In respect to which particular agreed

Do you agree or disagree with the analysis of

Title and link of the data submitted,

including highlight of the specific information the source(s) is being cited for	Charter question(s) is this specification information relevant? Why and how?	the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
"How one guy games new gTLD sunrise periods", DomainIncite, April 17, 2014  http://domainincite.com/16492-how-on e-guy-games-new-gtld-sunrise-periods  ==  This article shows the example of someone registering trademarks specifically in order to get priority for Sunrise registrations. It also shows how the low threshold for use was met. The registrant registered three Swiss trademarks at relatively low cost in connection with pens so as to easily be able to demonstrate use. The marks were for common terms, namely DIRECT, SOCIAL, and CLOUD.	See Sunrise Questions Table, Q1(d) through (f).  ==  This article documents instances of how the current system may be used in a manner which was not intended and which may in the view of some registrants, trademark owners, and registries, constitute an abuse of the current system which requires consideration of potential revisions. One must wonder whether it is fair for the current system to enable a sophisticated participant to get first dibs on such common terms through this method, and whether this outcome was what was intended.	George Kirikos: I think Zak is referencing charter Preamble questions (d) through (f), and I agree with that analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many dictionary terms have been gamed would allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], Q9 (limiting to the class of goods/services might reduce gaming), and Q10 ("token use" not properly addressed by TMCH validation system). In addition to the article itself, the comments below the article (particularly by John Berryhill) further illustrate the issues.
Zak Muscovitch  "Fake Trademarks Stealing Generic Domains In New gTLD Sunrises", OnlineDomain.com, APril 15, 2014	See Sunrise Questions Table, Q1(d) through (f). ==	George Kirikos: again, I think Zak is referencing charter Preamble questions (d) through (f), and I agree with that analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
https://onlinedomain.com/2014/04/15/legal/fake-trademarks-stealing-generic-domains-in-new-gtld-sunrises/  ==  This article tells how a sophisticated party used the current Sunrise system to acquire 300 premium generic domain names before anyone else. The registrant registered domain names such as cloud.guru, social.photos, Build.house, BET.guru, online.bike, VACATION.photos, discount.repair etc., using genuine trademarks for goods such as pens, guitar picks, etc., solely in order to get priority registration. The article calls this a "Sunrise scavenger scam" and claims that the only purpose of acquiring the corresponding trademark rights was to game the current system.	This article documents instances of how the current system may be used in a manner which was not intended and which may in the view of some registrants, trademark owners, and registries, constitute an abuse of the current system which requires consideration of potential revisions. One must wonder whether it is fair for the current system to enable a sophisticated participant to get first dibs on such common terms through this method, and whether this outcome was what was intended.	dictionary terms have been gamed would allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], Q9 (limiting to the class of goods/services might reduce gaming), and Q10 ("token use" not properly addressed by TMCH validation system). In addition to the article itself, the comments below the article further illustrate the issues.
Zak Muscovitch  "The Trademark ClearingHouse Worked So Well One Company Got 24 new gTLD using The Famous Trademark "The"",	See Sunrise Questions Table, Q1(d) through (f).	George Kirikos: again, I think Zak is referencing charter Preamble questions (d) through (f), and I agree with that analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many

Title and link of the data submitted,
including highlight of the specific
information the source(s) is being
cited for

In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how? Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?

TheDomains.com, February 1, 2017

https://www.thedomains.com/2017/02/01/the-trademark-clearinghouse-worked-so-well-one-company-got-24-new-gtld-using-the-famous-trademark-the/

==

This article tells how a registrant obtained a trademark for THE, in order to get first dibs on generic domain names such as, the.car, the.career, the.cars, the.casino, the.doctor, and nearly a hundred others.

This article documents instances of how the current system may be used in a manner which was not intended and which may in the view of some registrants, trademark owners, and registries, constitute an abuse of the current system which requires consideration of potential revisions. One must wonder whether it is fair for the current system to enable a sophisticated participant to get first dibs on such common terms through this method, and whether this outcome was what was intended.

dictionary terms have been gamed would allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], Q9 (limiting to the class of goods/services might reduce gaming), and Q10 ("token use" not properly addressed by TMCH validation system). In addition to the article itself, the comments below the article (including one from David Taylor) further illustrate the issues.

#### Zak Muscovitch

"Is The Trademark Clearinghouse Causing New gTLD's To Lose 6X The Number Of Registrations?", TheDomains, March 12, 2015

https://www.thedomains.com/2015/03/ 12/is-the-trademark-clearinghouse-causi ng-new-gtlds-to-lose-6x-the-number-of-r egistrations/ See Sunrise Questions Table, Q1(b) and Q1(d) through (f).

