

Instructions:

This table was built to assist the Sunrise Data Review Sub Team in its analysis as to whether, and how, the previously collected Sunrise data (between December 2016 and March 2018) answer each of the final agreed Charter questions.

- In the **Sunrise Tab** of the [analysis tool](#), Staff have included excerpts, as well as the relevant page/slide reference, from the previously collected data that staff believe may assist in answering the final agreed Charter questions. Summaries of the excerpts are included in Column B.
- The excerpts cited by Staff are nonexclusive; Sub Team members are welcome to download and reference the actual documents, linked from the **Source Tab**, to cite relevant information that may help answer the final agreed Charter questions.
- When providing input, please note the source name and page/slide number of the previously collected data.

Sunrise Charter Question 6:

(a) What are Sunrise Dispute Resolution Policies (SDRPs), and are any changes needed?

(b) Are SDRPs serving the purpose(s) for which they were created?

(c) If not, should they be better publicized, better used or changed?

Sub Team Member Name	Do the previously collected data help answer this Sunrise Charter Question?	If yes, which sub question(s) do the survey results assist?	How do the data assist (e.g. "Information X in document Y demonstrate Z")?	Source Name & Page/Slide Reference
George Kirikos	Yes*	a-c	<p>[usual disclaimer for "Yes" with an asterisk, due to statistical issues with low number of responses, etc.]</p> <p>Pages 1-2 of Dec 2016 - Registry Operator Responses to Initial Survey from TMCH Data Gathering Subteam shows AFNIC had 2 SDRP disputes, with none for PIR or Donuts.</p> <p>Answer to Q20 of January 2017 Deloitte responses to initial questions from TMCH Data Gathering Sub Team shows Deloitte received no disputes from third parties alleging the Clearing incorrectly accepted a trademark record, or it's no longer valid</p>	Dec 2016 - Registry Operator Responses to Initial Survey from TMCH Data Gathering Subteam, pages 1-2

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			<p>based on new information.</p> <p>Answer to Q2 of Deloitte April 2017 Response to followup questions says that third parties are only informed of a record in the TMCH through the claims notice which is presented prior to registration, stating the Mark name, Registrant, Registrant Contact, Jurisdiction and goods and services. But, think this through. If a third party actually attempted to register a domain name that was already taken in sunrise, they would see that the domain name was already registered, and thus they would NOT see that claims notice which provides all the data that is required to challenge the mark!! This points to a major bug in the system.</p> <p>Let's be more specific. Someone has "EXAMPLE" in the TMCH, and registers EXAMPLE.TLD in the .TLD sunrise. A third party who also wanted "EXAMPLE.TLD" tries to register "EXAMPLE" in general availability, but sees that it's taken. That attempted registration does not generate a claims notice which reveals the Mark Name, Registrant, Registrant Contact, Jurisdiction and Goods and Services, i.e. all the data required to make a challenge.</p> <p>The hypocrisy is heightened when we see in the WHOIS debate the position of brandowners about needing to obtain all that stuff about the registrant, as it's necessary when filing a UDRP. (P.S. I'm all for public WHOIS, by the way; but brandowners can't argue for public WHOIS, but then argue for privacy of the TMCH when others need that info to challenge a recordal.)</p> <p>Also, even the fields in the claims notice are insufficient to actually locate the trademark in all jurisdictions. We can see a sample notice at:</p>	<p>January 2017 Deloitte responses to initial questions from TMCH Data Gathering Sub Team, Q20</p> <p>Deloitte April 2017 Response to followup questions, Q2</p>
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			<p>https://domainnamewire.com/2014/01/30/trademark-claims-notice/ and you'll note that it doesn't include the registration number of the trademark, or its creation date. I'm not 100% sure, but I believe some national trademark databases aren't online, or aren't searchable. See: https://www.idownloadblog.com/2017/07/31/apple-trademark-filings-sleuts/ for more, where it says that "Apple, Google and others register product names in foreign countries without searchable trademark databases, which include Trinidad and Tobago, Barbados, Peru and Jamaica." There might also be multiple trademarks in a given jurisdiction by a company in the same goods and services for the same terms (e.g. different figurative marks for different logos, etc.) and so one wouldn't be able to identify with certainty which one was the basis for the TMCH recordal in order to use the SDRP effectively.</p>	
KKlman	a,b,c		<p>Donuts has never used the sunrise dispute policy across hundreds of gTLDs and thousands of Sunrise registrations (data in response). Ditto for PIR. The change that is needed is that the TMCH be opened for view. The Sunrise Dispute Resolution Policies were premised on the openness off the TMCH database and the ability to review and then challenge trademark owners who misuse the Sunrise. SDRPs cannot serve the purpose for which they were created if third parties cannot review the TMCH entries (as original rules allowed). This gives pretty clear answers to a,b and c above.</p>	<p>Compilation of Registry Responses (13 Dec 2016) - Ques A, p 1-2.</p>
Griffin Barnett	Yes	(a) – (c)	RO Responses:	Listed in

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			<p>- Our Sunrise Dispute Policy was previously located with the other .ngo and .ong Policies at https://pir.org/policies/ngo-ong-policies/[pir.org]. However, since the Sunrise period for those TLDs expired well over a year ago, we removed the Sunrise Dispute Policy from that page. The Sunrise Dispute Policy was never used.</p> <p>- Our Sunrise dispute policy is posted at: http://www.donuts.domains/policies/sunrise-and-dpml-dispute-resolution-policy. We have never used the sunrise dispute policy. The checks and safeguards implemented by the TMCH prevent any SMD files from being issued to non-qualified parties. Only qualified parties can participate in our sunrise. Therefore the requirement for a sunrise dispute policy is unnecessary.</p> <p>- .Paris Sunrise Dispute Policy is available here: http://bienvenue.paris/wp-content/uploads/2014/09/VDP-pointParisSDRP_2014_9_02.pdf[bienvenue.paris]. It has been used twice during those phases.</p> <p>These responses indicate minimal use of RO SDRPs. It might suggest they are unnecessary, but I would infer instead that this mechanism was just not well-known or understood, and could be useful in addressing alleged Sunrise gaming and other issues concerning Sunrise eligibility, etc. if properly publicized, made uniform across all ROs, and enhanced in certain ways e.g. to handle allegations of gaming.</p>	Previous Column
David McAuley	No with one possible		This 'no' refers to AG Independent Review of TMCH and two follow-ups In Appendix I on page 66 (third bullet down from top) is a comment from one TMCH agent about	AG Review, page 66

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	insight.		DRP but a bit hard to understand, to me at least.	
Greg Shatan	Somewhat		" <u>Sunrise dispute resolution procedures</u> : A TMCH agent suggested that utilization of the Sunrise period is limited for trademark owners who registered trademarks after the launch of the new gTLD program because many registries continue to employ sunrise dispute resolution procedures that allow challenges to trademarks that were registered after a TLD was launched. It was suggested that the ability to challenge trademarks registered after a TLD's launch be reduced or eliminated, since this ability is seldom (if ever) utilized."	AGTR, 66

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