

Julie Bisland:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group on Wednesday, 03 May 2017 at 16:00 UTC for 90 minute duration.

Julie Bisland:Agenda Wiki page: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_x\\_YQTfAw&d=DwlCaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=IntYCrZkD56chphrbu3XRfVONVKPh4X39ilucRbQ5eE&s=P1I4Y7NY6wVfu\\_bnng3CiseHUdTJI\\_zGiMCEV0pg55s&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_YQTfAw&d=DwlCaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=IntYCrZkD56chphrbu3XRfVONVKPh4X39ilucRbQ5eE&s=P1I4Y7NY6wVfu_bnng3CiseHUdTJI_zGiMCEV0pg55s&e=)

George Kirikos:Hi folks.

Petter Rindforth:Hi there!

George Kirikos:Hey Petter. How are you?

Petter Rindforth:Happy - the first day of spring here in Stockholm!

George Kirikos:That's great.

Petter Rindforth:@Mary: Do we have an updated time schedule somewhere, or are we still working on the "old one" when it comes to next steps (like the URS, etc)?

Mary Wong:@Petter, we've (staff) been working on one but it doesn't change the URS portion. It mostly tries to accommodate what the Sunrise and Claims Sub Teams are proposing.

Petter Rindforth:Ok, thanks

Mary Wong:We anticipate more changes after Joburg as well, where the Working Group will have a 3 hour meeting :)

George Kirikos:I hope that one is in the afternoon local time, to make it more convenient for those in North America.

Steve Levy:Hi all. FYI, I'll need to leave my office and jump to the audio bridge at some point in today's meeting.

Mary Wong:@George, it's Joburg time from 9 a.m. to noon (or thereabouts)

George Kirikos:Looks like that'll be around 3 am NYC time. Ouch.

Paul Keating:Hcellow all

Mary Wong:@George, sorry :( FYI that most of the Working Group sessions are in the morning Joburg time, to accommodate cross community sessions in the afternoon. One consequence of the 4-day Policy Forum meeting format, I'm afraid

David McAuley:Hello all

Maxim Alzoba (FAITID):Hello !!

Michael R Graham:Morning all -- on audio bridge as well.

Lori Schulman:is there a tentative Jo'Burg schedule posted yet?

Lori Schulman:for the whole meeting

Mary Wong:@Lori, I think there is an overall block schedule that either was just published or is just about to be. Let me check.

Lori Schulman:I saw the RPM time in the chat

Mary Wong:@Lori, all - here is the latest draft of the block schedule for the overall ICANN59 meeting in Joburg: [https://meetings.icann.org/sites/default/files/icann59\\_block\\_schedule\\_v3.3\\_1may17.pdf](https://meetings.icann.org/sites/default/files/icann59_block_schedule_v3.3_1may17.pdf)

Mary Wong:We are hoping to finalize the GNSO schedule soon.

Lori Schulman:You do a fine job.

Paul Tattersfield:Sorry I'm late

Lori Schulman:Thanks.

Paul Keating:I remain very interested

Paul Keating::-)

Paul McGrady:Still waiting for someone to pick up the dial in line...

Kristine Dorrain - Amazon Registry Services:Mary sent a fabulous tutorial about SMD files around last week to the main list.

Kristine Dorrain - Amazon Registry Services:To echo Lori, we may want to still schedule something though

Mary Wong:@Paul M, we're checking

Kristine Dorrain - Amazon Registry Services:But if the broader WG doesn't understand the TMCH/SMD file process, please take advantage of that amazing resource

Paul McGrady:I'm in!

Paul McGrady:@Mary - thanks!

David McAuley:+1 @Paul - thanks Mary

Lori Schulman:Mary: thank you for the note regarding where we may need more data for sunrise questions.

Mary Wong:@Lori, credit goes to Kristine D for those!

Lori Schulman:then thanks to Kristine D.

Paul McGrady:@Phil - any word on Private Protections Subgroup?

Mary Wong:Will do, Phil.

Maxim Alzoba (FAITID):question: does the same level of protection exist in the real world - inclusion of the word in other word marks?

