

Terri Agnew:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group on Wednesday, 01 March 2017 at 17:00 UTC for 60 minutes

Terri Agnew:wiki agenda page: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_YZ3DAw&d=DwlCaQ&c=FmY1u3Pj6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=4ykVYCNKhycZFyFXClGpFutuKwNDkTDanoUtd09b8&s=ytx-KSkSEb3EACsRZ-ayBuXn6ktuEO_OY9Via6NzMLI&e=

George Kirikos:Hi folks.

Elizabeth Featherman:Hello!

George Kirikos>Welcome Elizabeth.

Elizabeth Featherman:Thanks George!

Paul Tattersfield:Hi everyone

Maxim Alzoba (FAITID):Hello All

George Kirikos:Hey Paul & Maxim.

Martin Silva Valent:Hi all!

Paul Tattersfield:Hi George is your part of Canada ready fro spring yet?

George Kirikos:I think so, Paul, if the groundhogs are correct. :-)

Paul Tattersfield::)

Philip Corwin:Hello all, and welcome to our last WG meeting before Copenhagen

Yuri Chumak:greetings

George Kirikos>Welcome Phil & Yuri.

Philip Corwin:Here in DC area it will be close to 80F today -- with predictions of snow showers on friday morning. Crazy weather roller coaster.

Maxim Alzoba (FAITID):Note: there is a mistake in AGB - clearinghouse should be replaced with CZDS in Module 5, Transition to delegation (to avoid confusion with TMCH, which referenced in AGB 2012 as both Trademark Clearinghouse and Clearinghouse) - page 5-15

Terri Agnew:everyone can scroll themselves

Philip Corwin:Great work by Mary on this document

Mary Wong:@Maxim - we will check and correct

Kristine Dorrain - Amazon Registry Services:+1 Phil

George Kirikos:IRT was unrepresentative (I recall Phil wasn't allowed to join).

David McAuley (RySG):The Strawman Solution - sounds like a good film

Philip Corwin:There were complaints about IRT process that led to establishment of STI-RT -- which adopted and refined some IRT recommendations, while rejecting others, in my recollection. What's important now is what is actually in the Appricant Guidebook.

Jeff Neuman:@George - The IRT was a group set up of professional IP experts on proposing a set of recommendations to the Board. Although I was on from the Registries and Jon Nevett from the Registrars, and Mary Wong at the time with the NCUC, it was not intended to be "representative" as you would define it. But that does not take away from the work that was done.

George Kirikos:There's an echo (turn off speakers).

Edward Morris:It would be iteresting to find out how we got from point a to point b. And whether we want to do a U turn.

George Kirikos:+1 Martin

GraceM: are there any examples of design marks in the tmch?

Mary Wong:@Grace, the Working Group agreed to follow up with Deloitte to clarify how they handle design marks, and examples they can give

George Kirikos:You're on the right track, Martin.

Edward Morris:+1 Martin. Be interesting to know how this happened

Pascal Boehner:But design or figurative marks also deserve TM protection as mere word marks; they might have another extent and scope of protection which is to be looked at. But there is no reason not to protect them

GraceM:thanks @ Mary

Philip Corwin:@Jeff--again, while the chronology is useful for understanding the history and source of the developed RPMs, our WG focus is on what is actually in the final AG, whether they are being properly implemented, and whether they are effective and balanced. Suggestions for any modifications can be new, or can be based on historic sources including as the IRT.

Georges Nahitchevsky:Has this, in fact, been an actual issue with the TMCH (i.e., on the level of abuse) or is this anecdotal issue -- and thus a theoretical discussion

George Kirikos:That's why it'd be nice to know how they handle specific examples, e.g. CARS, PARENTS, DEALHUNTER, MUSIC, the letter 'A', etc. <http://mm.icann.org/pipermail/gnso-rpm-wg/2017-February/001064.html>

George Kirikos:they = TMCH

George Kirikos:All those shouldn't be acceptable, if we stick to the strict interpretation of the STI.

Martin Silva Valent:I agree I might be off here, I've might missed a debate. I won't impose my impression.

Mary Wong:Do the TMCH Guidelines published by Deloitte assist in explaining how word elements in design marks are handled?

Edward Morris:Small team seems to be called for here.

Edward Morris:We don't have enough time to go in depth in the main group.

