

Attendance:

Claudio DiGangi
David McAuley
Greg Shatan
John McElwaine
Kathy Kleiman
Kristine Dorrain (Amazon Registry)
Maxim Alzoba
Michael Karanicolas
Mitch Stoltz
Philip Corwin
Scott Austin
Susan Payne
Zak Muscovitch

Apologies:

None

Staff:

Ariel Liang
Berry Cobb
Julie Hedlund
Mary Wong
Andrea Glandon

Zoom Chat:

13:00:56 From David McAuley : Just joined, last four digits of phone are 4154
13:01:04 From Andrea Glandon : Thank you, David!
13:01:14 From David McAuley : sounds right
13:01:27 From Mitch Stoltz : Yes
13:01:35 From Maxim Alzoba : Hello All
13:01:38 From julie.hedlund : @All: We will start at 5 minutes after the top of the hour to allow for a transition from the previous call.
13:02:06 From Andrea Glandon : Wiki Agenda Page: <https://community.icann.org/x/FIOGBg>
13:06:43 From Andrea Glandon : If you have any Zoom questions, please feel free to send them in chat and I will assist you.
13:09:03 From Kristine Dorrain (Amazon Registry) : hi all, apologies, I have a conflict later and will have to drop at the top of the hour.
13:10:21 From julie.hedlund : @Kirstine — noted.
13:17:36 From Andrea Glandon : Reminder to all, to turn off your video, please hover at the bottom and click on stop video
13:17:44 From Kathy Kleiman : OK - tx!
13:19:48 From Maxim Alzoba : a per TLD SDRP policy ?
13:20:10 From mary.wong : On the descriptive portion of Q6(a), this was covered during the initial WG discussion of the refined Sunrise Charter questions (i.e. info about SDRPs)

13:20:19 From Maxim Alzoba : so answers at least per TLD

13:22:24 From David McAuley : i think i was dropped from Zoom - but was on phone - i cannot tell if I was dropped but it sure left my screen somehow

13:25:01 From Susan Payne : But Maxim there are minimum requirements imposed on all TLDs and that's what we are required to look at

13:25:02 From Kristine Dorrain (Amazon Registry) : If we want to talk about disputes over the TMCH's names: <http://www.trademark-clearinghouse.com/dispute>

13:25:26 From Andrea Glandon : @David, I show you are still connected by Zoom and phone

13:26:23 From David McAuley : thanks Andrea

13:26:48 From Maxim Alzoba : @Susan, it is still per TLD , and is subject to compliance (if a particular Registry invented something really strange) , and to say that we checked all we have to check all Registries and all SDRPs (just plain logic)

13:26:57 From Andrea Glandon : You're welcome, David!

13:27:47 From Kristine Dorrain (Amazon Registry) : But yes, Maxim is right that each RO has it's own SDRP. But each has to have certain elements per the AG: Applicant Guidebook 4 June 2012, Module 5, Page 8, Article 6.2.4

13:28:47 From Maxim Alzoba : I need to remind the group that Registries are not responsible for actions or inactions of other non affiliated Registries.

13:29:34 From Susan Payne : 2.3.6 of the RPMs requirements: Registry Operator MUST provide a mechanism to resolve disputes regarding its registration of Sunrise Registrations. Each Registry Operator MUST develop a Sunrise Dispute Resolution Policy ("SDRP"), which will allow challenges to Sunrise Registrations related to Registry Operator's Allocation and registration policies, including on the grounds that the domain name that was registered does not match the Trademark Record on which the Sunrise-Eligible Rights Holder based its Sunrise Registration. Registry Operator MUST provide prompt notice of the outcome of an SDRP proceeding to the affected parties. To the extent applicable, ICANN MUST use commercially reasonable efforts to ensure that the TMCH Sunrise and Claims Operator cooperates with Registry Operator in effectuating Registry Operator's SDRP.

