

### 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. Specifically, the Analysis Group survey gathered data to help answer the questions highlighted in yellow. Relevant survey data can be found in the following tabs/rows in the [survey analysis tool](#), including, but not limited to:

- “Actual & Potential Registrants” tab, row 12-27
- “Registries & Registrars” tab, row 59-76

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

### Claims Charter Question 1:

**Is the Trademark Claims service having its intended effect? Consider the following questions specifically in the context both of a Claims Notice as well as a Notice of Registered Name:**

**(a) Is the Trademark Claims service having its intended effect of deterring bad-faith registrations and providing Claims Notice to domain name applicants?**

**(b) Is the Trademark Claims service having any unintended consequences, such as deterring good-faith domain name applications?**

Sub Team Member Name	Do the survey results help answer Claims 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)
Several Trademark Claims Sub Team members (names to be added)	Yes	Q1(a)	<p>Many respondents indicated they received a Claims Notice, but their responses do not directly answer whether the Claims Notice is deterring bad-faith registration.</p> <p>There is evidence that the Claims Notice does affect the decision whether or not to proceed with a registration, and that various reasons were cited by respondents for not proceeding. The Claims Notice is supposed to make people pause and consider, and that is the intended effect.</p> <p>We could cautiously say that the Claims Notice has some deterrence to registration.</p> <p>Responses in E23 and F23 in the Actual &amp; Potential Registrant tab indicate that the Claims Notice is confusing and/or intimidating to some respondents. We can</p>	Actual & Potential Registrants, E12, F12, E22-23, F22-23,

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			recommend improving the wording of the Claims Notice to reduce confusion and improve future results.	
George Kirikos	Yes	Q1(b)	TBD	Registry - Q26; Registry - Q29; Registrar - Q4i; Registrar - Q10; Registrar - Q11 TM & Brand Owners, F52
Kristine Dorrain	Yes	Q1(a) & (b)	There is some evidence that the Claims Notice may cause some registrants to take notice, particularly if the registrant is unsophisticated, which I think is the goal (though, as one would expect, there is some collateral damage, with some potential registrants shying away). A common UDRP response was "I didn't know - if I had, I wouldn't have registered it, why was it available or why was I not warned." On the	Actual/ potential - E14-19 TM F50-52, 81

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			<p>other hand, the TM/brand survey indicates that (as one might expect), industry players will disregard the notices and take their chances. Some registrants register domain names only to monetize them for the few weeks it takes brandowners to catch on and file a UDRP - the notice is clearly not affecting them (and I would argue those people are not the target audience anyway)..</p> <p>For the target audience, I think the claims notice is likely working, but should be fixed to be more clear to reduce collateral damage. I further believe that this is unlikely to have a lot of impact on the brand protection efforts against habitual, recidivist cybersquatters who are going to infringe anyway.</p>	
George Kirikos	Yes*	Q1(a) & (b)	<p>* As discussed previously [see: <a href="https://mm.icann.org/pipermail/gnso-rpm-trademark/2018-December/000092.html">https://mm.icann.org/pipermail/gnso-rpm-trademark/2018-December/000092.html</a> ], there were serious statistical problems with the survey, so any "Yes" must include an "asterisk", given the low weight that should be attached to any results.</p> <p>Having said that, we can unequivocally conclude that the trademark claims service is "providing Claims Notice to domain name applicants" (the 2nd part of Q1(a)).</p> <p>For the first part of Q1(a) It's clear from the answers that registrations are being deterred, but we have no way of knowing whether these were limited to only "bad faith" registrations. So, we can conclude that adding the warning creates an obstacle/impediment to registration, but those could very well be good faith registrations (as per the Q1(b) second part of this question).</p>	<p>Actual/Potential Registrants, cells E12, F12, E18/F18, E22-23, F22-23</p> <p>Registrant - Q11b and Q11c tabs</p> <p>TM &amp; Brand Owners, - F52</p>

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			<p>We can also see that the notice was found to be "confusing and/or intimidating", which is an unintended consequence, given that we don't want to confuse or intimidate good faith registrants (and most prospective registrants are likely to be good faith ones; indeed, if one is a "bad faith" registrant, would such a person answer a survey honestly?). Written reasons in Registrant Q11c tab show there's a burden to contacting a lawyer to discuss things, which is a chilling effect on registrants.</p> <p>In the <sup>TM</sup> &amp; Brandowners Tab, cell F52 ("names should be published generally") seems to imply that having a secretive Claims service is having an unintended consequence, reducing the publicity for the marks that are being protected, or the conflicting domains that are being registered (hard to tell from the brief answer). Regardless, it seems to argue for a more transparent process.</p> <p>A mandatory claims service impacts registries negatively (see Registry Q26 tab, cells B8-14) which is arguably an unintended consequence (i.e. the intended consequences are upon cybersquatters, not innocent registry operators or registrars). The responses in rows 5-7 of the Registry-Q28 tab reinforce that, when the scenario of elimination of the claims period is presented, the impact is favourable in most columns for registries and registrars. Cells D6-8 of tab Registrar-Q10 reinforce this negative (unintended) impact on registrars. Similarly, this is implicit when contemplating a longer claims period hypothetical, registrars would experience an even greater negative unintended consequence, as per the</p>	<p>Registry -Q26 tab, cells B8-14</p> <p>Registry - Q28 tab, cells D5-7, E5-7, G5-7, H5-7, I5-7, J5-7</p> <p>Registrar - Q10, cells D6-8</p> <p>Registrar - Q11, cells B6-8, D5</p>

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			Registrar-Q11 cells B6-8 + D5 responses.	

**Claims Charter Question 1:**

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