George Kirikos:There's also the related issue of whether the published guidelines are being followed (which is hard to know, if we're not allowed to view the list of records in public).

Susan Payne:I'm not sure this is the time for a small group. aren't we still asking deloitte questions and planning to meet with them

Mary Wong:@Martin, does 5.2.1 (on page 2 of this table) of the TMCH Guidelines help you evaluate your question?

Maxim Alzoba (FAITID):in AGB, 1. PURPOSE OF CLEARINGHOUSE, 1.4, Trademark Clearinghouse Service Provider may provide ancillary services, as long as those services and any data used for those services are kept separate from the Clearinghouse database. Do we know if additional services of TMCH are kept separated?

Bradley Silver:+1 Susan - let's get feedback from Deloitte first on this question.

Mary Wong:@Maxim, I believe the only ancillary service being offered is the Ongoing Claims Service

Pascal Boehner:+1 Susan

Kristine Dorrain - Amazon Registry Services:Agree Susan. I think it's premature.

Martin Silva Valent:Mary, I'm basing my doubts on that text :-)

Georges Nahitchevsky:I agree. let's get info from Deloitte first and then decide if this a real issue to be addressed and debated

Maxim Alzoba (FAITID):and the incentive of https://urldefense.proofpoint.com/v2/url?u=http-3A_www.trademark-2Dclearinghouse.com_content_blocking-2Dmechanisms-2Dtmch-2Dclients-2Ddpml&d=DwlCaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=4ykVVCNKhxycZFYfXClGpFutuKwNDkTDanoUtd09b8&s=X5gyXfELMYQ7sVFL4BeUDAi-NNULYEOFgC3K_HAb5V4&e= ? it is not in AGB

Kristine Dorrain - Amazon Registry Services:I think the first question is ask Deloitte if there is indeed a discrepancy and what they can tell us about it. at least we would be able to know where to start digging.

Edward Morris:Here's a chance to get into substance. Deloitte answers and a small group can run concurrently.

Mark Massey:+1

Maxim Alzoba (FAITID):also AGB, Trademark Clearinghouse 1.5 have some incorrect reference to the policy process ...Before material changes are made to the Clearinghouse functions, they will be reviewed through the ICANN public participation model.

Mary Wong:@Maxim, yes that sentence is in the AGB and has been added to the end of this table.

Paul Tattersfield:should read geographical indications not geographical indicators

Mary Wong:@Paul, oops, thanks for catching that, you're right

Rebecca L Tushnet:Could I join the small group on design marks? Sorry I was delayed in joining.

George Kirikos:So, 3.6 might include stock ticker symbols, if someone had a financial TLD and wanted to offer that in a sunrise.

George Kirikos:*6 to mute/unmute

Maxim Alzoba (FAITID):Also 2.1 of TM Clearinghouse : 2.1 The selection of Trademark Clearinghouse Service Provider(s) will be subject to predetermined criteria, but the foremost considerations will be the ability to store, authenticate, validate and disseminate the data at the highest level of technical stability and security without interference with the integrity or timeliness of the registration process or registry operations. ... in reality we saw some glitches and non working conditions of TMCH ... there is not mechanism to ensure that TMCH has to stick to " the highest level of technical stability and security without interference with the integrity or timeliness" , after the initial contract execution with ICANN ... basically SLA of some sort and annual review of technical issues

Philip Corwin:This co-chair, speaking personally, believes that we are going to have to decide that some questions are good enough and leave detailed discussion only to these few questions on which there is significant concern with the wording within the WG. If we discuss each Q in detail we won't reach Sunrise and Claim Notices until late spring or summer, and we should do all we can to avoid falling far behind on our schedule so long as it does not result in any corner cutting that undermines the integrity of our work. We can discuss all this in CPH.

Terri Agnew:as a reminder to active your mic on the AC, select the telephone icon top tool bar and follow the prompt or send me a private AC chat and I can have the operator dial out to you.

Susan Payne:+1 Kristine

Maxim Alzoba (FAITID):also 2.4.4 of the same TM Clearinghouse part of AGB, includes requirements to customer service availability... which were not met and need the same review process as 2.1

Massimo Vittori:I am sorry I am not able to join the conversation

George Kirikos:There's no international consensus that GIs should have protection, so that's likely the concern, e.g. https://urldefense.proofpoint.com/v2/url?u=https-3A-en.wikipedia.org/wiki/Geographical-5FIndication-23Differences-5Fin-5Fphilosophy&d=DwlCaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=4ykVYCNKhycZFyfXClGpFutuKwNDkTDanoUtd09b8&s=DaVAutBtkh0OuXNy9G_PvKtfG60TivdulArtUWYIikk&e=

Paul Tattersfield:The TMCH already caters for marks other than registered trademarks marks from states 6ter etc.

