

# **GNSO: New gTLD Program Update**



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# Agenda

1. Resolving outstanding Guidebook issues
2. Completing the Applicant Guidebook
3. EOI status update

# Resolving Outstanding Issues

# Trademark Protection

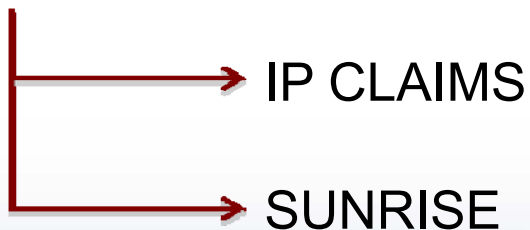
- Solutions for this set of issues are (virtually complete?):
  - GNSO completed its deliverable to consider Trademark Clearinghouse and URS mechanisms
  - STI reached unanimous consensus in most areas, rough consensus in others
  - New versions of Trademark Clearinghouse and URS are posted based on STI work
  - New version of Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) posted based on public comment and discussion

# Proposed RPMs

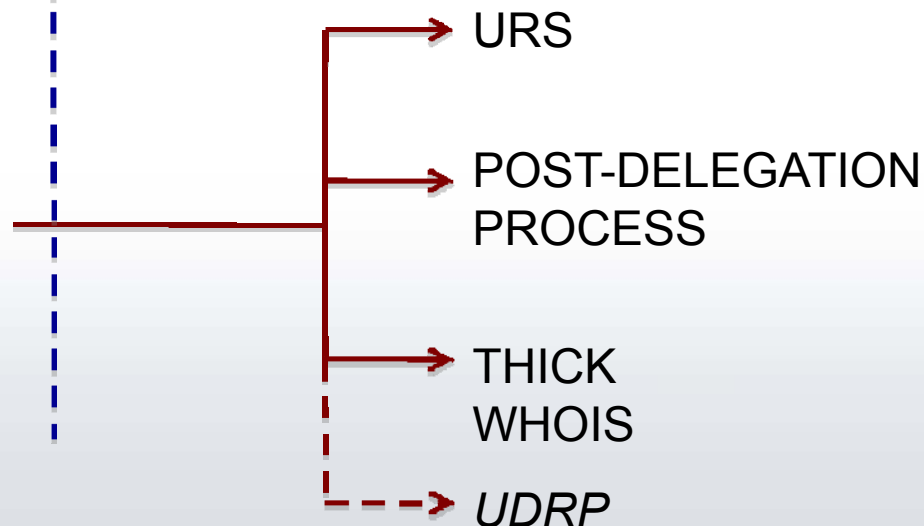
## **REGISTRY LIFECYCLE**

PRE-LAUNCH → LAUNCH → ONGOING OPERATIONS

IP CLEARINGHOUSE



**PROPOSED  
RPMs**



# Trademark (IP) Clearinghouse

- A single database of authenticated registered trademarks and authenticated unregistered marks
- Two functions:
  - validate trademarks
  - provide data for pre-launch IP claims or sunrise services
- Replaces need for:
  - Trademark holders to register in many databases as TLDs are launched
  - Registries to develop IP Claims and Sunrise processes
- Operated by third-party license or agreement with ICANN

# Trademark Clearinghouse: STI Recommendation

- Mandatory: Sunrise or TM Claims Services
- What marks are in Clearinghouse: Court-validated, and nationally & multi-nationally registered text marks
- What marks must registries honor: Registered marks with substantive review and court validated marks
- Provider contracted with ICANN
- Clearinghouse may offer ancillary services
- One database - regional authentication
- Costs borne by parties utilizing services

# Differences between Posted & STI Model (based on Public Comment)

- GNSO-STI: Registry has discretion to honor marks registered in jurisdictions without substantive review

Proposal: Registry must honor marks these marks if validated by Clearinghouse or Courts

- GNSO-STI: Clearinghouse may provide ancillary services without TM holder permission

Proposal: TM holder has discretion to allow license for ancillary services



# Uniform Rapid Suspension (URS)

- Rapid relief to trademark holders for the most clear-cut cases of infringement
- Cheaper, faster and higher burden of proof than UDRP
- Filing fee set by URS provider
- Expected fee in range of \$300
- Results only in suspension, not transfer of name

# URS: STI Recommendations

- Mandatory
- Contains examples of and defenses to bad faith
- De novo review (appeal) available at any time
- Examiners trained and certified
- Examiners rotated within provider
- URS disallowed if contestable genuine issue
- One-year ban after two abusive complaints

