

Trademark Clearinghouse Rights Protection Mechanism Requirements
Frequently Asked Questions
(Updated 9 April 2014)

The following are frequently asked questions regarding the Trademark Clearinghouse Rights Protection Mechanism Requirements (“**TMCH Requirements**”). These FAQs should be used as guidance by Registry Operators and registrars in complying with the TMCH Requirements, but they should not be construed as describing every requirement of the TMCH Requirements and the actual TMCH Requirements should be reviewed carefully. ICANN may update these FAQs from time to time. Capitalized terms used in these FAQs have the meaning given to them in the TMCH Requirements.

Integration Testing

Q1: *Who is the TMCH Sunrise and Claims Operator and how do I conduct Integration Testing?*

A: The TMCH Sunrise and Claims Operator is IBM. Integration Testing is conducted in a test database made available by the IBM. For more information regarding Integration Testing, please visit <http://newgtlds.icann.org/en/about/trademark-clearinghouse/scsvcs>.

Q2: *For what period of time will Registry Operators be permitted to conduct their Integration Testing?*

A: Registry Operators may complete Integration Testing (and request testing certification) at any time convenient for them following execution of their Registry Agreement. Because all testing performed prior to execution of a Registry Agreement will be considered to have been conducted with a “test TLD”, IBM will only certify that the TLD has completed Integration Testing after the Registry Operator has an executed Registry Agreement for the TLD and has completed the testing again with the token and credentials set up using their actual TLD. Following completion of Integration Testing, a Registry Operator may use the Testing Database to conduct other testing functions beyond Integration Testing.

Q3: *How will waivers of Integration Testing be granted?*

A: In some cases, e.g., where a Registry Operator or its service provider maintains multiple gTLD services from a single platform, Integration Testing may be waived. For more information on the waiver process and criteria, please visit <http://newgtlds.icann.org/en/about/trademark-clearinghouse/scsvcs>.

TLD Startup Information

Q4: *What is “TLD Startup Information” and do Registry Operators have to provide it for each TLD?*

A: TLD Startup Information is the basic information that each Registry Operator must provide to ICANN for each TLD **after** delegation and **prior** to starting its Sunrise Period. TLD Startup Information includes the dates for the relevant startup periods (e.g., Sunrise, Claims, and any Limited Registration Periods), as well as the complete Sunrise registration policies for the TLD, including all applicable policies related to restrictions to

register a domain name in the TLD during the Sunrise Period, and the TLD's Sunrise Dispute Resolution Policy.

Q5: *When can a Registry Operator submit its TLD Startup Information?*

A: Registry Operators may submit their TLD Startup Information anytime after their TLD is delegated. TLD Startup Information submitted prior to delegation will not be accepted.

Q6: *How does a Registry Operator submit its TLD Startup Information?*

A: Registry Operators should submit the TLD Startup Information form via ICANN's Customer Service Center at newgtld@icann.org. The TLD Startup Information Form and process information will be available on the TMCH services page on ICANN's website. Upon introduction by ICANN of an enhanced system for submission of the TLD Startup Information (e.g., Sunrise Portal on ICANN's webpage), Registry Operators will be provided with the relevant instructions for use of the system.

Q7: *How long will it take for ICANN to review a Registry Operator's TLD Startup Information?*

A: ICANN will review TLD Startup Information as promptly as practicable, but the actual response time will vary depending on the volume of submissions at a given time and the quality of each submission.

Q8: *Do Registry Operators need to account for ICANN's review of TLD Startup Information in their Sunrise startup plans?*

A: Since it is possible that TLD Startup Information may be determined to not be compliant, Registry Operators are encouraged to account for ICANN's review of TLD Startup Information when submitting their TLD Startup Information, including the expected start dates. In order to facilitate a smooth transition from submission of TLD Startup Information to the start of the TLD's Sunrise Period, Registry Operators are encouraged to request a Sunrise Period start date that is at least seven calendar days away from the date of submission of their TLD Startup Information.

Q9: *Rather than choose a specific date in its TLD Startup Information, can a Registry Operator request the "next available" Sunrise Period start date?*

A: When submitting its Sunrise Period start date, a Registry Operator may request the "next available" Sunrise Period start date. The Registry Operator will then be notified of its start date when the TLD Startup Information is accepted by ICANN. Registry Operators who request the next available Sunrise Period start date should provide the number of days the Sunrise Period will be open rather than a specific end date for the Sunrise Period (i.e. "the Sunrise Period will end 60 days from the next available start date of the Sunrise Period assigned by ICANN").