Maxim Alzoba (FAITID):current inclusion of "the" will lead to lots of claim messages which will freak out lots of registrants

George Kirikos:Indeed, Maxim. Too many false positives.

J. Scott Evans:I am in the Adobe Connect room now.

Maxim Alzoba (FAITID):is there a right which prohibits others from inclusion of the words?

John McElwaine:@Maxim the same service does exist in the real world. All trademark watch services offer similar matching rules

George Kirikos:"RED" (for AIDS fundraising), for example, would have numerous matches, including "BARED", "SCARRED", "WATERED", etc.

Maxim Alzoba (FAITID):I think it is an additional service and not rights protection

Maxim Alzoba (FAITID):the reason for issuing lots of claims needs to be well justified

Maxim Alzoba (FAITID):\*reason

Mary Wong:@Michael, so we are talking about adding plurals plus "contains"

George Kirikos:These can already be monitored, using tools like DomainTools, etc.

Rebecca L Tushnet:George :)

Mary Wong:@Michael, are you also talking about both types of notices (Claims Notice plus Notice of Registered Name)?

Maxim Alzoba (FAITID):we should not give more rights than already granted in real world

George Kirikos:For fanciful marks like EXPEDIA, etc., it might make sense.

George Kirikos:If there was a way to draw some objective metric for reducing false positives, it could be workable.

George Kirikos:e.g. check the term against the 100 million+ domains in the .com zone file, and see how many matches there are. "RED" would fail, but "EXXON" or "EXPEDIA" might pass.

Lori Schulman:RED would not be confused with Scared but could be confused with REDdonations.whatever

Maxim Alzoba (FAITID):what do we do with a single letter inclusions into TMCH?

George Kirikos:Right, Lori. Just a matter of how you make it so that the TM Claims notice only appears for REDDomains.junk, vs. something else that is clearly a false positive.

Paul McGrady:+1 Michael on this proposal. Thanks for putting it together.

Mary Wong:Jonathan's proposal is at the bottom of Page 5.

Paul Tattersfield:Good question Maxim

George Kirikos:\*RedDonations.junk, even

Michael R Graham:@Paul -- Thanks.

George Kirikos:TM Claims notice would need to no longer be finite, then, implicitly, in Michael's proposal.

Paul McGrady:@Phil - what does holding the already late additional GI proposal do to our ability to discuss the 2 that are currently on the floor? I don't want to waste time talking today to indecision...

Maxim Alzoba (FAITID):Legacy TLDs have special rights - their RAs are quite different

Scott Austin:That was my question as well thanks Brian.

George Kirikos:Since Legacy TLDs are long past their launch.

Maxim Alzoba (FAITID):and all Sunrises are long in the past, thus ... 90 days are long over

Mary Wong:@George, I suppose that's true for pre-launch mechanisms.

George Kirikos:@Mary: also for post launch, since the TM Claims only last for 90 days.

Mary Wong:True - since that is not a continuing mechanism (at the moment

George Kirikos:Plus, we've already heard from registry operators that some registrars are not participating in new gTLD launches, because of the costs of implementing TM claims notices, etc.

George Kirikos:So, this could have a detrimental effect on existing registrars.

George Kirikos:(as well as registrants)

George Kirikos:Page 6, top left.

Paul McGrady:@Phil - thanks.

George Kirikos:As an aside, does anyone know how many unique GIs exist worldwide? (we know there are millions (tens of millions?) of registered TMs)

Paul McGrady:@Phil - agree. We want to give everyone a chance to present ideas, but they do need to get around to doing so in a timely manner.

Mary Wong:Q7 - proposals received from Kathy and Greg

Lori Schulman:I believe that WIPO keeps GI data

Paul McGrady:@George - likely none. For example, some governments make GI claims to "champaign" but it is also a city in Illinois...

John McElwaine:We covered these proposals last week. Why are we re-covering this?

Mary Wong:@John, I think the idea is to have a really quick summary (2 minutes) to refresh memories and for those who weren't on the call.

George Kirikos:@Paul: sorry, poorly phrased. I meant "unique" as to total number, not "unique" in the sense of non-colliding.