13:29:59 From Susan Payne : Oh, sorry - horrible formatting! I tried to pose the text from the RPMs requirements

13:31:12 From Maxim Alzoba : @Susan, it is a requirement, and we have a question about implementation

13:31:29 From Kristine Dorrain (Amazon Registry) : @Maxim, no it's not about implementation.

13:32:29 From Kathy Kleiman : are you using it Maxim?

13:34:29 From Maxim Alzoba : simple question - how many SDRPs are there?

13:35:26 From Maxim Alzoba : I meant that direct answer to questions is not possible in limited timeframe

13:36:48 From David McAuley : So Kristine you see the ability to winnow SDRP requirements, no? You are not suggesting adding anything, just paring back, is that right?

13:37:00 From Kathy Kleiman : I agree with Claudio that you need both levels.

13:37:11 From Kathy Kleiman : TMCH challenge and SDRP challenge.

13:37:36 From Maxim Alzoba : and Registries , who are prohibited from looking into TMCH

13:38:14 From Kristine Dorrain (Amazon Registry) : @David, that is what I'm suggesting, but if the group thinks there are additional problems, this might be the place to include a remedy.

13:38:23 From David McAuley : Thank you

13:38:40 From Susan Payne : @Claudio - but that info is available to anyone from the zone file data

13:38:51 From Kristine Dorrain (Amazon Registry) : These are the elements from the AG:

13:38:53 From Kristine Dorrain (Amazon Registry) : i. at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty;

ii. the domain name is not identical to the mark on which the registrant based its Sunrise registration;

iii. the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or

iv. the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the date specified by the Registry in its Sunrise Criteria, if one was specified.

13:39:14 From Kristine Dorrain (Amazon Registry) : only (ii) is anything the RO can control. The rest are generally within the TMCH's control.

13:39:18 From mary.wong : FWIW, when Deloitte met with the full WG about 2 years ago, they reported that all the sunrise-related disputes they'd handled to date had been from TM owners regarding verification of TM info.

13:41:26 From David McAuley : Thanks Mary - do we know if that pattern held afterward?

13:42:02 From Kathy Kleiman : Agreed commencement issues.

13:43:22 From mary.wong : @David, I don't believe so - as I don't believe this specific data point is part of Deloitte's monthly reports to ICANN.

13:43:30 From Susan Payne : @Greg, no because they operate at the registry level

13:43:34 From Maxim Alzoba : +1 @Greg, it might be the best question about this subject

13:43:38 From David McAuley : OK, thanks @Mary

13:43:47 From Kristine Dorrain (Amazon Registry) : my hand is up

13:43:49 From Maxim Alzoba : also it is per TLD

13:43:52 From Kathy Kleiman : Staff response?

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13:44:13 From Maxim Alzoba : probably Compliance might have number of complaints about it

13:44:33 From mary.wong : @Kathy, sorry if we missed a question - which is the question that still needs a staff response?

13:45:12 From Maxim Alzoba : now is 2019, most probably 3 years to store info ended for most 2013-2015 RAs

13:45:36 From David McAuley : @Mary, Greg asked if there is a single data set of all SDRPs ever filed in one place, something like that

13:46:27 From Maxim Alzoba : I am against adding requirement to use FORUM for SDRP

13:46:35 From Kristine Dorrain (Amazon Registry) : +1 Maxim

13:46:37 From Kristine Dorrain (Amazon Registry) : Of course

13:46:44 From Kathy Kleiman : hand up

13:49:41 From Kristine Dorrain (Amazon Registry) : At Kathy, if a challenger brings that exact claim to the RO, the RO will say " you have to talk to the TMCH...we can't see in"

13:49:52 From Kathy Kleiman : single right of access to a TMCH record?

13:50:35 From Kathy Kleiman : Based on a valid showing a) trademark or other rights, and/or b) a reason to believe there is a problem with the Sunrise registration?