Mary Wong:@Kathy, staff will consult the transcript when that is available to make sure Kristine's clarification and John's earlier question are accurately captured.

George Kirikos:Champagne.wine was obtained the French organization. Do we know if it was via a GI in the TMCH and sunrise? Or some other way? https://urldefense.proofpoint.com/v2/url?u=http-3A-whois.domaintools.com_champagne.wine&d=DwlCaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-

[H4xR2EBk&m= 4ykvycnkhxyczfxfclgpfutuqkwndkdanoUtd09b8&s=UfVkfodiyppOIGt9LrR195G20tFK6Qw3LKPj_8xVKNA&e=](https://www.amazon.com/gp/customer-profile-summary?pf_rd_p=4ykvycnkhxyczfxfclgpfutuqkwndkdanoUtd09b8&s=UfVkfodiyppOIGt9LrR195G20tFK6Qw3LKPj_8xVKNA&e=)

George Kirikos:insert *by above

Kristine Dorrain - Amazon Registry Services:George, I don't think the TMCH labels as mark as "GI" or not. It

Kristine Dorrain - Amazon Registry Services: It's a word, in a database.

Mike Rodenbaugh:Have we asked Deloitte how many TM owners took advantage of the TM+50 feature, and at what quantity?

Kristine Dorrain - Amazon Registry Services:If it passes the TM test, it's in, if not, it's not.

Pascal Boehner:Even if there ist no international consensus: if "champagne" is protected in France as a GI, it shall get the same protection as a national French TM, even if in other jurisdictions, it would not be accepted

Mary Wong:@George, the criteria for inclusion in the TMCH has been registered TMs, court-validated marks, and marks protected by statute or treaty. This has been the case through various versions of the AGB and dating back to the IRT.

Paul Tattersfield:@Kristine The TMCH already accepts marks other than registered trademarks - eg marks protected by statue or treaty

George Kirikos:Thanks Mary.

Pascal Boehner:+1 Paul

Edward Morris:That would be great

Mike Rodenbaugh:That's what I was asking too

Edward Morris:Thanks Mary - that would be helpful. Let's see what we got back.

Kristine Dorrain - Amazon Registry Services:@Paul, yes, but then the submitter submits the statute or treaty

Kristine Dorrain - Amazon Registry Services:If each line item in the DB has an appended TM, statute, or treaty, then the question is really just "do we have any unsupported marks"?

Maxim Alzoba (FAITID):Are we going to make a poll to collect questions for Deloitte?

Edward Morris:Thanks Kathy and Phil

Paul Tattersfield:Kristine so what's wrong with asking / discussing for similar verification for Geographical INdications?

Maxim Alzoba (FAITID):I suggested poll instead of e-mails - so it is more visible to participants

Mary Wong:Q&A on Previously Abused Labels with/from Deloitte: "How many TMCH records include a TM+50 list; and how many are on this list on average? How many registrations were made for entries on the TM+50 list?The abused domain name labels can only be added in the event that a submitted trademark record has been verified. In this respect, 209 UDRP cases have been submitted to the trademark records linked to 209 TMCH records. These URDP cases cover in total 375 abused domain name labels. "

Kristine Dorrain - Amazon Registry Services:@Paul. Nothing. Every item should have a validation/verification. TM, statute or treaty.

Kristine Dorrain - Amazon Registry Services:@Paul, it's an excel spreadsheet. As long as a word can check the box, it's in. Unless we're saying someone is not properly checking a box, then I'm still not sure what the problem is.

Paul Tattersfield:Is there a box to even check? Should there be? etc.

Kristine Dorrain - Amazon Registry Services:Yes. EVERY entry has to be validated

Kristine Dorrain - Amazon Registry Services:There is no "claiming to be a GI so I skip validation" step that I'm aware of.

Edward Morris:Thanks Mary. Very useful. So TM+1.79 may be the average, if I undrrstand things correctly.

Kristine Dorrain - Amazon Registry Services:LOL Ed.