==

This article documents instances of how the current system may be used in a manner which was not intended and which may in the view of some registrants, trademark owners, and registries, constitute an abuse of the current system which requires George Kirikos: again, I think Zak is referencing charter Preamble questions (b) and (d) through (f), and I agree with that analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many dictionary terms have been gamed would allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], Q9 (limiting to the class of goods/services might reduce gaming), and Q10 ("token use" not properly addressed by TMCH validation system).

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
==	consideration of potential revisions.	
The article discussed how "as an unintended consequence of trying to protect legitimate trademark holders, there is a lot of game-playing at the TMCH where words like "the" "great", "cool" "luxury" and hundreds of more that are really not what 99.9999% of people would consider trademarked terms like Verizon, Google and Microsoft."	This article also raises the issue of the effectiveness and intended purpose / unintended consequences of the TMCH.	
The article also claims that "The TMCH said today that 95% of these notices led to the name not being registered, which it said shows the success of the Claims system", but that instead, this may really mean that "it's having the "chilling effect" predicted by opponents of the process, with legitimate registrants being scared away from non-infringing uses of registered marks."		
Michael Karanicolas  How common words like Pizza, Money, and Shopping ended up in the	Sunrise: Preamble: (e) Have abuses of the Sunrise Period been documented by Registrants?	George Kirikos: agree with Michael's analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many dictionary terms have been gamed would

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In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how? Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?

Trademark Clearinghouse for new TLDs

https://domainnamewire.com/2014/02/ 10/how-common-words-like-pizza-mone y-and-shopping-ended-up-in-the-tradem ark-clearinghouse-for-new-tlds/

==

The article contains a long list of dictionary words protected in the TMCH, including: active, adventure, auto, balance, bank, best, bet, bicycling, bliss, blues, brand, brand, car, insurance, chef, Christ, Christmas, city, cloud, compassion, craft, credit, credit, direct, dirt, diy, domain, sex, press, finance, fire, flex, flip, gold, gourmet, groove, heart, holiday, hotel, ilove, internet, jazz, karma, kilt, kiss, lifestyle, lux, luxury, Madison, memo, money, natural, ninja, party, philosophy, physics, pizza, power, radio, realestate, rentacar, shopping, skinny, speed, spirit, storage, strategy, style, swing, tango, Texans, texas, ticket, time, travel, vacation, wedding

Sunrise Q9: In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse?

==

I would call this clear evidence of abuse, as it expands the applicability of trademark protections in the domain name space vastly beyond what might be permitted under any domestic legal framework. Moreover, unlike dictionary words like "mini" or "apple", which are at least associated with a well-known brand, the inclusion of words like "Christ" and "luxury" seems strongly suggestive that the system is being gamed.

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Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], and Q10 ("token use" not properly addressed by TMCH validation system). Comments below the article are also helpful in understanding the issues.

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
	demonstrated use.	
Michael Karanicolas  The numbers are in! Donuts sunrises typically get 100+ domains, but they also got gamed <a href="https://domainnamewire.com/2014/01/30/the-numbers-are-in-donuts-sunrises-typically-get-100-domains-but-they-also-got-gamed/">https://domainnamewire.com/2014/01/30/the-numbers-are-in-donuts-sunrises-typically-get-100-domains-but-they-also-got-gamed/</a>	Sunrise: Preamble: (e) Have abuses of the Sunrise Period been documented by Registrants? 9 In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse?	George Kirikos: agree with Michael's analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many dictionary terms have been gamed would allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], and Q10 ("token use" not properly addressed by TMCH validation system). Comments below the article are also helpful in understanding the issues.
"Donuts had to cough up domains like luxury.guru, cloud.guru, bet.guru, realestate.guru, wedding.clothing, travel.singles, and finance.holdings at sunrise prices of under \$200.  All of the claimed trademarks were from Switzerland. And do you know who owns these trademarks and got the above mentioned domains through sunrise? Other new TLD applicants.  Specifically, all of them have an address	Evidence of abusive gaming of the sunrise system.  ==  Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of demonstrated use.	

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
of 427 N. Camden Drive in Beverly Hills. That's the address for .Luxury, What Box? Holdings (another TLD applicant) and lawyer Thomas Brackey. I've also discovered that What Box? has a mark with the TMCH for "credit."		
Michael Karanicolas  Digging in on Donuts' Sunrise: Amazon tops the list, gaming, and top registrars	Sunrise: Preamble: (e) Have abuses of the Sunrise Period been documented by Registrants?	George Kirikos: agree with Michael's analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many dictionary terms have been gamed would
https://domainnamewire.com/2014/01/ 31/donuts-sunrise-data/	Sunrise Q9: In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for	allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], and Q10 ("token use" not properly addressed by TMCH validation system). Comments below the
==	which the trademark is actually registered and put in the Clearinghouse?	article are also helpful in understanding the issues.
".Luxury's backer, What Box? Holdings, and attorney Thomas Brackey, which all share the same mailing address, walked away with 32 domains.	== Evidence of abusive gaming of the	
What Box was by far the biggest, getting 16 domains including the terms 808, finance, wedding, christmas, realestate, bet, holiday, money, ilove, and travel. Thomas Brackey registered 10 domains with direct and cloud. Luxury stuck to	sunrise system.  ==  Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to	

