**GNSO REVIEW OF ALL RIGHTS PROTECTION MECHANISMS (RPMS) IN ALL GTLDS PDP WORKING GROUP - DETAILS OF REQUEST FORM FOR SUBMISSION TO THE GNSO COUNCIL REGARDING DATA COLLECTION FOR SUNRISE AND TRADEMARK CLAIMS RPMS**

**Draft prepared by ICANN staff (as of 29 August 2017)**

KEY:

Priority Level 1: High Priority (critical for Working Group progress at this stage)

Priority Level 2: Medium Priority (highly desirable for Working Group progress at this stage)

Priority Level 3: Not needed at this stage (but may be desirable to carry out at a later stage of the PDP)

Priority Level 4: Desirable to carry out but not clear that results will be useful to the Working Group

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| **Co-Chairs’ Designation of Priority Levels (1-4)** | **Overall Agreed Priority Level** | **Data Sources identified by the Working Group** | **Purpose & Scope of Data/Feedback to be Obtained** |
| J. Scott: Level 2Kathy:2Phil: 2 |  | 1. Survey of New gTLD Registry Operators (RO) | Obtain anecdotal evidence on Sunrise Charter Question #2 (whether Sunrise and/or Premium Pricing affects trademark (TM) holders’ ability to participate in Sunrise) |
| J. Scott: Level 1Kathy:1Phil: 1 |  | Obtain anecdotal evidence on Sunrise Charter Question #4 (whether registry use of Reserved Names lists affects TM holders’ ability to participate in Sunrise) |
| J. Scott: Level 1Kathy:1Phil: 1 |  | Obtain anecdotal evidence on Sunrise Charter Question #5 (whether there should be mandatory/optional Sunrise, and the efficacy of a 30-day mandatory minimum Sunrise period) |
| J. Scott: Level 1Kathy:1Phil: 2 |  | Obtain anecdotal evidence on Sunrise Charter Question #12 (whether there is a need for priority or special rules for specialized gTLDs) |
| J. Scott: Level 1Kathy:1Phil: 2 |  | If a RO ran an Approved Launch Program (ALP), Qualified Launch Program (QLP) and/or Limited Registration Period (LRP) – obtain feedback on whether, and if so what aspects of, the programs should be reviewed (Sunrise Charter Question #8) |
| J. Scott: Level 1Kathy:2Phil: 2 |  | If a RO offered an Internationalized Domain Name (IDN) gTLD – obtain feedback on the efficacy of Sunrise for IDN gTLDs (Sunrise Charter Question #11) |
| J. Scott: Level 2Kathy:2Phil: 4 |  | If a RO operates in a jurisdiction where profane or other words (strings) are prohibited – obtain feedback on its use of Reserved Names lists (Sunrise Charter Question #4) |
| J. Scott: Level 2Kathy:1Phil: 2 |  | Obtain feedback from ROs who may believe that their business models (e.g. geo, community or other specialized TLDs) possess attributes that warrant a non-uniform policy in relation to Claims (Claims Charter Question #5) |
| J. Scott: Level 1Kathy:1Phil: 1 |  | 2. Survey of Registrars | Obtain anecdotal evidence on Sunrise Charter Questions #4 & #5 (i.e. ROs’ use of Reserved Names lists; mandatory vs. optional Sunrise; efficacy of mandatory minimum 30-day Sunrise period) |
| J. Scott: Level 1Kathy:1Phil: 1 |  | THE FOLLOWING QUESTIONS, TO BE ADDRESSED TO REGISTRARS, WERE DEVELOPED BY THE TRADEMARK CLAIMS SUBTEAM FOR CHARTER QUESTION #1:1.What is the abandonment rate associated with reasons other than only a Claims notice being triggered? What is the difference between abandonment rates between those that trigger Claims Notices, and those that don’t? |
| J. Scott: Level 2Kathy:1Phil: 1 |  | 2. Is there anecdotal data explaining why potential registrants did not complete registrations after they encounter a Trademark Claims Notice?  |
| J. Scott: Level 1Kathy:1Phil: 2 |  | 3. At what point in the registration process is a trademark record downloaded? Does this happen when domain names are placed in carts, or does it happen when payment/attempted registrations are done later in the process? |
| J. Scott: Level 2Kathy:1Phil: 2 |  | 4. Many registrars take orders for domain names before general availability – pre-orders do not normally result in Claims notices being presented until within 48 hours of general availability – does this contribute to the abandonment rate? If so, to what extent are pre-ordered domain name registrations abandoned?  |
| J. Scott: Level 1Kathy:1Phil: 1 |  | 5. Would it be feasible for registrars to run surveys of domain name applicants during subsequent rounds of new gTLDs for anecdotal evidence on why registrations are being abandoned? Is this something ICANN should mandate?  |