Edward Morris:@Kristine. My new proposal. I always liked decimal points. :)

George Kirikos:Identical match for inclusion. But, I can see where a 'fuzzy match' might have some value, for informational purposes.

George Kirikos:Thanks for the history, though, Kathy.

Mary Wong:@Ed, my understanding is that a TM owner can submit 1 label for various TMs in one UDRP proceeding, or several for the same.

Edward Morris:Thanks Mary. So we really don't have the numbers I'm looking for.

Mary Wong:The question of "identical match" has attracted a lot of public comments, on both "sides", throughout the whole process of developing the TMCH - from the IRT to STI to the various AGB versions.

Mike Rodenbaugh:+1 Susan - this is a key issue for discussion

George Kirikos:Fuzzy matches would deter some of the intentional typosquatting.

George Kirikos:But, I can see how some less informed people might feel a chilling effect. Sophisticated domain name owners wouldn't be deterred, but not everyone is equally educated.

Mike Rodenbaugh:+1 George, there would be some deterrence. Chilling effect is debatable/unproven

Mary Wong:Sorry, what will the sub group be doing?

Pascal Boehner:+ 1 Susan & Mike: "Identical match" is fundamental, should be discussed by the whole WG

George Kirikos:@Mike: I think for the registrant warning, it would need to be different language if it was an exact match, vs if it was just a "fuzzy" match.

George Kirikos:(for sunrise, no rights to "fuzzy" versions of a mark)

Georges Nahitchevsky:I agree that the identical match issues is one to look into. There have been situations where TMCH has taken an overly narrow view on the issue, which then has implications re sunrise etc.

Mary Wong:Note that the Analysis Group's Final Report on the TMCH has some observations on this question as well.

Edward Morris:+1 Mary. Was useful.

Susan Payne:where are we getting the charter Qs out to?

Mark Massey:Perhaps it would be useful to look at all of these questions from the perspective of someone trying to start a business not just existing trademark holders

Kristine Dorrain - Amazon Registry Services:agree Susan...are we publishing something?

Maxim Alzoba (FAITID):could we try to request IBM person to be there?

Jeff Neuman:I would also note that the first hour and a half conflict with the subsequent procedures working group

Maxim Alzoba (FAITID):the reason is, if the deny it, we might think that the service is not important for IBM

John McElwaine:@Jeff maybe we can push it back

Jeff Neuman:we tried, but ICANN could not move either meeting

Maxim Alzoba (FAITID):we will need IBM representative to avoid Deloitte answering each time - we need to check it with IBM

Kristine Dorrain - Amazon Registry Services:Maxim, do we have technical questions?

Maxim Alzoba (FAITID):yes

George Kirikos:Perhaps an email reminding folks of the times, URLs for remote participation, and times in different time zones might help.

Maxim Alzoba (FAITID):it is related to AGB and TMCH , standards of service (downtimes and customer service quality) - it is referenced in TM Clearinghouse part of AGB

Mary Wong:@George, we will send out the information

George Kirikos:(since the URLs for remote participation are different than our usual link)

George Kirikos:Thanks Mary.

Mary Wong:@Maxim, it is probably too late to invite IBM unless they are already planning to be in Copenhagen (which I believe they are not). But we have sent them a few questions and are awaiting answers, and we can also invite them to a future call.

Jeff Neuman:@KAthy - take comments on email

Jeff Neuman:we are thinking

Philip Corwin:We shall do our best as co-chairs

George Kirikos:March 22?

Kristine Dorrain - Amazon Registry Services:Maxim, is that related to the TMCH as an RPM and a charter question or more about the integration of TMCH with contracted parties, which might be a better fit for SubPro?

Maxim Alzoba (FAITID):@Mary, as I understand we asked about it during 22nd FEB 2017.

George Kirikos:March 29th, then.

Susan Payne:!d like to have a substantive discussion on some of these open issues - matching rules

Maxim Alzoba (FAITID):@Kristine, it is about material for those who will look into AGB and TMCH intersections

Kristine Dorrain - Amazon Registry Services:+1 susan

David McAuley (RySG):Thanks all, good bye

George Kirikos:Bye folks.

Maxim Alzoba (FAITID):thanks all , safe travels

Martin Silva Valent:bye bye !

Philip Corwin:bye all. See you in CPH

Martin Silva Valent:see u there

Paul Tattersfield:bye all