George Kirikos:(e.g. a GI might exist in both Japan and Germany, don't want to double-count them.

Ivett Paulovics:EU IPO has a list of GIs in the 28 Member States of the EU

J. Scott Evans:I object to use of the words "rules". The IRT and the STI provided recommendations.

George Kirikos:i.e. are we up to 1000+ GIs yet? or still in the hundreds? Or into the 10,000+ range?

George Kirikos:lol Kathy

J. Scott Evans:That said, the GAC also provided GAC advice that impacted how the RPMs were actually implemented.

Hector Ariel Manoff:I practice in Argentina and we do not have this kind of mark as described

J. Scott Evans:What Kathy is reading is NOT the law. It is misleading. Words that are dominant portion of a design mark or a stylized word mark are always protected b/c the reality is that consumer use words to communicate.

Lori Schulman:Agree with J Scott.

Mary Wong:The AGB just says "word mark" - will this exclude marks comprised entirely of stylized text?

Steve Levy:I'm jumping to the audio bridge

J. Scott Evans:A will clarify my earlier posting. Are always protectable when they can be protected as a trademark.

J. Scott Evans:@Mary. I would argue not.

Hector Ariel Manoff: The Argentina system of trademark law is very similar that US system in this respect

Jeff Neuman: I think we should refrain from saying whether one entity or another did not follow the guidebook. We should only be focusing on future recommendations in my point of view

George Kirikos: Page 10 of [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_euipo.europa.eu\\_tunnel-2Dweb\\_secure\\_webdav\\_guest\\_document-5Flibrary\\_observatory\\_documents\\_Geographical-5Findications-5Freport\\_geographical-5Findications-5Freport-5Fen.pdf&d=DwlCaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=IntYCrZkD56chphrbu3XRfVONVKPh4X39ilucRbQ5eE&s=UooioBZKq4LlaFaPMAuk9YRVJ-A3OAhLSCIV3Dvr79M&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_euipo.europa.eu_tunnel-2Dweb_secure_webdav_guest_document-5Flibrary_observatory_documents_Geographical-5Findications-5Freport_geographical-5Findications-5Freport-5Fen.pdf&d=DwlCaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=IntYCrZkD56chphrbu3XRfVONVKPh4X39ilucRbQ5eE&s=UooioBZKq4LlaFaPMAuk9YRVJ-A3OAhLSCIV3Dvr79M&e=) mentions there are 4,800 protected GIs in the EUIPO database.

George Kirikos: (more than I expected)

J. Scott Evans: I agree with Jeff Neuman

J. Scott Evans: We need to decide what is the best practice and make sure the TMCH is following that best practice

George Kirikos: @Jeff: it could be an indication that the policy is too vague, if it left too much open to interpretation by the TMCH provider.

Paul McGrady: Agree with Jeff and J Scott. We don't need to blame anyone to determine what the future should look like.

Mary Wong: May staff suggest the following questions for discussion: (1) are marks comprised entirely stylized text included or not; (2) are marks that comprise text plus design (where it can be shown that the text portion is predominant and not disclaimed) included or not; and (3) clarify that marks comprised entirely of design (i.e. figurative marks without letters, wholly device marks) are excluded?

Maxim Alzoba (FAITID): word 'best' surrounded by 7 pineapple images ... gives quite nice TMCH inclusion

Rebecca L Tushnet: Mary, (3) could never get in anyway, could it?

Rebecca L Tushnet: The distinctions must be between (1) and (2)

Lori Schulman: Agree with Mary's questions

Mary Wong: @Rebecca, yes, so that question is probably unnecessary as a question (unless it needs to be reconfirmed :))

Lori Schulman: Rebecca is correct about 3 but maybe we state the obvious anyway just to clarify the other questions

Mary Wong: That's why it's asked as a "clarify that they are excluded" :)

David McAuley: That's how I read Mary's #3 - as a point of confirmation

Rebecca L Tushnet: I'm worried about "predominant" and "can be shown"--who does the showing? What is the standard?