# URS: Differences between posted - STI Model

- Legal term of art:

GNSO-STI: Bad Faith “Safe Harbors”

Proposal: Bad Faith “Defenses”

- GNSO-STI: De Novo review at any time

Proposal: De Novo review two years from determination

# Malicious Conduct

- Set of modifications completed for draft version 3 of Applicant Guidebook
- Remaining areas being completed by two advisory groups:
  - Zone File Access Advisory Group
  - High Security Top Level Domain Advisory Group

# Zone File Access

- Working group proposed solutions to enhance access to zone file information in an environment with many gTLDs
- Paper released including:
  - discussion of issues
  - consideration of 4 possible models
  - cost model

# Zone File Access: 4 Models

- Enhanced bi-lateral model: standardizes essential elements of relationships between registries and consumers
- Repository model: third party collects zone files from registries and distributes them to zone file consumers
- Proxy model: third party acts as an intermediary for standardized authorization; data is delivered via secure proxy connections to the registry
- Clearinghouse model: credentials and authorization maintained by intermediary; data delivered over secure connections between consumer and registry.

# High Security Zone TLD Initiative

- Concept paper published with Applicant Guidebook draft v3
- High Security Zone TLD Advisory Group continuing development
- Outlines a voluntary, structured approach to security of domain names registered in participating TLDs
- Introduces self-certification “Report Card” concept

# Economic Study

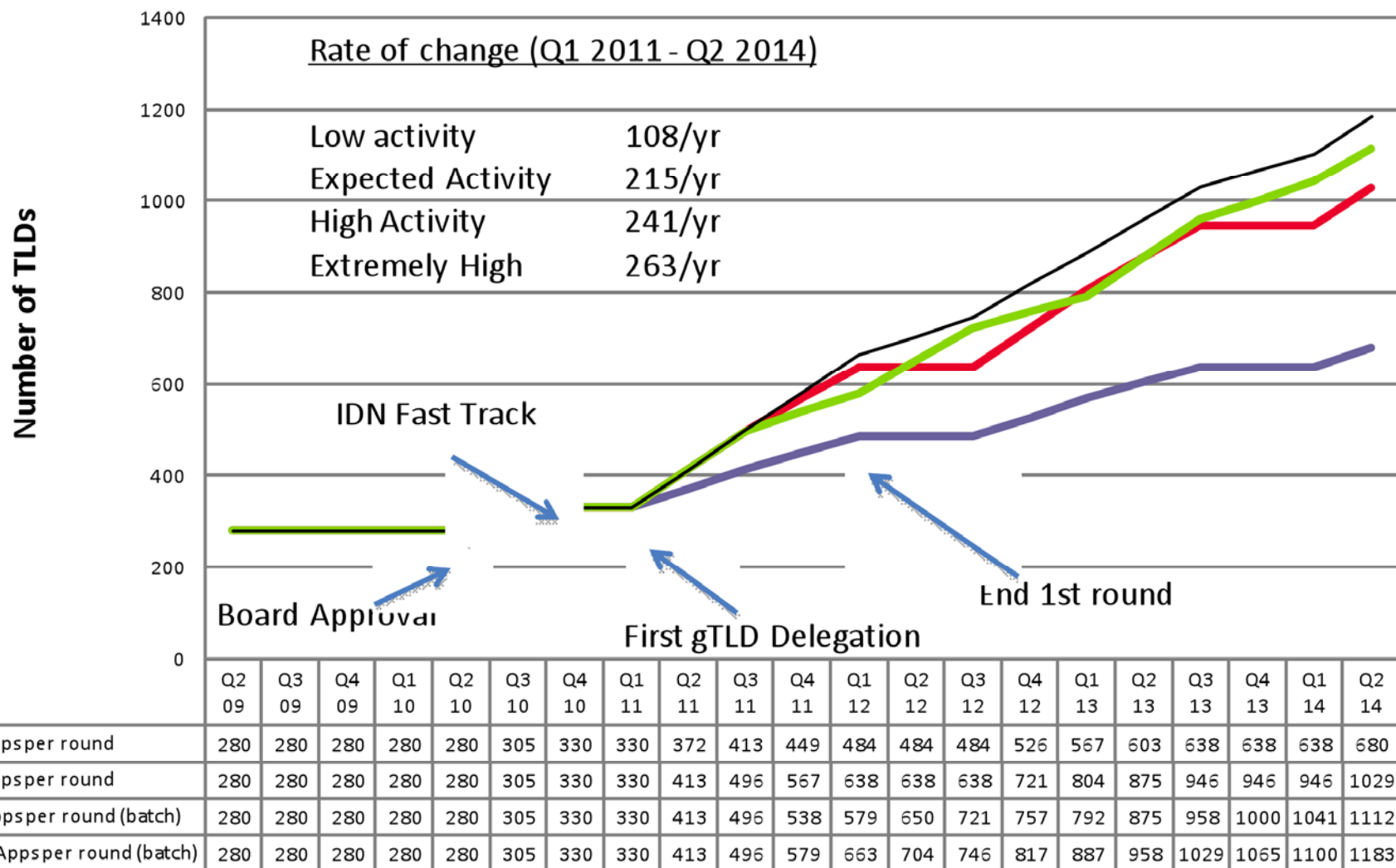
- Greg Rosston (Stanford) and Michael Katz (Berkeley) retained
- Three phase study – second phase (after Nairobi) will:
  - perform empirical analysis to estimate cost of defensive registrations,
  - develop metric to assess overall expected benefits / costs
  - develop a process to assess whether net economic consumer harm might result from individual applications.
- Third phase might be to develop mechanisms to enhance benefits of new gTLDs



