley (RySG):Thanks Phil, staff, all

Jonathan Matkowsky - RiskIQ:Have a great day everyone!

Kristine Dorrain - Amazon Registry Services:thanks all1

George Kirikos:We should monitor the AP attendance next week, to see if folks from that region show up en masse.

George Kirikos:(if not, perhaps rethink the time)