Jeff Neuman: As much as I like challenge processes, I am not sure that would work in this case since the information behind the Sunrise registration is not publicly known until much later if at all.

Mary Wong: @Rebecca, yes that's difficult - which is why we're raising it as a possible question for discussion (rather than just say throw out all marks with some design element even if there is potentially protectable text in them))

Lori Schulman: There is always an element of subjectivity to trademark issues. Not sure how that is eliminated 100% as mechanical rules can yield bizarre results as evidenced in matching rules used by INGO IRT.

Jeff Neuman: In other words, a third party has no information by which to base its challenge of a registration. It could only get this information in a "claims period". But if the registration was taken during Sunrise, there would be no ability to get a claims notice since the domain is "not available".

Michael R Graham:@George -- Sorry, just coming back to chat. What do you mean "would need to no longer be finite"?

J. Scott Evans:I am fine with text only marks. That is, marks whether portrayed in block letter type or stylized fonts.

Jeff Neuman:I am not advocating that the information should be made public at all. Just saying that a post-facto challenge is not really a viable remedy

J. Scott Evans:In the later (stylized) color claims should not prevent the mark from registration in the TMCH

George Kirikos:The challenges could be gamed, if they lead to the domains being transferred. e.g. Team Member #1 uses a bogus TM to obtain a domain. Team Member #2 "challenges" team member #1. Team Member #1 defaults, thereby passing domain name "cleanly" to Team Member #2.

Michael R Graham:@George -- I see now -- you mean they would not be subject to 90 day or other limit if applied to Legacy TLDs. I see point. Thanks.

George Kirikos:(kind of how fraud bidding can occur in domain auctions, where a fraudulent top bidder is associated with an underbidder)

J. Scott Evans:@George. I have been working on ICANN DNS policy since 1998. ALL systems can be gamed. If gaming is found, we need to address the specific gaming not refuse to offer a solution because bad actor abuse the system.

Paul Keating:I Prefer Ms. Kleiman's proposal. It strikes a proper balance.

Paul McGrady: I Prefer Mr. Shatan's proposal. It strikes a proper balance.

Jeff Neuman:In a challenge George, Team Member #2 would have to show that they have legitimate rights to the name under a challenge process. That would be by showing a valid mark, which Team Member #2 in your example would not be able to show

Paul Keating:limiting acceptance to purely text-based marks is also simpler and avoids any subjective issues relative to acceptance.

Greg Shatan:George, team member 2 would have to have a bona fide registration, so I think your scenario doesn't work.

Lori Schulman:Agree with Shatan proposal.

Scott Austin:+1 J. Scott Also I thought I heard Kathy say she would allow a device mark in this context? The TMCH guide treats that as the equivalent of a design mark.

John McElwaine:I support Mr. Shatan's proposal.

George Kirikos:@JScott: a system that eliminates the TMCH and/or sunrise is much harder to game (i.e. there'd be most post-registration UDRPs, but that's a small price to pay overall).

Scott Austin:Agree with Shatan proposal.

J. Scott Evans:Rebecca's point is not exact.

Maxim Alzoba (FAITID):I wonder what happens with emojis ... now in IDN TLDs ... those which allow that

Maxim Alzoba (FAITID):sorry - currently in cctlds , but who knows

J. Scott Evans:@Rebecca. That point can be made of ALL trademarks.

Mary Wong:@Rebecca, what about stylized text without device/design elements?

Maxim Alzoba (FAITID):and legacy TLD ... for example

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Lori Schulman:Or text inside an oval or square?

J. Scott Evans:All infringement is a multifactor test. No one (registrars especially) don't want to have to deal with it. Soooo, we have to deal with a system in the most efficient way possible.

Kathy Kleiman:Here is a clarifying response to Phil's question about actual steps : "Where the national authority has distinguished between standard character marks, stylized marks and design marks, no stylized marks or design marks may be registered in the TMCH database. In addition, where the only text that would be entered into the TMCH has been disclaimed, either as a phrase or as separate words or any combination thereof, the text may not be registered in the TMCH database."

Rebecca L Tushnet:@Mary as I posted to the list the same is true with stylized text.