Q10: *Does a Registry Operator need to provide its policies related to general registration in addition to policies related to Sunrise Registrations?*

A: Registry Operators are not required to provide registration policies that only relate to General Registration as part of their TLD Startup Information. However, in order to make registration policies available to potential registrants, Registry Operators are

encouraged to provide copies of all general registration policies as part of their TLD Startup Information.

Q11: *Does a Registry Operator have to attach copies of its relevant registration policies to its TLD Startup Information or will links suffice?*

A: Registry Operators must include copies of their relevant registration policies rather than links.

Q12: *What happens if a Registry Operator's TLD Startup Information is determined to not be compliant with the TMCH Requirements?*

A: ICANN will review submitted TLD Startup Information for compliance with the TMCH Requirements (e.g., Was all necessary information provided? Are the time periods compliant?). If ICANN determines that the provided TLD Startup Information is non-compliant, it will notify the Registry Operator and explain the non-compliant aspects of the TLD Startup Information. Thereafter, the Registry Operator must provide revised TLD Startup Information, which ICANN will then review for compliance. The Registry Operator may not begin its Sunrise Period until ICANN has determined that that Registry Operator's TLD Startup Information is compliant with the TMCH Requirements and has provided the Registry Operator with the accepted Sunrise Period start and end dates.

Q13: *Will ICANN review TLD Startup Information for matters not related to the TMCH Requirements?*

A: ICANN's review of TLD Startup Information is to confirm compliance with the TMCH Requirements. To the extent commercial terms are unrelated to the TMCH Requirements, they will not be reviewed.

Q14: *What if a Registry Operator wants to make changes to its TLD Startup Information, such as to change the start date or end date of its Sunrise Period?*

A: If a Registry Operator wants to change information contained in TLD Startup Information that has been accepted by ICANN, it must provide updated compliant TLD Startup Information. Any changes to the start date or end date of a Sunrise Period must be provided at least ten days before the rescheduled start date and will be subject to a compliance review by ICANN. Sunrise registration policies and whether a Sunrise Period will be a Start-Date Sunrise or an End-Date Sunrise cannot be changed once a Sunrise Period has started.

Sunrise Period

Q15: *Is a Sunrise Period required for every TLD?*

A: Yes, a Sunrise Period is required for every new gTLD.

Q16: *Does every Registry Operator have to use the Trademark Clearinghouse for its Sunrise Period?*

A: Yes. A Registry Operator may not process registrations of domain names during a Sunrise Period unless the registration is accompanied by a valid Signed Mark Data (SMD) file issued by the Trademark Clearinghouse.

Q17: *Must a Registry Operator provide ICANN with advance notice before launching its Sunrise Period?*

A: Registry Operators must conduct either a “Start-Date Sunrise” or an “End-Date Sunrise”. In order to offer a Start-Date Sunrise, a Registry Operator must provide at least 30 days’ notice before the start date of the Sunrise Period. An End-Date Sunrise may commence anytime after a Registry Operator’s TLD Startup Information has been accepted by ICANN and Registry Operator has been assigned a Sunrise Period start date.

Q18: *How long must a Sunrise Period last?*

A: A Start-Date Sunrise Period must stay open for at least 30 days and cannot commence prior to expiration of the required 30 day notice period. An End-Date Sunrise Period must stay open for at least 60 days. In either case, a Sunrise Period **must not** begin until ICANN has accepted the Registry Operator’s TLD Startup Information and the Registry Operator has been assigned a Sunrise Period start date.

Q19: *Must a Registry Operator have Sunrise Period registration policies?*

A: Other than the requirement that Sunrise Registrations be accompanied by a valid SMD file, a Registry Operator may follow its general registration policies during the Sunrise Period. If a Registry Operator will only have its general registration policies during the Sunrise Period and no Sunrise Period specific registration policies, the Registry Operator must provide those general registration policies as its Sunrise Period registration policies with its TLD Startup Information.