| J. Scott: Level 1Kathy:1Phil: 1 |  | 3. Survey of TM & Brand Owners | Obtain feedback on Sunrise Charter Questions #2, #4 & #5 (whether Premium Pricing and the use of Premium Names and Reserved Names lists affected TM owners’ willingness to participate in Sunrise; whether intended purpose of mandatory 30-day Sunrise fulfilled, and whether Sunrise should be mandatory/optional) |
| J. Scott: Level 2Kathy: 4Phil: 2 |  | Obtain feedback on number of cease-and-desist letters sent (Claims Charter Question #3 – whether Claims serves its intended purpose) |
| J. Scott: Level 1Kathy:2Phil: 2 |  | Obtain feedback on actual brand owner experiences regarding evidence of harm intended to be addressed by the Claims RPM (Claims Charter Question #4(a)) |
| J. Scott: Level 1Kathy:1Phil: 1 |  | 4. Survey of Domain Name Registrants | Obtain anecdotal evidence on effect of Claims Notices (Claims Charter Question #1(b)) |
| J. Scott: Level 2Kathy:1Phil: 1 |  | Obtain “more granular data about the percentage of those who abandoned registration attempts in response to a notice based on dictionary terms versus those who abandoned attempts in response to distinctive trademarks” (quote from Sub Team report on Claims Charter Question #1(b)) |
| J. Scott: Level 2Kathy: 4Phil: 2 |  | Obtain feedback on number of cease-and-desist letters received (Claims Charter Question #3) |
| J. Scott: Level 3Kathy: 1Phil: 3 |  |  | ADD QUESTION: Has the TM Claims Notice been translated into the language of the registration agreement and is it being made available to registrants in that language? |
| J. Scott: Level 1Kathy: 1Phil: 1 |  | 5. Survey of Potential Registrants | Obtain “more granular data about the percentage of those who abandoned registration attempts in response to a notice based on dictionary terms versus those who abandoned attempts in response to distinctive trademarks” (Claims Charter Question #1(b)) |
| J. Scott: Level 1Kathy:1Phil: 1 |  | Show copy of Claims Notice to average Internet users who are likely to register a domain - to test understanding of the notice (in multiple languages, using languages into which the TMCH has translated its website) (Claims Charter Questions #1 & #3) |
| J. Scott: Level 3Kathy:1Phil: 2 |  |  | ADD QUESTION: Has the TM Claims Notice been translated into the language of the registration agreement and is it being made available to registrants in that language> |
| J. Scott: Level 3Kathy: 1Phil: 2 |  | 6. Survey of public interest groups and trade associations (to be identified by the Working Group) | Obtain feedback on Sunrise Charter Question #5 (mandatory vs. optional Sunrise and efficacy of 30-day mandatory minimum Sunrise period) |
| J. Scott: Level 1Kathy: URS Level 1; UDRP Level 4Phil: 1 |  | 7. Research (can be done by law students or graduate researchers and/or staff) | A two-step process to obtain specific data showing: (1) what domains registered in new gtlds were disputed; and (2) whether they were registered during the applicable claims period for that gTLD (purpose is to evaluate efficacy of Claims Notice if one had been issued (Claims Charter Questions #1, #2, #3)):* [RECOMMEND AS ATTACHMENT 3?] Collect, compile and organize all UDRP complaints filed in gTLDs launched under the 2012 New gTLD Program (equivalent URS data is already being compiled by ICANN staff)
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| J. Scott: Level 3Kathy: URS Level 1; UDRP Level 4Phil: 1 |  | * Pull down WHOIS records for all domains subject to URS and UDRP complaints under the 2012 New gTLD Program – check for registration date to see if it matches with the relevant gTLD RO’s Claims Period and Identify whether the URS complaint involves a trademark registered in the TMCH Database to evaluate efficacy of Claims Notice if one had been issued
 |
| J. Scott: Level 2Kathy: 3Phil: 2 |  | Find articles and other research “discussing the harm of typosquatting and other forms of non-exact-match cybersquatting, including all forms of consumer harm, not just traffic redirection” (quote from Sub Team report on Claims Charter Question #4) |