Lori Schulman:Claims are warnings not decisions.

J. Scott Evans:How about all marks can be registered and use the TM Claims and only text (both block letter and stylized) can use Sunrise?

Lori Schulman:The national authorities make those designations for purposes of coding.

George Kirikos:@Kathy: but then that encourages forum shopping, implicitly "endorsing" jurisdictions where the national authority makes no such distinction.

Phil Marano (Mayer Brown):Isn't the stylized A example somewhat irrelevant in practice given that one character domains are almost always reserved, and to the extent they are released they are released after Sunrise as premium names?

Mary Wong:@Kathy, what will be the scope/definition of "stylized mark" and "design mark"?

John McElwaine:I do not support Kathy typed response

Lori Schulman:Particularly in jurisdictions where design elements are coded and text are not. It's not "legal protection" issue its a coding issue.

Maxim Alzoba (FAITID):due to poor education of registrants - they freak out after getting a claim notice sent to them

Lori Schulman:Do we have evidence of "freaking out"? Even anecdotal"

Michael R Graham:@J Scott -- I was just thinking the same thing: Text + trademarks are only registered for TM Claims, and do not give Sunrise registration rights.

George Kirikos:@Lori: yes, if you do a search.

Lori Schulman:Where is "freaking out" evidence?

Lori Schulman:Again, differentiating between text, stylized, etc. has a lot to do with coding for searches rather than actual issues of what may or not be protected.

George Kirikos:[https://www.reddit.com/r/Bitcoin/duplicates/650867/trademark\\_for\\_blockchain/](https://www.reddit.com/r/Bitcoin/duplicates/650867/trademark_for_blockchain/)

Michael R Graham:@Paul -- Agree with dual purpose of TM Claims Notice

Paul Keating:@Paul, if notice is teh main issue then limit the sunrise application and limit the TMCH to a notice provider

Maxim Alzoba (FAITID):+1 @Greg

Lori Schulman:Just looked at that. Not sufficient for me to understand the response of a set of end users.

Mary Wong:@Lori, that's why distinguishing between a "purely standard word/character mark" and a "stylized text only" mark is difficult. it's different from distinguishing between these two types of mark and a mark that includes both text and design elements.

Jeff Neuman:Paul and Kathy are the original parents? I have already been forgotten.....

Lori Schulman:Mary, we agree on that.

Maxim Alzoba (FAITID):so the Claim notice is more informative and in the end has - did you understand it?

Lori Schulman:So I err on side of inclusion not exclusion.

Lori Schulman:Agree, exclusion is too great with Kathy's proposal.

David McAuley:Jeff, you have a right to be forgotten, no?

Colin O'Brien:I agree with Lori inclusion not exclusion

Paul McGrady:@Paul K - I have no problem bifurcating this topic along Claims and Sunrise lines - similar to what Michael G did in his plurals/goods&services proposal. Can't know for sure if we can reach agreement on the outcomes, but by all means, let's talk through it.

Jeff Neuman:I am only forgotten when I dont want to be :)

Lori Schulman:Good point, Paul Mc.

David McAuley:LOL

Scott Austin:There is a convention used in the TMCH derived from TM practice in multiple jurisdictions which the TMCH refers to as the "name" of the trademark. Is that a translation? It is a convention based on the literal element of the mark that assists in searching. Would be allowing domainers to search for stylized word rademarks named in the database to purchase as domains but deny those same mark owners protection of those same words by notice of such purchase. If the words of a registered mark can be purchased as a domain name why deny its owner protection against abuse by mere notice?

Jeff Neuman:Like Rodney Dangerfield....I get "no respect"

George Kirikos:Here's one where a person was scared to register NYC.beer:

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Paul Tattersfield:Thanks George

Jeff Neuman:@George .... That is a proper trademark owned by the City of New York as they should have been warned

George Kirikos:Far too many "weak" marks like "NYC" scarring registrants.

Rebecca L Tushnet:But a bad bright line is not good for registrants when they apply for domain names.

Lori Schulman:I see that. Then I would argue that the prospective purchase of nyc.beer has the responsibility to learn where his rights might lay.