In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
limiting their application to categories of demonstrated use.	
Sunrise: Preamble: (e) Have abuses of the Sunrise Period been documented by	George Kirikos: agree with Michael's analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many
Registrants:	dictionary terms have been gamed would
Sunrise Q9: In light of the evidence	allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], and Q10
·	("token use" not properly addressed by TMCH
I	validation system)
which the trademark is actually	
registered and put in the Clearinghouse?	
==	
5.1	
sumse system.	
==	
Proposal: Stronger scrutiny over how	
marks are included and their protections	
, , , ,	
demonstrated use.	
	Charter question(s) is this specification information relevant? Why and how?  limiting their application to categories of demonstrated use.  Sunrise: Preamble: (e) Have abuses of the Sunrise Period been documented by Registrants?  Sunrise Q9: In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse?  ==  Evidence of abusive gaming of the sunrise system.  ==

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huild control to a		
build directors		
build driving ont		
build.equipment build.guru		
build.kitchen		
build.land		
build.lighting		
build.technology		
build.technology		
By the way Minardos Group is a		
construction company and doesn't have		
to do anything with precious metals.		
Minardos Construction & Associates		
owns 2 US construction relater marks		
named "BUILDING UNIQUE		
ENVIRONMENTS" and "CREATE BUILD		
INSPIRE".		
It is a mystery how a domain name		
registry from California has a trademark		
registration for precious metals in		
Switzerland. Well, actually it is not. They		
did the registration in Switzerland for a		
reason. It is obviously very easy to get a		
trademark for anything there. Their		
group already had 2 US trademarks so		
registering a Swiss trademark wouldn't		
make any sense except if they couldn't		

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
get the trademark in the US. They are now using the Swiss trademark for sunrise domain name registrations.		
Michael Karanicolas  How Did RetailMeNot Get 849 .Codes Domains In Sunrise Without Any Trademarks?  https://onlinedomain.com/2014/08/19/ domain-extensions/new-gtlds/how-did-r etailmenot-got-849-codes-domains-in-su nrise-without-any-trademarks/  ==	Sunrise: Preamble: (e) Have abuses of the Sunrise Period been documented by Registrants?  Sunrise Q9: In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse?	George Kirikos: agree with Michael's analysis. It also might help inform our work on charter Q1(a) [expanding matches when so many dictionary terms have been gamed would allow even more gaming], Q5(b) [potential elimination of mandatory sunrise], and Q10 ("token use" not properly addressed by TMCH validation system)
RetailMeNot, Inc. registered 849 .codes domain names in Sunrise without owning any of the corresponding trademarks. The domains were all registered at the 101Domain registrar.  The list includes many keyword domains as well as trademark domains of many other companies. How this was done is a mystery to me or maybe not judging from some other activities I have	Evidence of abusive gaming of the sunrise system.  ==  Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of demonstrated use.	

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discovered with New gTLDs.		
RetailMeNot may own a couple couple of trademarks such as "RetailMeNot" but it certainly does not own 849 trademarks.		
RetailMeNot has registered in sunrise period generic domains such as pizza.codes, find.codes, paris.codes, usa.codes, mobile.codes, security.codes, english.codes and hundreds of other.		
Many of these domains were purchased at premium prices such as sale.codes, live.codes, alaska.codes, hot.codes, college.codes and newyork.codes.		
The list also includes domains that include trademarks of other companies: mac.codes, nascar.codes and jetblue.codes.		
These 849 domains together with the 60 sunrise registrations made by other companies during sunrise period make codes New gTLD the most successful New gTLD in terms of sunrise domain		

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name registrations. That is highly		
irregular especially because sunrise		
domains account for about a 3rd of the		
total .codes domain registrations.		
The Codes New att Dentered the Farly		
The .Codes New gTLD entered the Early Access Program (EAP) on the 16th of		
April 2014 at 16.00 CET. A few hours		
before that coupon giant RetailMeNot,		
Inc. registered 849 domain names in		
sunrise. New gTLD sunrise registrations		
require that the registrant has a		
registered trademark and that the		
trademark is registered with the		
Trademark Clearinghouse. It is apparent		
that RetailMeNot, Inc. does NOT have		
849 registered trademarks.		
.Codes has 3,042 domain registrations		
today so the RetailMeNot, Inc.		
registrations account for about a 3rd of		
the .codes total domain registrations.		
On the same day I found another 25		
sunrise registrations that were also		
registered at 101Domain and are		
currently behind whois privacy. The list		
includes domains such as		