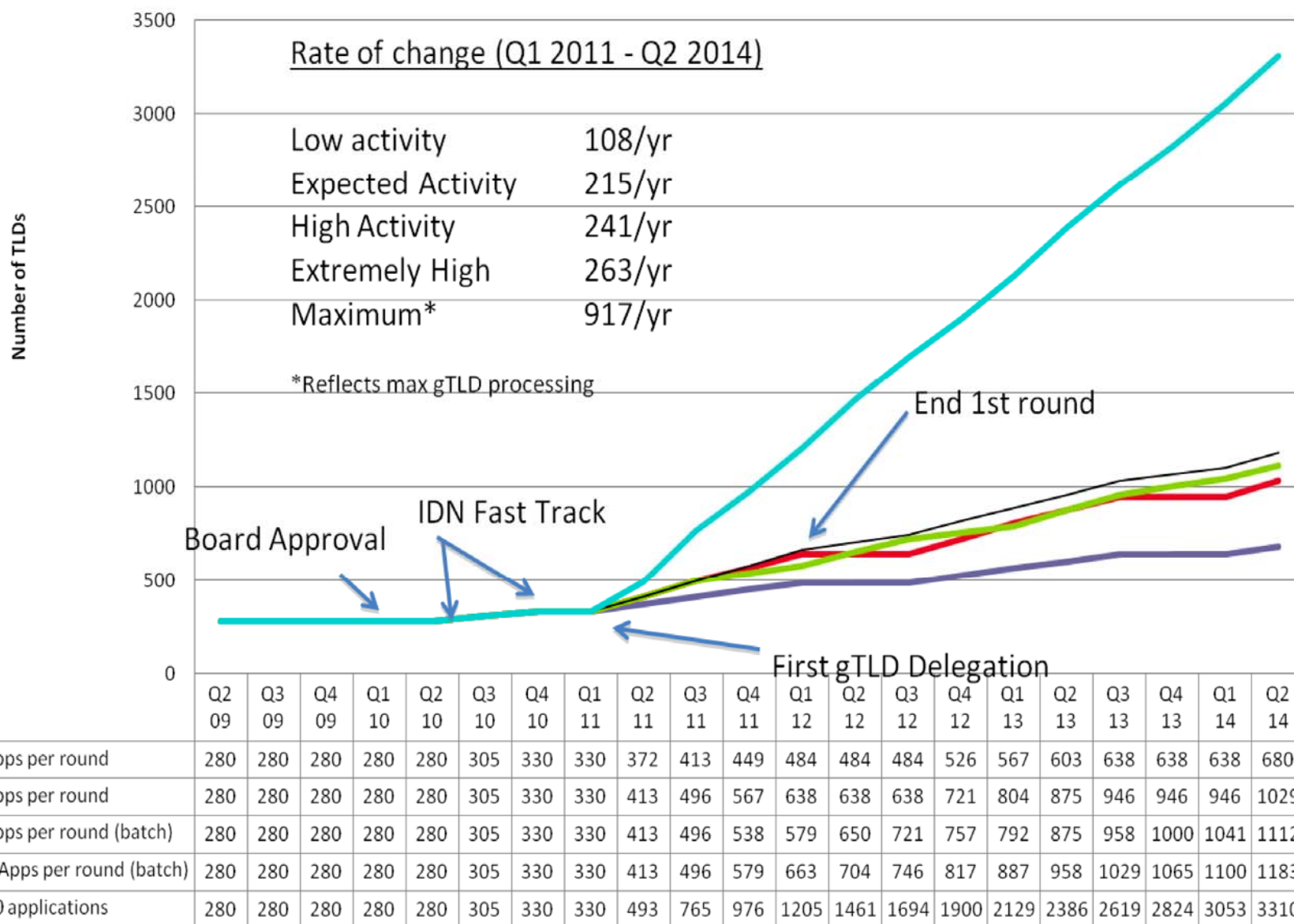
# Root Zone Scaling

- Root zone scaling study completed; reports anticipated from SSAC and RSSAC
- Models created and published for different delegation rate scenarios for application volumes:
  - below expected
  - expected
  - above expected
  - significantly above expected

# Delegation projections



# Maximum Delegation Rate



# Completing the Applicant Guidebook

# Registry Restrictions Dispute Resolution Procedure

- RRDRP: Provides a forum to address allegations that a community-based gTLD registry operator is not enforcing restrictions stated in the terms of the gTLD registry agreement
- Revised based on public comment
  - All cases proceed to determination on the merits
  - Panel recommends from among graduated enforcement measures

# IDN 3-Character Requirement

- New guidebook text published based on IDN Implementation WG's recommendations
- Relaxes the 3-character rule for gTLD strings in some cases
- Minimum string length for certain IDN gTLD strings is established to be two characters:
  - subject to restrictions on two-character strings that would be likely to cause visual confusion in certain areas
  - no allowance for one-character TLD strings in any script, pending consideration by the GNSO and ccNSO

# IDN Variants

- New language based on Implementation WG's recommendations: allowing for delegation of variant TLDs pending development & testing of a mechanism
- Proposed approach:
  - Collect IDN tables from applicants
  - Collect list of variants from applicants
  - No variant TLDs delegated until mechanism is tested and adopted
  - Testing to occur of DNAME, BNAME, others
- Conditions to be fulfilled prior to delegation of variant TLDs
  - Evaluation, fees, contract terms to be determined

# Benchmarking of Registry Operations

- Survey of industry data on registry operations undertaken to assist implementation of new gTLD evaluation criteria and procedures
- Study performed by KPMG on ICANN's behalf, including:
  - analysis of public industry information
  - collection of data through a survey of existing registry operators
- Objective to identify benchmarks based on registry financial and operational data, as a reference point for the review of new gTLD applications.



# Vertical Integration

- New model to be proposed based on:
  - Debates in Seoul
  - Consultation held in January 2010
  - Ongoing study
