

	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 notice to potential registrants?</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>(MG): Ask URS filers if their/their client's mark was in the TMCH.</p> <p>1b (KD): Of those who abandoned: How many 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> <p>Discussion on data (from registrars) concerning the abandonment rate:</p> <ul style="list-style-type: none">• What is the abandonment rate associated with reasons other than a Claims notice being triggered? what is the difference between abandonment rates between those who trigger Claims Notices, and those who don't?• Analysis Group did reach out to registrars and registries, but was not able to acquire data on an abandonment rate of domain name registrations that did not trigger a Claims Notice• Registrars may not be agreeable to providing data on abandonment rate not associated
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				<p>with a Claims Notice - may involve competitive issues</p> <ul style="list-style-type: none">● A high-level set of data concerning abandonment rate of domain name registrations that did not trigger a Claims Notice might be obtainable from registrars, but need to first determine to what extent this would be helpful in providing/influencing direction to the PDP WG● Would registrars be willing and able to share anecdotal data on why potential registrants did not complete registrations – was abandonment the result of a Claims Notice being presented, or was it due to other reasons?● At what point in the registration process is a trademark record downloaded? Does this happen when domain names are placed in carts, or does it happen when payment/attempted registrations are done later in the process?● Many registrars take orders for domain names before general availability – preorders do not normally result in Claims notices being presented until within 48 hours of general availability – how does this contribute to the abandonment rate?● An overview of how the general registrar processes leading up to Claims Notices and checkout processes work (during pre-order, general availability, after Claims period has
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				<p>expired) might be helpful, and possibly obtainable</p> <ul style="list-style-type: none"> • Would registrants be willing to participate in surveys during the next round of new gTLDs – for anecdotal evidence on why registrations are being abandoned? • There is a process by which GNSO WG's can acquire data either internal or external to ICANN (possibly via third-parties), if the data is substantively helpful in answering PDP Charter questions - this data can be anonymized • Not all registrars keep records of when and why abandonment takes place – might be more achievable to keep records on this in future rounds, than rely on past data • Can the Analysis Group provide anonymized data (percentages, not raw numbers) on specific registrars that downloaded trademark records, without providing registration services during the Claims Period?
2.	Should the Trademark Claims period continue to apply to all new gTLDs?	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>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</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>a. Should the Claims period be 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>compared to the end of claims period.</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>
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		<p>3. Does the Trademark Claims Notice to users meet its intended purpose?</p> <p>a. If not, is it intimidating, hard to understand, or otherwise</p>	<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>inadequate?</p> <p>i. If inadequate, how can 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>3b: What is the correlation between domain names that were registered during the Claims Period, and subsequently subject to a UDRP/URS? Objective is to determine if the registrant was on notice when the domain was registered, then subsequently resulted in a UDRP/URS filed</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</p>	<p>Mary Wong: Staff added the "continue</p>	

		<p>Claims period continue to be uniform for all types of gTLDs in subsequent rounds?</p>	<p>to be" phrase to reflect Kristine's comment that this question should be focused on whether or not to change the status quo. 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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