| J. Scott: Level 2Kathy: Level 1 Phil: 2 |  |  | SUBTEAM SUGGESTION: Find articles that discuss “gaming” of the Sunrise Period, including those describing the registration of the word “the” and single letter marks, and any investigation/reporting of issues/concerns/problems with TM Claims notices and abandonment.  |
| J. Scott: Level 2Kathy: 4Phil: 2 |  | 8. Contractors | Hire contractor to generate “semantics of programming that can be used to test the historical data to see how many Claims Notices may be generated” (quote from Sub Team report on Claims Charter Question #4) |
| J. Scott: Level 2Kathy:3Phil: 1 |  | Following completion of above task, ICANN staff to work with contractor (can be Deloitte and/or IBM) to determine ~~scope and cost~~ [feasibility] of developing a possible Claims system to handle non-exact matches (Claims Charter Question #4) |
| J. Scott: Level 1Kathy: 1 (more useful alternative may be to seek confidentiality agmt rather than anonymized data for better understandings)Phil: 1 |  | ICANN staff to work with Deloitte and/or IBM to obtain aggregated, anonymized statistics demonstrating percentage of disputed domains that were registered in Sunrise and that generated a Claims Notice |
| J. Scott: Level 2Kathy: 2Phil: 2 |  | ICANN staff to work with contractor to obtain Sunrise and General Availability for a sampling of different types of domains (e.g. geo, community, open) - purpose is to determine if Sunrise and/or Premium Pricing affected ability of trademark holders to participate in Sunrise (Sunrise Charter Question #2) |
| J. Scott: Level 1Kathy: 1Phil: 1 |  | Hire contractor to assist Working Group in sorting and analyzing all data and feedback collected |
| J. Scott: Level 1Kathy: 1Phil: 2 |  | 9. List of gTLDs that had Approved Launch Programs, Qualified Launch Programs and/or Limited Registration Periods | ICANN staff to compile the list for Working Group analysis of the efficacy of these mechanisms (Sunrise Charter Question #8)Note – staff is compiling the list and dates only; further analysis will be conducted by the Working Group following input from ROs in response to the professional survey proposed above |
| J. Scott: Level 1Kathy: 2Phil: 2 |  | 10. List of IDN gTLDs that had a Sunrise Period | ICANN staff to compile the list for Working Group analysis of the efficacy of Sunrise for TMs in non-Latin scripts (Sunrise Charter Question #11)Note – staff is compiling the list only; actual Sunrise numbers for each gTLD will be compiled as part of the professional survey of ROs proposed above, with further analysis conducted by the Working Group |
| J. Scott: Level 2Kathy:2 (but don’t need to boil the ocean)Phil: 2 |  | 11. Compilation of investigative journalists’ and other media reports as well as coverage from industry blogs and publications | Staff to collect articles from Working Group-approved list of blogs, to assist Working Group analysis of Sunrise Charter Questions #5 (mandatory vs. optional Sunrise and efficacy of 30-day mandatory minimum Sunrise period); and #12 (whether there is a need for priority or special rules for specialized gTLDs)Note – staff is compiling the articles only; analysis of their content and meaning will be performed by the Working Group |
| J. Scott: Level 1Kathy:2Phil: 1 |  | 12. Compilation of all URS cases (including domains in dispute and outcomes) | Staff to compile the list, to compare against WHOIS data (to be obtained as part of the two-step research process noted in #7 above) for domains in dispute and discover which domains were registered during the relevant Claims Period for that gTLD |
| J. Scott: Level 2Kathy:1Phil: 1 |  | 13. Compilation of data and conclusions from the Analysis Group’s report on the Trademark Clearinghouse | Staff to extract relevant data and conclusions as a starting point for the Working Group’s analysis of the efficacy of the Sunrise and Claims RPMs, and avoid duplication of effort where the Analysis Group has already provided the data required |
| J. Scott: Level 2Kathy:Level 3 Phil: 2 |  | 14. Compilation of INTA Cost Impact Study results | Staff to compile results relevant to Sunrise and Claims, to supplement anecdotal evidence obtained via the surveys proposed above, to determine if Sunrise and/or Premium Pricing affected ability of trademark holders to participate in Sunrise (Sunrise Charter Question #2) |