George Kirikos:\*scaring, even

George Kirikos:Although, some registrants who are scared, might also be scarred. :-)

Greg Shatan:I would not characterize the implicit message of the claims notice somewhat differently -- not quite so scary, especially if you have your own rights to rely on or you can see from the TMCH notice that the claimed mark is used very differently from that of the applicant.

Kiran Malancharuvil 2:+1 Michael

Lori Schulman:We all enter this sphere at our own risk and yes, many are scarred after years of this debate.

George Kirikos:hehe Lori

Rebecca L Tushnet:I agree scope isn't for the TMCH; the question is whether the national authority registered the thing that is to be entered into the TMCH (or a court case recognized it)

Lori Schulman:We are not creating trademark rights.

Lori Schulman:No we are not.

George Kirikos:For NYC.beer, I actually looked into the WHOIS history this past weekend, and it doesn't appear that the Reddit poster followed through with the registration (someone in Cleveland ended up buying it instead).

Maxim Alzoba (FAITID):we should not

Lori Schulman:We are verifying TM rights.

Greg Shatan:I believe my proposal carries out what's set forth in the AGB.

George Kirikos:(via DomainTools WHOIS history)

Michael R Graham:@Rebecca: Exactly -- and we should not ask or require TMCH to analyze.

Mary Wong:Some distinctions to consider: (1) pure word/character marks vs stylized text marks; (2) stylized text comprising descriptive words vs stylized text not containing descriptive words; (3) word marks (with or without stylization) vs word+design mark

Lori Schulman:Text marks offer the greatest protection -- you can impute any style.

Lori Schulman:Stylization narrows for side by side comparisons on product packaging not domains

Paul Tattersfield:that's right George it pushes registrations to professional (bulk holder) registrants rather than people looking to set up a new business

George Kirikos:+1 Kathy. We shouldn't "solve" a problem created by those TM applicants who created a problem for themselves.

Kathy Kleiman:The choice is totally that of the Trademark Owner

Kathy Kleiman:What they choose to register and how they choose to register it is their option.

George Kirikos:Exactly, Kathy.

Greg Shatan:This is a problem we are creating for them, by limiting protection of stylized and composite marks beyond that of the trademark laws.

Lori Schulman:Choice is not always the choice of TM owner where certain jurisdictions require registration based on how mark appears on packaging...a brick and mortar issue not a domain issue

Lori Schulman:words are words

George Kirikos:@Greg: We're not creating any "problem" for them. The TMCH complements existing law, doesn't replace all other enforcement mechanisms.

Paul McGrady:@Kathy - who does it being written in cursive change the nature of the mark? Do we really draw the line because the DNS doesn't offer cursive fonts?

Greg Shatan:TM owners should be entitled to rely on stylized and composite registrations for entry into the TMCH as they do in using and enforcing their marks.

Paul McGrady:+1 Greg

John McElwaine:Can anyone provide the reference to the 90% refusal to continue with registration stat?

Michael R Graham:@Lori -- +1

Mary Wong:Isn't there a distinction to be made between excluding a stylized text mark where the text itself would have been distinctive (it's just that the TM owner chose to register a stylized text version), and excluding a stylized text mark where the text is descriptive?

George Kirikos:Refusing to give someone an "advantage" doesn't equate with "creating a problem".

Mary Wong:@John, it's in the Analysis group report.

Michael R Graham:@Lori -- Would you please comment on the "as appears on packaging" requirement and consequences?

George Kirikos:We should reserve the "advantages" to strictly defined criteria.

John McElwaine:@ Mary Thanks

Greg Shatan:If we limit the TMCH to text-only standard character marks is creating a problem.

Kristine Dorrain - Amazon Registry Services:Kathy, penalizing the owner of a single mark that happens to be a stylized font likely will have a disproportionate impact on SMEs. Big corporations have deeper pockets to get an array of rights. I think it's potentially dangerous to assume that all brand owners are Fortune 100 companies with trademark portfolios.

Paul McGrady:@Paul k. - too bad no data along those lines was collected at the time.

