**EXTRACTS FROM IRT & STI REPORTS ON RATIONALE FOR RECOMMENDING A TRADEMARK CLAIMS SERVICE**

From the IRT Final Report (May 2009)

General Principles:[[1]](#footnote-1)

* The recommendation should protect the existing rights of trademark owners, but neither expand those rights nor create additional legal rights;
* The recommendation should provide clear benefits to trademark owners and new gTLD registries, such that as many as possible will be incentivized to use the recommended solution;
* The recommendation should accommodate user and consumer concerns, in particular the need to ensure consumer protection both in terms of preventing unnecessary confusion and of permitting (and not derogating from) the lawful use of marks;
* The recommendation should be sufficiently flexible and scalable so as to ensure its sustainability as an effective rights protection mechanism (RPM); and
* The recommendation should not result in unnecessary or undue costs, either to trademark owners, gTLD registries, registrars or to legitimate users and consumers.

As a practical matter, trademark owners face a much larger threat at the second level than at the first level, and thus the recommendations regarding the second level recognize and articulate these concerns separately. The IRT recommends a two-pronged approach at the second level, which will provide one set of protections for the GPMs[[2]](#footnote-2) and a second set of protections for all other marks that are the subject of trademark registrations of national effect.

The IRT recommends… for non-GPMs, notification pursuant to the Pre-Launch IP Claims Service. The IRT recognizes that each new gTLD registry will have unique characteristics such that no universal second-level pre-launch RPM can be imposed. That said, the IRT believes that there are certain minimum protections that should be employed by new gTLD registries to protect the IP rights of trademark owners.

From the STI Report (December 2009):

The TM Claims Notice should provide clear notice to the Registrant of the scope of the trademark holder’s rights, in order to minimize the chilling effect on registrants.

1. Because there was little explicit direct reference to rationale just for the Claim mechanism, staff is reproducing here the general principles developed by the IRT that were intended to frame the scope of all the various RPMs recommended. [↑](#footnote-ref-1)
2. The IRT had recommended the creation of a Globally Protected Marks List, which was not pursued or adopted. [↑](#footnote-ref-2)