13:51:02 From Kristine Dorrain (Amazon Registry) : the RO doesn't make substantive decisions. It's a technical comparison. String on list = allow. String not on list = deny.

13:51:09 From Kathy Kleiman : @Kristine - agreed. That's why the right of access (for a single shot) has to be to the TMCH.

13:51:30 From Kristine Dorrain (Amazon Registry) : Ultimately, if the the TMCH says it's in there, no RO can make a decision on 6.2.4 (i)

13:51:43 From Kristine Dorrain (Amazon Registry) : That's why the TMCH has a dispute policy.

13:51:51 From Kathy Kleiman : But what is in the TMCH and what can be challenged by the sunrise is difference.

13:51:55 From Kathy Kleiman : different.

13:52:20 From Kathy Kleiman : What is the TM was created the day before it was filed, and the rules require it to be 2 years old?

13:52:29 From Kristine Dorrain (Amazon Registry) : then you tell the TMCH they screwed up. :)

13:52:34 From Kristine Dorrain (Amazon Registry) : the RO still can't fix it.

13:52:56 From Kathy Kleiman : Using the TMCH record to challenge the Sunrise in SDRP.

13:53:09 From Maxim Alzoba : RO can add a line into SDRP policy saying that it can not do anything about TMCH mistakes

13:53:30 From Kathy Kleiman : Right - tx Greg!

13:53:51 From mary.wong : @Greg, @Kathy, all - to answer an earlier question, staff is not aware of any single published source of all ROs' SDRPs.

13:54:06 From Kathy Kleiman : Tx Mary

13:54:12 From Maxim Alzoba : I really love coffee icon in zoom

13:54:16 From Kristine Dorrain (Amazon Registry) : But I still don't understand how an RO would know about a bad record any more than the 3P would

13:54:18 From David McAuley : Yes, thanks Mary

13:54:48 From Maxim Alzoba : TMCH is in 'always right' mode for Registries

13:54:56 From Kristine Dorrain (Amazon Registry) : +1Maxim.

13:55:34 From Kristine Dorrain (Amazon Registry) : And even if the TMCH did send us a record (that would be administrative hell for a RO to have to be the courier for THOSE requests), we cannot determine if they made a mistake. You still have to go through their dispute policy.

13:56:03 From mary.wong : Here is the TMCH's Dispute Resolution Procedure (per Kristine and Susan) which allows third parties to challenge a decision as to a TMCH decision/record:
<http://www.trademark-clearinghouse.com/dispute>

13:56:12 From Scott Austin : What about the remedy? After all the effort to track Sunrise and time the complaint within the 90 day period isn't there a problem if the only remedy is for the RO to cancel the registration and throw it back into the sea of available names for purchase again by the same party. It is not a forced transfer to a successful complainant like the UDRP, correct? And what, if any, remedy is available if the rightsholder if they believe their mark is in a string reserved by an RO?

13:57:05 From Maxim Alzoba : I object against using a particular TLD SDRP as applicable to all TLDs (also different jurisdictions have different ideas in legislation, business practices)

13:57:28 From Kristine Dorrain (Amazon Registry) : @Scott, as I recall, there is no standard remedy, though cancelling is the obvious choice.

13:58:00 From Kristine Dorrain (Amazon Registry) : FORUM suggests to its customers that they might want to include an option for a competitor to obtain the registration if they have their own SMD file, but that's just one option.

13:58:02 From Maxim Alzoba : Sunrise protect only TMCH users

13:58:15 From Maxim Alzoba : are we trying to extend that?

13:58:53 From Kristine Dorrain (Amazon Registry) : All, good discussion, but I have to bail for a previous engagement. Talk to you next week (or maybe it's cancelled due to GDD?)

13:59:19 From julie.hedlund : @All: We are meeting next week. It isn't cancelled for GDD.

