

	Original Charter Questions	Updated Question	Sub Team Comments/Discussion	Data Available/Collection Needed?
1.	<p>Does a Trademark Claims¹ period create a potential “chilling effect” on genuine registrations, and, if so, how should this be addressed?</p> <p>What is the effect of the 90-day Trademark Claims process?</p> <p>Should the Trademark Claims period be extended beyond ninety (90) days?</p>	<p>1. <u>Is the Trademark Claims service having its intended effect, specifically:</u></p> <p>a. <u>Is the Trademark Claims service having its intended effect of deterring bad-faith registrations and providing legal notice to innocent infringers?</u></p> <p>b. <u>Is the Trademark Claims service having any unintended consequences, such as deterring good-faith registrations?</u></p>	<p>1a (KD): Since we don't have a list of marks in the TMCH to compare to the list of URS cases, suggest getting a researcher to review all URS cases to see if the Examiner noted that the brand owner relied on an SMD file.</p> <p>From the Forum's site: There are 698 URS cases and 15 of them contain the term "SMD."</p> <p>1b (KD): Of those who abandoned: How many went thought about it and went back later? (that is, it made them think but they made an educated decision)</p>	<p>1 (generally):</p> <p>1a: Numbers: URS cases corresponding to marks for which a claims notice was or would have been issued had the registration taken place during the notice period; URS cases not corresponding to such marks (to get a sense of the relative contribution of the marks in the TMCH to the overall set, though this may require further analysis to find non-TMCH marks to compare fairly)</p> <p>1b: Anecdotal data from registrants or would-be registrants who received claims notices. More granular data about the percentage of those who abandoned attempts in response to a notice based on words like “cloud” versus those who abandoned attempts in response to “20th Century Fox.”</p> <p>Others: Consumer survey evidence, perhaps via Amazon Turk or online survey group, using existing notice and perhaps other alternatives to test comprehension of the Notice among individuals likely to consider registering a domain name</p>

¹ The Sub Team agrees that, as used in this list of Charter questions, the phrase “Trademark Claims” covers both the pre-registration Claims Notice that is sent to a prospective registrant who is attempting to register a domain name that matches a trademark label in the TMCH, and the post-registration Notice of Registered Name that is sent to the relevant rights-holder when the registrant proceeds to complete the registration.

				<p>Data available in the Analysis Group revised report pertinent to 1a/1b:</p> <ul style="list-style-type: none"> ● 125.8 million records of Claims Service downloads between October 4, 2013 and February 24, 2016 ● Unique download² requests (after excluding duplicative records): 113.2 million ● Number of unique verified trademarks in the TMCH downloaded during the Claims Service period (at least once): 26,405 out of a total of 33,523 current and verified records in the TMCH ● About 17,500 disputes (UDRP/URS) between January 2014 – December 2015 ● 12.9% of disputes matched Claims Service notification (dispute rate of domains that trigger Claims Notice) ● Abandonment rate (all downloads of trademarks from IBM that are not associated with a domain name registration): 94%³ ● Percentage of new gTLD domain name registrations that resulted in Claims Notice generation and subsequent disputes: 0.3% ● Claims Service registration abandonment, completion and dispute rates (October
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² Unique downloads are defined as the unique combination of trademark string, downloading registrar ID, and download time stamp.

³ Due to limitations of the data, the Analysis Group analyses of the data required an assumption that each download is associated with a registration attempt (and was not downloaded by a registrar for a purpose unrelated to domain name registrations). If this assumption is incorrect, then their results will exaggerate the size of any observable registration-deterrent Claims Service effect.