Scott Austin:+1 Kristine

Paul McGrady:+1 Kristine - the SMEs always get ignored in ICANNland. Agree we should not do that here.

Salvador Camacho:Sorry, I have to leave for another meeting but I will check the further emails. Have a great day!

Terri Agnew:finding the line

Paul McGrady:Is anyone else hearing that beeping?

Michael R Graham:@Kristine -- My concern as well.

Paul Keating:Im sorry but I must leave the call for other matters.

Terri Agnew:we are trying to find the line

Greg Shatan:With regard to abandonment rate, we have 0% idea why these were abandoned or who (or what) abandoned the application.

George Kirikos:Might be Scott Austin? (note the icon next to his name?)

Kathy Kleiman:Sorry Scott

George Kirikos:Oops, I guess he's speaking.

Greg Shatan:Mary, agree with that distinction.

George Kirikos:Domainers don't equate with "bad faith users".

George Kirikos:Stop lumping them in together, please.

Michael R Graham:As to 94% figure -- without context or comparison the figure really has no significance.

Paul McGrady:+1 Scott - cybersquatters (not legit domainers) will have a playbook about what to squat on

Paul McGrady:+1 Phil - not the same folks.

Rebecca L Tushnet:What's the playbook? Are TMCH refusals public?

Kristine Dorrain - Amazon Registry Services:Scott, if a domain name registrant did purposely target a logo for cybersquatting, how would putting that logo in the TMCH assist the brand owner. That person is clearly hell-bent on cybersquatting and is highly unlikely to be deterred by a claims notice....I'm not following your suggestion, I'm afraid.

Paul McGrady:@Rebecca - no, but trademark records are

Kathy Kleiman:From my experience, it is the SMEs who will be using the same words for their names, goods and services.

Paul McGrady:@Phil - we have to be careful. We don't actually know that.,

John McElwaine:on 0.3% claims notices were ever challenged. So you could say that a vast majority of the abandonments were legitimate

George Kirikos:We know from the top 10 of The Analysis Group that folks are attempting to register common dictionary words. Hopefully we'll see the top 500 soon.

Michael R Graham:@John -- Correct!

Scott Austin:@Kristine They can search the database based on the literal element of a words plus design mark then purchase the domain name for the literal elements before the TM owner does.

Greg Shatan:Any conclusions about abandonment are idle speculation. We don't know if the rate should be 96%. Even calling it "high" is assuming facts not in evidence.

Michael R Graham:@George -- and are these "common dictionary words" registered as trademarks? If so, I do not see your point.

George Kirikos:@Michael: yes, they are, because they match something in the TMCH.

George Kirikos:e.g. ONE, HOTEL, LUXURY, etc.

Kristine Dorrain - Amazon Registry Services:@ Scott, so your comment was towards Sunrise, not Claims. Ok, thanks for clarifying.

Paul McGrady:@Greg - +1. beyond idle at this point since we have addressed that issue so many times already. Not just idle - wasteful.

Michael R Graham:@Steve Levy -- +1

Maxim Alzoba (FAITID):THE ?

Scott Austin:@Kristine the literal element of the logo (stylized text or words plus design) would be used to identify the "name" of the registered mark in the (e.g.) USPTO TESS database.

Mary Wong:Note that we don't know whether the "dictionary words" were registered as word marks somewhere, or as stylized text marks, or as text+design marks (without disclaimer).

Michael R Graham:@Mary -- Understood. I think the disclaimer exception would help here. Applicants ALWAYS have the option of declaring there's no likelihood of confusion and proceeding with application.

Jeff Neuman:How many marks in the TMCH were based on design or stylized marks?

Paul McGrady:+1 Lori.

Kathy Kleiman:@Jeff: that would be great to know!

Mary Wong:@jeff, taht's what staff is noting - we don't. The question is, whether excluding all forms of stylization and marks that are word+design is the right solution.

Maxim Alzoba (FAITID):+1

Lori Schulman:I would not say "too far".

Jeff Neuman:I do not agree with saying that they have a bit too far a field

Jeff Neuman:I thought we agreed on focusing on the the future

Jeff Neuman:not the oast

Greg Shatan:@Mary, the other question is whether including all forms of stylization and marks that are word+design is the right solution.