13:59:32 From David McAuley : Thanks for your comments Kristine

13:59:53 From Kristine Dorrain (Amazon Registry) : @Julie, ok, it's apparently not on my calendar yet.

14:00:02 From Susan Payne : well we do still have whois, for what it's now worth :)

14:00:12 From julie.hedlund : @Kristina: It will appear after this meeting :-)

14:00:44 From Maxim Alzoba : it is quite bad - Registries and Registrars will have less participants, and given that they have experience , we might have strange outcome of the next week's calls

14:01:27 From julie.hedlund : @Maxim: There will be the opportunity to continue some of the discussion on the next call and also on discussion threads.

14:01:42 From julie.hedlund : (the call in two weeks)

14:02:01 From Maxim Alzoba : @Julie, it does not seem to be equal to participation (according to my historical exp.)

14:02:50 From Kathy Kleiman : can you post link?

14:08:03 From David McAuley : if some discussions are taken offline you should consider using thread to note tenor of discussion and conclusions, if any

14:08:33 From mary.wong : Staff hand up please.

14:09:18 From Kathy Kleiman : right!

14:10:28 From Kathy Kleiman : kosher records, that's a new one :-)

14:10:35 From Kathy Kleiman : tx for the summary - I took notes

14:10:37 From Maxim Alzoba : not sure we can use that

14:12:04 From Maxim Alzoba : A registrant has zero rights before paying to TMCH as a valid TM owner

14:12:26 From Kathy Kleiman : Claudio - I think this is a way to address!

14:12:48 From Susan Payne : Mary has had her hand up for ages

14:12:50 From David McAuley : Greg - staff hand up

14:13:26 From David McAuley : it is hard to see that hand in zoom

14:13:59 From Susan Payne : agreed David, there really needs to be a way for staff to put hands up

14:14:15 From Kathy Kleiman : @Mary, link?

14:14:19 From Ariel Liang : <https://newgtlds.icann.org/en/program-status/sunrise-claims-periods>

14:14:27 From Kathy Kleiman : Tx Ariel!

14:14:48 From Ariel Liang : BTW, if you click on "Insurance" or "NGO" you will see the SDRP listed there

14:15:05 From Maxim Alzoba : so only thousand or so files to check

14:15:07 From Ariel Liang : It requires some clicking

14:15:33 From David McAuley : you will need that coffee Maxim ;-)

14:15:53 From Maxim Alzoba : that's why I was saying 'we might not have enough time'

14:15:59 From Scott Austin : Kristine: Thanks I had just looked at the SDRP The Forum posted for the .onl TLD registry. It appeared cancellation and filing an app by the complainant was an option.

14:16:42 From mary.wong : @Maxim, correct - RO by RO and link by link.

14:17:28 From Maxim Alzoba : btw - .ink is an end-date sunrise , and not all TLDs had the same

14:18:14 From Susan Payne : @Maxim I think Claudio meant INC

14:20:38 From Maxim Alzoba : @Susan, maybe , but the other part still uses end-date :)

14:23:18 From Kathy Kleiman : Interesting....

14:23:25 From julie.hedlund : hand up
14:23:52 From David McAuley : Thanks Claudio - or use thread
14:24:29 From David McAuley : good idea, Julie
14:25:00 From David McAuley : +1 @Greg
14:25:44 From Susan Payne : @Maxim, no-one is suggesting that
14:26:13 From Maxim Alzoba : no, I had not suggested it
14:26:32 From Kathy Kleiman : Tx for chairing today, Greg
14:26:33 From mary.wong : @Greg, correct - staff was not making any proposals or suggestions;
merely describing where and how info on SDRPs can be found.
14:27:07 From Kathy Kleiman : Who can't make it next week?
14:27:41 From David McAuley : Well said, Julie
14:27:49 From Maxim Alzoba : is going to be night in Bangkok, not sure about
14:27:54 From Greg Shatan : Thanks and bye!
14:27:54 From Maxim Alzoba : bye all