				<p>2013 - February 2016):</p> <p>a. 1,696,862 out of 1,810,546 attempted registrations generated Claims Notices and were abandoned (93.7%)</p> <p>b. 113,338 out of 1,810,546 attempted registrations generated Claims Notices, were not abandoned, and were not subsequently disputed (6.3%)</p> <p>c. 346 out of 1,810,546 attempted registrations generated Claims Notices, were not abandoned, and were subsequently disputed (0.0%)</p> <p>d. The registrations in the Claims Service data account for approximately 5% of 2.2 million registrations made in new gTLDs during Claims Service periods that occurred between October 2013 and February 2016 (i.e., the time period covered by the Claims Service data)</p>
2.	<p>Should the Trademark Claims period continue to apply to all new gTLDs?</p>	<p>2. If the answers to 1.a. is "no" or 1.b. is "yes", or if it could be better: What about the Trademark Claims service should be adjusted, added or eliminated in order for it to have its intended effect?</p> <p>a. Should the Claims period be</p>	<p>2a: (KD) why limit to URS, which is used rarely? Is it because there is too much UDRP data?</p> <p>Ideal research (because data doesn't yet exist in aggregated form): List of new gTLD domains subject to URS (and UDRP?) between 2013-present and note their registration date as compared to the end of claims period.</p>	<p>2 (generally):</p> <p>2a: Is there a spike in registrations that are ultimately subject to the URS after the Claims period ends?</p> <p>2b:</p>

		<p>extended - if so, how long (up to permanently)?</p> <p>b. Should the Claims period be shortened?</p> <p>c. Should the Claims period be mandatory?</p> <p>d. Should any TLDs be exempt from the Claims RPM and if so, which ones and why?</p>	<p>2b:bullet1:(KD): I think this is misleading because URS/UDRP cases are often not filed until there is a use made of the domain name, which can be some time after it's registered.</p> <p>Amr: The AG did in fact point out your same observation as one of the potential limitations in their study, Kristine - that disputes might have been submitted after February 2016.</p>	<p>Data available in the Analysis Group revised report pertinent to 2a/2b:</p> <ul style="list-style-type: none"> ● Dispute rate for exact-match strings registered during Claims Service period/Number of exact-match registrations in the same period (October 2013 - February 2016): 323/136,732 (0.24%) ● Dispute rate for exact-match strings registered within 90 days after the Claims Service period/Number of exact-match registrations in the same period (October 2013 - February 2016): 62/47,606 (0.13%) ● Exact-match registrations during and after Claims Service period by non-trademark holders/Month from the beginning of the Claims Service period (estimated numbers – <i>please refer to Figure 1 on page 20 of the AG revised report</i>): <p>→ Beginning of Claims Service Period</p> <p>Month 0: 59,000</p> <p>Month 1: 35,000</p> <p>Month 2: 19,000</p> <p>→ End of Claims Service Period</p> <p>Month 3: 17,000</p> <p>Month 4: 14,000</p> <p>Month 5: 14,000</p> <p>Month 6: 10,000</p> <p>Month 7: 10,000</p> <p>Month 8: 9,000</p>
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		<p>3. Does the Trademark Claims Notice to users meet its intended purpose?</p> <ul style="list-style-type: none"> a. If not, is it intimidating, hard to understand, or otherwise inadequate? <ul style="list-style-type: none"> i. If inadequate, how can 	<p>KD: All of 3: Ideally, we present the claims notice to average internet users and get their opinion (i.e. a survey). To address 3c, we should include people from other regions, using the TMCH's translations.</p>	<p>3 (generally): See 1</p> <p>3a:</p> <p>3b:</p>

		<p>it be improved?</p> <p>b. Does it inform potential registrants of the scope and limitations of trademark holders' rights?</p> <p>i. If not, how can it be improved?</p> <p>c. Are translations of the Trademark Claims Notice effective in informing potential registrants of the scope and limitation of trademark holders' rights?</p>		<p>3c:</p> <p>Others:</p>
		<p>4. If the Review of all RPMs in all gTLDs PDP determines that non-exact matches of trademarks should be allowed inclusion in the TMCH, should the TM Claims Notice be changed, and if so, how?</p>	<p>KD: Depends on the scope of the changes.</p>	<p>Re-test claims notice language with relevant criteria.</p>
		<p>5. Should the Trademark Claims period continue to be uniform for all types of gTLDs in subsequent rounds?</p>	<p>Mary Wong: Staff added the "continue to be" phrase to reflect Kristine's comment that this question should be focused on whether or not to change the status quo.</p>	

			<p>KD: we could solicit feed from ROs about if they think something about their business model should exempt them from claims and why.</p>	
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