Jeff Neuman:past

Lori Schulman:INTA is reviewing the glossary and will provide input based on established TM

Paul McGrady:@Mary & Phil - INTA is looking over the draft glossary and will comment

Rebecca L Tushnet:There's no way to evaluate the current operations without looking at the current rules & examples given by Deloitte

Lori Schulman:Agree with Rebecca that we should look at rules and examples but not assume "too far" or expanding right.

Lori Schulman:+1 Michael

Kathy Kleiman:Both proposals before us to note that Deloitte has gone too far...

Mary Wong:We know what Deloitte is doing, generally - that's in the TMCH Guidelines. Not sure that we can evaluate whether they are applying those standards uniformly, consistently and correctly.

Lori Schulman:No consensus that Deloitte has gone too far

Michael R Graham:Should we consider information/metrics that we need or should request in order to answer the questions we have been chartered to answer?

Scott Austin:@George the bad faith portion of domain purchasers was my intention, which is I believe the target of the RPM

John McElwaine:I assisted with the drafting of Greg's proposal and do not agree that Deloitte has

Maxim Alzoba (FAITID):shall we ask for a poll on that (or degrees of "too far/not too far/OK) ?

John McElwaine:gone to far

Lori Schulman:Maxim - agree that we have to take temperature of the entire working group not the proposals of a few

Maxim Alzoba (FAITID):@Lori - binary questions quite often are bit misleading

Scott Austin:+1 John

Mary Wong:Online survey would be better, yes

Mary Wong:And on a specific proposal or alternative sets of proposals

Lori Schulman:@maxim - agree which is why we need options. I would not support any suggestion that Deloitte is out of scope or "too far"

Kristine Dorrain - Amazon Registry Services:+1 Paul.... sunrise and claims are separate

Rebecca L Tushnet:Lori, do you think that Deloitte should have accepted all the examples in the annex? You may well think that--just trying to be clear.

Maxim Alzoba (FAITID):@Lori , also adding field " comment " might help to understand other levels of support/non-support

Greg Shatan:I would also mention my ad hoc third proposal, which is for the current practice to be better carried out.

Michael R Graham:@Rebecca -- What are the examples -- can you point to them?

Rebecca L Tushnet:The ones sent to Deloitte--they should be on the wiki or we can ask Mary to recirculate.

Michael R Graham:@Rebecca -- Thanks, I will look for them.

Mary Wong:They're on the wiki - I'll send the link around again

Michael R Graham:@Mary -- Thanks!

George Kirikos:The Deloitte examples are at: <http://mm.icann.org/pipermail/gnso-rpm-wg/2017-April/001583.html>

Mary Wong:@Michael, there you go! Thanks, George.

George Kirikos:Also at: <http://mm.icann.org/pipermail/gnso-rpm-wg/2017-April/001573.html>

Julie Bisland:Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group Wednesday, 17 May 2017 at 17:00 UTC for 90 minute duration.

Mary Wong:1700 UTC

Kathy Kleiman:To anyone attending GDD - enjoy!

Lori Schulman:My regrets. It's INTA annual meeting time.

George Kirikos:(2nd link starting from page 4 or so)

Lori Schulman:Many will be on the road.

Lori Schulman:I will be.

Paul Tattersfield:Would a suggestion of extending proof of use to Claims Notices require a formal proposal?

Julie Bisland:Lori, I've noted your apology.

Lori Schulman:Thank you.

Mary Wong:The updated Work Plan doesn't have a meeting on 24 May b/c of INTA

Lori Schulman:I will miss 2 weeks then.

George Kirikos:Bye folks. Have a great two weeks!

Maxim Alzoba (FAITID):bye all

Lori Schulman:bye

Kathy Kleiman:@Paul T: probably

Paul McGrady:Thanks Phil. Great call!

Paul Tattersfield:thanks Kathy

Paul Tattersfield:Bye all

Georges Nahitchevansky:Bye everyone

Greg Shatan:Bye all.

David McAuley:Thanks Phil, staff, good bye all