

**Instructions:**

This table was built to assist the Sunrise Data Review Sub Team in its analysis as to whether, and how, the Analysis Group survey results answer each of the final agreed Charter questions.

Clarifying Note: This agreed Charter Question was not directly included in Analysis Group’s development of the surveys. It is nevertheless included in the Sub Team review as the survey results may be relevant to answering the agreed Charter Question.

When providing input, please note the tab title and cell number (if applicable) as reflected in the [survey analysis tool](#).

**Sunrise Charter Question 1**

**(a) Should the availability of Sunrise registrations only for identical matches be reviewed?**

**(b) If the matching process is expanded, how can Registrant free expression and fair use rights be protected and balanced against trademark rights?**

Sub Team Member Name	Do the survey results help answer Sunrise Charter Question 1?	If yes, which sub question(s) do the survey results assist?	How do the survey results assist (e.g. “Registries responses in tab/cell X demonstrate Y”)?	Tab Title & Cell Number (if applicable)
George Kirikos	Yes*	a	<p>[asterisk with my usual disclaimer for “Yes”, given the statistical deficiencies in the survey]</p> <p>There is some overlap with Claims Charter Question 4 here, so I refer back to responses/data there (as might others):</p> <p><a href="https://docs.google.com/document/d/1WBfc0bWkylDY4Ijr2l_-5hRjnYKPDjSYw9DQnlh7WHY/edit">https://docs.google.com/document/d/1WBfc0bWkylDY4Ijr2l_-5hRjnYKPDjSYw9DQnlh7WHY/edit</a></p> <p>1 brand owner respondent to the survey (cell F9 of <sup>TM</sup> &amp; Brandowners Tab) didn’t register in the TMCH as their mark included a “Co”, so the exact match requirement meant they wouldn’t match domains without the “Co”.</p>	<p>TM &amp; Brand Owners tab, cells F9, F55, F66-68, F70-73, F80-81</p> <p>Registry - Q29a tab, cell A7</p>

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			<p>A couple of brand owner responses in cell F55 of TM and Brand Owners tab suggest that "Narrow scope of protection does not include confusingly similar names" and "because notices are limited to exact matches, applications for domains that include our recorded trademarks do not trigger NORNs and we are forced to rely on third party watches and services to identify such applications" are negatives of exact match requirements.</p> <p>Cells F66-68 of the TM and Brand Owners tab shows that some UDRP, URS or litigation involved "creative misspelling" of a company's trademark.</p> <p>Cells F70-73 of the TM and Brand Owners tab shows some domain name disputes involved combination of exact match plus some other terms/characters.</p> <p>Cells F80-81 of the TM and Brand Owners tab indicate brand owners who responded to the survey overwhelmingly desire expanded matches (not a surprise!).</p> <p>Cell A7 of the Registry - Q29a tab has a freeform response which indicates some IDN issues.</p> <p>---</p> <p>Sub Team Comments:</p> <ul style="list-style-type: none"> <li>● George Kirikos: Couldn't find anything in the survey that addresses 1(b).</li> <li>● Michael Karanicolas: Not sure how the survey data related to RPMs for trademark protection leads to the conclusion that that matching criteria should be expanded.</li> <li>● Mitch Stoltz: The survey does not necessarily address the protection for</li> </ul>	
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			<p>people who have a legal right to use a domain name which does not derive from trademark. This could be addressed in a proposal by the Sub Team or individual(s).</p>	
Griffin Barnett	Not substantially	N/A	<p>The survey data does not substantially assist in answering this question. However, the factors most commonly cited as "Important" or "Very Important" when deciding whether to register a domain name matching trademarks during a Sunrise Period were "Trademark is a core business brand," "Concern about risk of consumer confusion, deception, scam, or fraud," and "New gTLD relates to a current business." The purpose of preventing consumer confusion, deception, scam, or fraud, would suggest that expanded Sunrise matching rules would be beneficial to avoid scenarios where typographical variations of marks are not defensively registered and then are registered by third parties seeking to use them in furtherance of phishing, fraud, etc. (e.g. through an @typovariant.tld email address).</p> <p>---</p> <p>Sub Team Comments:</p> <ul style="list-style-type: none"> <li>Griffin Barnett: Tend to agree with George's points. Survey data does not substantially assist in answering the question. Brand owners could defensively register some variation of the trademarks but not suggest opinion as to expanding the matching criteria or not.</li> </ul>	TM & Brand Owner G18

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