

2017-08-31 Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP WG

The call for the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group is scheduled for **Thursday, 31 August 2017 at 03:00 UTC** for 90 minute duration.

20:00 PDT (Wednesday) , 23:00 EDT (Wednesday), 04:00 London (Thursday), 05:00 CET (Thursday)

For other times: <http://tinyurl.com/y7or59bs>



PROPOSED AGENDA

1. Roll call (via Adobe Connect and phone bridge only); updates to Statements of Interest
2. Review and discuss results of INTA Cost Impact Survey
3. Next steps/next meeting

BACKGROUND DOCUMENTS

For [Agenda Item #2](#), please review the survey results here: <https://community.icann.org/download/attachments/61606864/INTA%20Cost%20Impact%20Report%20revised%204-13-17%20v2.1.pdf?version=1&modificationDate=1500376749000&api=v2>

Presentation of INTA survey results from Lori Schulman: [INTA New gTLD Cost Impact Study Presentation - 30 August 2017](#)

May 2017 presentation of the INTA survey results to the Competition, Consumer Protection & Consumer Trust (CCT) Review Team: <https://community.icann.org/download/attachments/61606864/ICANN%20New%20gTLD%20Survey%20Update%2010May%20Final.pdf?version=1&modificationDate=1501098808000&api=v2>



RECORDINGS

[Mp3](#)

[Adobe Connect Recording](#)

[AC Chat](#)

[Transcript](#)



PARTICIPATION

[Attendance](#)

Apologies: Susan Payne, Marie Pattullo

Arriving late: Michael Graham, Heather Forrest



Notes/ Action Items

Action Items:

1. Staff to compile questions posted in the AC Chat and on the mailing list in one document, and forward to Lori S.

Notes:

These high-level notes are designed to help PDP WG members navigate through the content of the call and are not meant as a substitute for the transcript and/or recording. The MP3, transcript, and chat are provided separately and are posted on the wiki here.

1. Roll call (via Adobe Connect and phone bridge only); updates to Statements of Interest

- No SOI Updates declared

2. Review and discuss results of INTA Cost Impact Survey

- WG member Lori Schulman to present the findings of the INTA new gTLD Cost Impact Study conducted by Nielsen
- Important to understand the purpose of the study – study was commissioned to analyze a cost impact analysis of the new gTLD program from a brand holder perspective, not the effectiveness of RPMs
- Presentation to provide a high-level overview of the study, similar to the presentation given to the CCT-RT – slides slightly modified from those posted on the WG wiki, which were originally developed to present to the CCT-RT, to make it more relevant to RPMs