- Additionally, the Board and community members will be discussing the issue in Nairobi
- GNSO PDP on vertical integration is proceeding in parallel

# Registry Agreement: Amendment Process

- Process for future amendments to new gTLD registry agreements still under discussion
- Explanatory memo outlines several possible models, including a model recently proposed by the GNSO's Registry Stakeholder Group
  - RySG model based on periodic good faith discussions, with amendments binding only if each registry operator individually agrees.
- Comment sought on RySG proposal and other possible models

# **Expression of Interest & Pre-Registration Process (EOI)**

# EOI / pre-registration process

- To serve the public interest by facilitating the launch of the New gTLD Program in a secure, stable, well-organised and efficient manner
- Benefits
  - Ascertain number of first round applications
  - Identifying instances of possible string contention
  - Identifying areas of potential objection
  - Informing the economic benefits / risks discussion
  - Identifying unanticipated issues, providing flexibility
  - Hasten the launch of the new gTLD program by answering or raising issues before the decision to launch is made

# EOI Model

- Draft model posted for comment in December after public comment period
- Full analysis of all public comment received has been posted
- Explanatory memorandum posted to inform discussion at this meeting:
  - Objectives of the EOI
  - Proposed EOI model
  - Outline of costs
  - Prerequisites and timeline

# Key elements of the proposed model

- Mandatory for eligibility in the first gTLD round.
  - Voluntary EOI: substantial cost / no value
- A deposit of US \$55,000 required.
  - Discourage speculation / tied to gTLD fee structure
- Non-refundable, unless round not launched
  - Bright line rule / settle issues before launching
- Participant and string information will be made public
  - Transparency / inform operational readiness & objections
- A fully executed communications plan, to promote global awareness
  - Will not work to disadvantage various groups
- No evaluations will occur

# Pre-requisites to EOI

- Publish version 4 of Guidebook
- Resolution required for:
  - Trademark RPMs settled
  - Three-character issue
  - Vertical integration
- Full communications plan executed
- Operationally ready to conduct process

**Thank You**