Michelle DeSmyter:Welcome to the Review of all Rights Protection Mechanisms (RPMs) Sub Team for Trademark Claims on Friday, 16 June 2017 at 16:00 UTC

Michelle DeSmyter:Agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_-5FkjwAw&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGlBLwwwehFBfjrsjWv9&m=vIzIINx8AG7ijzn4zzo5T2dG-019GlVizOk_W8s_aAw&s=hmCPyd5VtqSrwEGvoUP3rdYZWIWVV8ZnbgcT41kB-Ec&e=

Greg Shatan:All, I just sent around a further revision of the questions, using Justine's version as a jumping off point. Sorry not to get it done further in advance of the call.

Kristine Dorrain - Amazon Registry Services:thanks Greg, we'll include that in our discussion today.

Kristine Dorrain - Amazon Registry Services:I'm hearing a little echo....just me?

Amr Elsadr:Kristine's additions to the rest of the questions are in red font in the text, but may not be very clear.

Kristine Dorrain - Amazon Registry Services:4. Does the exact match criteria for Trademark Claims Notices limit its usefulness?   a. What is the evidence of harm under the existing system?.i. Are there studies, reports or articles discussing the harm of typosquatting and other forms of non-exact-match cybersquatting?ii. What is the actual experience of brandowners?iii. What is the link between non-exact-match cybersquatting and phishing,malware distribution, botnets, counterfeiting, and other related harms?iv. What information can be gleaned from UDRP/URS studies? What are the limitations of relying on UDRP/URS studiesv. What other sources of information should be used to explore the level of harm?   b. Should the matching criteria for Notices be expanded?   i. If so, how (which criteria) and why?A. Review each suggested non-exact match   ii. What results (including unintended consequences) might each suggested form of expansion of matching criteria have?   iii. What balance should be adhered to in striving to deter bad-fa

Amr Elsadr:I have Greg's proposal ready for upload into the AC room, so let me know when.

Greg Shatan:Thanks, both Amr and Kristine. Probably easier to read in the AC room version.

Michael R Graham:Support Greg's version limited to: 4/a/b/c/d/i/ii/iii and not the other data subquetions.

Michael R Graham:"Subquestions"

Philip Corwin:Agree with Greg that we should examine different

types of non-eact matches separately, not as an indivisible whole

Philip Corwin:Don't agree with proposed 4iii -- we are tasked to look at protection of TM rights, not other types of harm

Kristine Dorrain - Amazon Registry Services:Agree

Michael R Graham:@Phil and Greg -- Agree: Proposed or Exposed other non-exact matches types should be subject of separate, specific queries.

Greg Shatan:Phil, we can't look a this in a vacuum.

Philip Corwin:We also need to add looking at what types of changes in language of notice to domain registarnts would need to be made for different types of non-exact matches

Michael R Graham:Agree with Kristine re: data gathering items.

Rebecca Tushnet:+1 Michael

Michael R Graham:@Phil -- Woud that be 4.d.i.?

Amr Elsadr:Current google doc with all the questions here: https://urldefense.proofpoint.com/v2/url?u=https-3A__docs.google.com_document_d_13u5h6Wh6QUqW0vzT5q0zCTEmjMQ8-5FiCat6ZehLHQC7Q_edit&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWGlBLwwwehFBfjrsjWv9&m=vIzIINx8AG7ijzn4zzo5T2dG-O19GlVizOk_W8s_aAw&s=ArJ_W1KRj6l-hvdkb9tO2HHXiGdjNJ4VMp0i4xUAnBA&e=

Philip Corwin:@Michael -- yes, but also need to examine whether one master notice is sufficient or whether different notice would need to be generated for different types of matches

Kristine Dorrain - Amazon Registry Services:Thanks Phil...that was a part of the original Qs that may have been left behind.

Greg Shatan:The desk chair's not even cold yet....

Greg Shatan:We could ask for the actual experience and practices of cybersquatters as well.

Greg Shatan:I guess they are a subcategory of registrants....

Rebecca Tushnet:I use a walking desk...

Amr Elsadr:Welcome back, Michael.

Rebecca Tushnet:But indeed it could be interesting to find out how many malware etc. distributors use nonexact matches

Kristine Dorrain - Amazon Registry Services:Amr: Two suggestions I noted so far. 1. 4(a) should include the same analysis for the current claims system as well as the proposed ones. and 2. 4(b) should include a reference to an analysis of each proposed non-exact match.