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blackfriday.codes and coupons.codes		
(that is a premium domain):		
blackfriday2017.codes		
blackfriday2019.codes		
blackfriday2016.codes		
blackfriday2020.codes		
blackfriday2018.codes		
blackfriday2015.codes		
blackfriday2014.codes		
blackfriday.codes		
promocode.codes		
promocodes.codes		
in-store.codes		
instore.codes		
couponcode.codes		
coupons.codes		
cybermonday2020.codes		
disocuntcodes.codes		
cybermonday2019.codes		
discountcode.codes		
cybermonday.codes		
cybermonday2014.codes		
cybermonday2015.codes		
cybermonday2016.codes		
vouchercodes.codes		
cybermonday2018.codes		
cybermonday2017.codes		

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Rebecca L Tushnet  Are We Running Out of Trademarks?  https://harvardlawreview.org/2018/02/a re-we-running-out-of-trademarks/  ==  The extent to which common words are already subject to registration in the US	Multiple questions, particularly those having to do with expanding from exact match  ==  It indicates that (1) most common terms are already subject to at least one national registration, (2) new market entrants are having increasing difficulty finding marks, and (3) new market entrants are increasingly incorporating existing words into longer marks, bearing on the wisdom of expanding exact match  ==	George Kirikos: agree with Rebecca's analysis. Helps to inform our work on charter Q1(a) [expanding matches when so many dictionary terms are already potentially in the TMCH database], Q5(b) [potential elimination of mandatory sunrise], and Q9 (limiting to the class of goods/services might reduce concerns).		
	Proposal: Stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of demonstrated use.			
Kathy Kleiman  Transcript of F2F RPM WG Meeting 6  June 2017 Johannesburg	Amadeu's discussion provides data on Sunrise Ques 11 and 12 and probably others as well.	George Kirikos: agree with Kathy. Amadeu's relevant text is on pages 9-10 of 1st PDF, and pp 33-34 & 37. On p 10, Rubens raises issues related to Charter Question 9. Maxim raises issues related to Q12 on pp 28-30 & 38 In		

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
https://schd.ws/hosted_files/icann59joh annesburg2017/8a/transcript%20RPM% 201%20%2029%20June%202017.pdf%20 sesson%201.pdf  https://schd.ws/hosted_files/icann59joh annesburg2017/a3/Transcript%20RPMs %20in%20all%20gTLDs%2029%20June% 20.pdf%20session%202.pdf  ==  Amadeu Abril i Abril came to our F2F meeting in Johannesburg to share information about his extensive experiences with GEOs. I submit both	Amadeu came to address the WG in our open session to share the problems his registry encountered with Sunrise and GEOs, and to offer some ideas and suggestions.	the 2nd PDF, Maxim mentions expanded matches on p 17-and Amadeu on pp 22-23 (relevant for Charter Question 1). Amadeu on pp 27-31 on ALP, IDN and geoTLD issues (relevant for Q8, Q11, Q12).  Maxim Alzoba: I do agree with Kathy. I strongly believe that the additional data provides clarity on ALP, QLP, and non English script issues of TMCH.
parts of the transcript of this meeting (note Amadeu is misidentified as "Amadeo Brew" in the 2nd transcript)		
Kathy Kleiman WIPO FAQ on Geographical Indications	Sunrise Preamble (a) and (b), Q1, Q5(b), Q8, Q9, Q12;	George Kirikos: I agree with Kathy's analysis.
https://www.wipo.int/geo_indications/e n/faq_geographicalindications.html ==	The scope of the registrations within the TMCH impacts the Sunrise and Claims service broadly and specifically. If the	

Title and link of the data submitted, including highlight of the specific information the source(s) is being cited for	In respect to which particular agreed Charter question(s) is this specification information relevant? Why and how?	Do you agree or disagree with the analysis of the submitter? Do you have comments on whether/how the additional data relates to the Charter question(s)?
Shedding light on what is a GI and what is a trademark.	scope of registrations is different from what the rules intended, that would change the way we evaluate the mechanisms, e.g., Sunrise and Claims, operating off the data in the TMCH.	
Kathy Kleiman  Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET  https://schd.ws/hosted_files/icann58cop enhagen2017/81/Transcript%20RPM%2 0WG%2011%20March%20Copenhagen.p df  ==	Sunrise Preamble, Q1, Q5(b), Q8, Q9 and Q12  ==  Expanding the scope of words entered into the TMCH changes the scope and impact of the systems that use the TMCH, including Sunrise and Claims. These are important considerations for our review.	George Kirikos: I agree with Kathy's analysis.
Discussion with Deloitte re: entry of GI into database & Questions raised by USPTO about marks protected by statute or treaties, including GIs.		