

## PROPOSALS RECEIVED FROM WORKING GROUP MEMBERS ON “NON-EXACT” MATCHES – 8 JUNE 2017

Proposal from Michael Graham:

***The TMCH Rules should be revised to require Trademark Claims Notices be issued not only for Domain Names that consist of the Exact string of TMCH Trademarks, but also of any Domain Name that includes anywhere in the string the Exact string of TMCH Trademarks.***

In addition, we believe the success of the Trademark Claims Service in enabling both trademark owners and domain name applicants to learn of potential conflicts from an early stage in the application process -- when changes can be made or applications either abandoned or continued with the least expense of time, effort, or disruption – would support expansion of the service beyond the new gTLDs. For the same reasons, we propose the following:

***The Trademark Claims Service and TMCH registration program should be expanded to apply to all Legacy TLDs as well as New gTLDs.***

Proposal (List) from Greg Shatan:

This proposal recommends the incorporation of the following non-exact match criteria into the TMCH services to be used for Claims and/or Sunrise:

1. **Missing-dot typos:** These variations simulate an Internet user omitting a period in a domain address (e.g., www.domain.com becomes wwwdomain.com). In the first variation, “www” is appended to the beginning of the trademark string. In the second variation, “com” is appended to the end (e.g., [www.domain.com](http://www.domain.com) becomes www.domaincom.tld).
2. **Fat-finger Typos:** These variations take advantage of “fat-finger” characters (the characters immediately surrounding a character on the QWERTY keyboard). These variations simulate an Internet user accidentally hitting a nearby key when typing a domain name by replacing one character in a trademark string with each possible fat-finger character.
3. **Character Duplication:** For every character in the original string, a character is duplicated (i.e., “domain” becomes “ddomain,” “doomain,” etc.).
4. **Character Swaps:** For every adjacent pair of characters in the original string, their positions are switched (e.g., “domain” and “odmain”).
5. **Character Removal:** One at a time, remove each character from the original string (e.g., “domain” becomes “omain,” “dmain,” etc.).
6. **Plurals:** An “s” is added to the end of the original string.
7. **Digit Addition:** A “1” is added to the end of the original string.
8. **“Cheap” and “Buy”:** “Cheap” is added to the beginning of each string and to the end of each string, respectively. The same is also done with “buy.”
9. **Non-Latin Character Substitutions:** In Latin-character strings, one or more characters is replaced by a non-Latin character that appears similar to the replaced character(s) (e.g., a Latin character is replaced by a similar or identical character in the Bulgarian or Cyrillic alphabet).
10. **Latin Character Substitutions:** A character is replaced by one or more characters that appear similar to the replaced character (e.g., “w” is replaced by “vv”, etc.).
11. **Goods and Services and Industry Keywords:** A keyword associated with the goods and services sold by the trademark holder, or with the trademark holder’s industry, is added to the end of each original string (e.g., “apple-computer” for the trademark string “apple” registered by Apple, Inc.). Use of the descriptions associated with the Nice classification codes is not

recommended for various reasons.<sup>1</sup> Similarly, wholesale adoption of goods and services descriptions in trademark registrations that are not directly derived from the Nice classifications is also not recommended. Rather, the recommendation is that a limited number of keywords be developed for each industry, using information from industry representatives, brand owners, watching and monitoring services, court and UDRP records, etc., that will focus on the type of keywords actually used in cybersquatting. These lists will need to be reviewed in a multistakeholder process.

12. **Commonly Abused Terms:** A commonly abused term, such as CAREERS, JOBS, or HOME is added to the end of each original string . A list of commonly abused terms would need to be developed; as with goods and services and industry keywords, ample resources exist from which these list can be created.

#### Suggestions from Brian Winterfeldt:

1. Telescoped Terms: These variations leverage TLD extensions as part of an identical or non-exact match trademark. For example, COCA-CO.LA, SIE.MEN and NES.CAFE.
2. Related Brand Names: These variations either improperly attempt to use trademarks in a generic sense, or create consumer confusion concerning the relationship between two or more otherwise unrelated trademarks. For example, GOOGLELINKEDIN.COM.

---

<sup>1</sup> The descriptions associated with the two-digit Nice codes provide very high level industry characteristics that are not always product names that are likely to be included in domain names. For example, Nice Class 1 is described as “Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.” Also the language of these descriptions is often formalistic.