Kristine Dorrain - Amazon Registry Services:Third suggestion: Should the text of the claims notice be different for various matches/situations?

Rebecca Tushnet:+1 Phil

Rebecca Tushnet:That's a good point--some have suggested in the main group that notices should only go to one side, and we should

add a question about that (though I doubt I will support that in the end)

  Michael R Graham:@Kristine -- Agree

  Michael R Graham:NOTE: Should we identify any terms in our questions that need definition/clarification for the main group? I'm thinking of the need to be sure we change "Registrant" to "Applicant" when referring to entities that applied for a domain but abandoned the application.

  Michael R Graham:@Susan: Agree need to keep our eye on Consumer Protection -- this consideration should be part of the main group's answers to questions.

  Amr Elsadr:@Michael: Justine had the same observation RE: "users" in question 3, which might more appropriately be changed to "potential registrants".

  Philip Corwin:To clarify, I stipulated that other types of harm may be associated with a cybersquatted domain. So that any analysis of the incidence of typosquats will implicitly capture that. What I don't favor is detailed inquiry into the degree to which a type of non-TM harrm is associated with a partiucular form of non-exact match.

  Kristine Dorrain - Amazon Registry Services:Amr, I think we need to stick with the definition we've agreed to

  Michael R Graham:@Amr -- I would use the more accurate "applicants" -- "potential registrants" suggests that EXCEPT FOR notice they would have been able to register and would have proceeded to register the applied for domain names.

  Kristine Dorrain - Amazon Registry Services:We do want to review the impact of the Claims notice on both types of users.

  Greg Shatan:I am referring particularly to spearphishing and fraud.

  Michael R Graham:@Kristine -- Two Suggestions: Looking at Question 3, if we include question re: users, should we also include question about post-registration notice to TMCH Registrant? Also, change 3.c. "potential registrants" to "applicants"

  Susan Payne:phil I can assure you that some of the most effective scams involve the typo domains because the recipient who makes a cursory check of the domain reads it as the name they are expecting

  Michael R Graham:@Phil -- Agree as clarified. Thanks.

  Susan Payne:I think we have a difference of iopinion on what is a trade mark harm.. potential customers who are scammed create a major reputational risk for brands in addition to the harms to the member of the public

  Greg Shatan:Superannuated hand.

  Michael R Graham:@Susan -- That is exactly correct.   I believe

TM owners would agree that a vast majority, if not all of identified phishing schemes targeting their customers and suppliers use domain names that incorporate known or TMCH-registered trademarks.

   Kristine Dorrain - Amazon Registry Services:https://docs.google.com/document/d/13u5h6Wh6QUqW0vzT5q0zCTEmjMQ8_iCat6ZehLHQC7Q/edit

   Philip Corwin:Again, I stipulated for the record that any or all of those harms may be associated with typosquatted domains. I'm not saying that shouldn't factor into our analysis of each type of non-exact match. I just don't favor extended inquiry into the extent to which each type of further harm is associated with a partucular form of NEM, especially as I doubt that any data available is that granular.

   Amr Elsadr:Actually, with the data we have from the AG, we can't even confirm that all trademark records downloaded and contributing to the abandonment rate had any association with attempted registrations at all.

   Philip Corwin:what is the alternative term?

   Amr Elsadr:"applicant"/"domain name applicants"/"cart holders"

   Philip Corwin:I'm fine with DN applicant

   Philip Corwin:Don't like cart holder at all

   Philip Corwin:Indeed, if the registration is deterred by the TM Claims Notice the domain never gets to the cart

   Michael R Graham:@Kristine -- Hate to be the latecomer to the party and suggest changing the party's color scheme -- but Updated Question =1.b. change "good-faith registrations" to "good-faith domain name applications"

   Susan Payne:fine by me

   Greg Shatan:Ok, here. No intent, including an intent to register a domain name.

   Rebecca Tushnet:What about "what does the customer see in the process?"

   Rebecca Tushnet:That can't be proprietary

   Susan Payne:and brand owners do receive claims notices too

   Amr Elsadr:Sorry. Dropped off the call.

   Amr Elsadr:Back on now.

   Michael R Graham:@Kristine -- Agree to removal of Q4

   Susan Payne:totally agree

   Michael R Graham:@Susan -- Great explanation -- and Agree

   Susan Payne:great work Kristine and Michael

   Michael R Graham:@Kristine -- THANKS!

   Amr Elsadr:Thanks all. Bye.