- Slide 1
 - Survey was sent to 1096 regular members (regular members are brand owners, which may include large corporate, small and emerging businesses and not-for-profits)
 - On-list discussion pointed out that INTA membership is over 7000, however, only brand owners (about 1000 regular members) were targeted for the purpose of this study – remaining members were not part of this survey as they are considered service providers to brand owners (such as law firms, associates, trademark search services, domain name registrars and registries, etc...)
 - Decision to only survey members identified as brand owners was to focus on them, and avoid duplication of responses by both brand owners, and those who provide them with services
 - Some service providers can be brand owners as well – were still considered service providers for the purpose of this study
 - In selecting the survey sample, sample was randomized so far as INTA regular members are concerned (not randomized regarding the general public)
 - Questions asked in the study were based on significant input from the CCT-RT, as well as a worksheet that INTA put together to try to prepare the respondents for conducting the survey as it was very labor intensive
 - INTA was approached by ICANN to conduct this study about 2 years ago – took about a year to prepare
- Slide 2
 - Nielsen cautioned readers in the report on how to interpret the results due to the low response rate, and that percentages may not always add up to 100%
 - INTA is aware that there are flaws in the study, however, findings not presented as definitive, but rather presented as a source of information and may be used by ICANN WGs as they see fit
- Slide 3
 - Members were originally given 4 weeks to complete the survey, but granted extensions based on requests by members (survey was complex, and required time to complete)
- Slide 4
 - INTA contracted a 3rd party provider to provide anonymity/protection to members filling in survey, however, some members provided feedback that some data was too sensitive to share, even with an NDA/3rd party
 - One of challenges faced was dispersal of information through member companies' departments (accounting, legal, IT, marketing etc...) – was found to be difficult and time consuming to coordinate input across these departments
 - Plan to conduct follow-up studies, and to address flaws in the worksheet developed by INTA
- Slide 5
 - INTA membership division into different categories, however as only brand owners were surveyed, 70% of those were found to be from North America (United States and Canada)
- Slide 6
 - Hundreds of hours were put into data collection to maximize data collected
 - Specific data points were requested, and INTA did its best to meet those requirements – it was found that what might be accurate and appropriate from a data perspective at ICANN might not have translated well from a business perspective. Bridging that gap was a challenge that was necessary to overcome
- Slide 7
 - Verbatim comments may be the data that is most helpful to this WG, as it provides anecdotal evidence on brand owners' views on the URS, Sunrise and Trademark Claims – whether the RPMs are perceived to be useful tools and whether they strike the right balance between trademark and other rights
- Slide 8
 - High-level finding among respondents was that domain name registrations under new gTLDs were overwhelmingly for defensive purposes
- Slide 10
 - Domain names registered under new gTLDs are largely found to be parked – preventing unauthorized use of domain names might in itself be considered a value, but this needs to be determined by the WG
- Slide 11
 - Brand activity was found to be driving factor for costs, not company size – brand activity includes the number of trademarks owned, how much the company is marketing around them and how many products are provided under each brand
 - Different companies of similar sizes were found to have variables in costs depending on the number of brands, and the amount of activity for each brand
- Slide 12
 - New slide not presented to the CCT-RT
 - In breaking down the costs, Nielsen was asked to be especially specific when asking questions on costs associated with Trademark Claims – what were the average costs over a two-year period associated with Trademark Claims
 - Other costs displayed on chart on this slide
- Slide 13
 - Survey indicated that respondents largely find the RPMs to be helpful
- Slide 14
 - Majority of respondents (approximately 9 out of 10) were found to use TMCH registrations
 - Note that the report is specific in its findings regarding respondents, not representative of overall membership of INTA
- Slide 18
 - A meeting was set up between the CCT-RT and Nielsen to discuss the finding of the full report and clarify how the costs were calculated – a similar arrangement can be made for the RPMs Review PDP WG to meet with Nielsen
 - Offer from Lori S. to compile a list of questions from WG members to be shared with Nielsen in preparation for a meeting with them to provide further clarification requested by WG members
 - INTA intends to develop a tool for continuous tracking of costs – what was asked did not accurately reflect accounting activities in the real world, and is being amended – as this tool is being developed, if questions that are meant to ascertain the effectiveness of RPMs, these can also be added to the tool
 - Should WG members have technical questions, request is for WG members to submit them in writing to the WG mailing list - will be relayed to INTA/Nielsen and responses will be provided

- References to slide numbers in the presentation slides are referring to slides in the report slides posted on the WG wiki here: <https://community.icann.org/x/0AusAw> - slides include a compilation of anecdotes provided by INTA members
- Should the WG request it, and should Nielsen be receptive, a call may be scheduled between the WG members and Nielsen similar to one held with the CCT-RT
- Nielsen may be in a good position to answer technical questions on statistics/sampling of INTA members for the purpose of conducting the survey
- Study may be more valuable from the perspective of a source of anecdotal evidence, as opposed to be reflective of the INTA's regular members, but this is a decision for the WG to make
- Question in AC Chat: Lori, I don't see anything in these slides regarding use of private RPMs such as DPML and whether that affected use of sunrise. Were any questions asked about that? Answer: No specific question on Additional Marketplace RPMs – focus of questions was on RPMs provided via the TMCH, although some anecdotes did mention private protections
- The cost impact study was something that was generated as a response to a request from the CCT-RT for specific metrics that were developed in 2012/2013, that they felt would be important in their review of the status of the new gTLD program – many questions were phrased in a way that was difficult for businesses to answer
- Design of the survey did not allow survey respondents to provide statistics where anecdotal evidence was being requested, and vice-versa – this is being considered as something to be taken into account should further surveys be conducted
- Question from the AC Chat: Lori, do you have a detailed list of countries (rather than regions) that contributed? Answer: Lori will investigate whether data can be provided on distribution of survey respondents by country of origin (as opposed to region of origin), depending on whether this data will be considered a breach of confidentiality
- Survey results are indicative of an overarching theme – that the new gTLD program has financially impacted brand owners, (including defensive registration costs, costs to consumers based on enhanced confusion)
- Question from AC Chat: The average total defense costs per company on slide 13 (I think), is that inclusive of individual worker's salaries or only the cost of the defensive action itself?
- **ACTION ITEM:** Staff to compile questions posted in the AC Chat and on the mailing list in one document, and forward to Lori S.
- Question: Does the \$150,000 costs apply to all trademark holders – who does this cost apply to?
- Two salary components were involved in evaluating the salary components of costs – cost of outside counsel as well as salaries of in-house departments, in addition to estimate of time spent on defensive work with domain names (percentage of time that each employee spent doing this work)

3. Next steps/next meeting

- Next WG call will take place on Wednesday, 6 September at 17:00 UTC