Q20: *What restrictions can a Registry Operator impose during the Sunrise Period?*

A: All registrations during a Sunrise Period must include a valid SMD file. Additionally, a Registry Operator may (i) apply restrictions relating to the underlying rights of a trademark related to the purpose of the TLD, (ii) specify requirements that are not related to the scope of mark rights (which must be imposed consistently throughout any Limited Registration Period and General Registration), (iii) require the SMD file information to match the applicable Whois record, and (iv) impose reasonable date restrictions relating to the date that the trademark was registered, validated or protected in order to prevent gaming of the Sunrise Period. Any other registration restrictions must be imposed consistently throughout any Limited Registration Period and General Registration.

Q21: *Can a Registry Operator impose trademark related registration requirements in a Sunrise Period and curtail or eliminate these requirements in subsequent registration periods?*

A: During a Sunrise Period, a Registry Operator may apply restrictions relating to the underlying rights of a Trademark Record so long as those restrictions are related to the purpose of the TLD. For example, if the purpose of a TLD was to serve a particular region, the Registry Operator could require that the Trademark Record be registered in that jurisdiction to be eligible for the Sunrise Period. However, if a subsequent registration period has a registration restriction where a domain name registrant only needs to have a Trademark Record from any jurisdiction, such a registration restriction may be seen as evidence that the jurisdiction restriction in the Sunrise Period was not actually related to the purpose of the TLD.

Q22: *Do Registry Operators have to offer any sort of dispute resolution policies for registrations in their Sunrise Periods?*

A: Yes. All Registry Operators must offer 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. Because each TLD's Sunrise Period registration policies can be different, the Registry Operator has discretion when designing its SDRP. A complete SDRP must be included in the TLD Startup Information.

Q23: *Can a Registry Operator register or Allocate domain names prior to the completion of the Sunrise Period to non-Sunrise Eligible Rights Holders?*

A: The general rule is that domain names may only be Allocated or registered during a Sunrise Period to Sunrise-Eligible Rights Holders who have a valid SMD file issued by the Trademark Clearinghouse. Unless the Registry Operator has received ICANN's approval for an Approved Launch Program or ICANN implements a Qualified Launch Program as described in the TMCH Requirements, the Registry Operator may not register or Allocate domain names prior to the completion of the Sunrise Period to non-Sunrise-Eligible Rights Holders.

An Allocation of a domain name includes any allocation, designation, assignment, or other form of earmarking of a domain name to a potential domain name registrant. A domain name may be considered to have been Allocated even if the domain name is not ultimately registered to the third party to whom the domain name was Allocated. Whether there are events or conditions that must happen or not happen after an earmarking of the domain name for the domain name to be registered to that registrant does not affect whether the domain name was Allocated at a certain point in time.

Q24: *What is the difference with respect to the Allocation or registration of domain names between a Start-Date Sunrise and an End-Date Sunrise?*

A: In a Start-Date Sunrise, a Registry Operator may Allocate or register domain names on a first-come, first-served basis or any other time-based Allocation or registration process, in addition to any other manner of Allocation or registration they desire. In an End-Date Sunrise, a Registry Operator **must not** Allocate or register domain names prior to the end of the Sunrise Period and **must not** employ a first-come, first-served or any other time-based Allocation or registration process.

Q25: *If a Registry Operator plans to hold auctions at the end of its Sunrise Period, how does that comply with Section 3.2.4 of the TMCH Requirements?*

A: Registry Operators may accept applications for the same domain name from different Sunrise-Eligible Rights Holders. If an auction is used to define the ultimate registrant of that domain name to one of the Sunrise-Eligible Rights Holders, and the domain name is withheld to such Sunrise-Eligible Rights Holder, thus not allocating nor registering the domain name to registrants in a Limited Registration Period or General Registration, then the auction methodology complies with Section 3.2.4. Registry Operators should be clear

in their TLD Startup Information that domain names subject to an auction between competing Sunrise-Eligible Rights Holders are withheld from Allocation or registration to other potential registrants pending the outcome of the auction.

Q26: *How does the 120 day no-activation period under the New gTLD Collision Occurrence Management Plan factor into Sunrise Periods?*

A: Under the New gTLD Collision Occurrence Management Plan, no domain names may be activated in a TLD until 120 days after the Registry Agreement for the TLD is signed. It is possible that a Sunrise Period may commence prior to the expiration of this 120 day period. In this situation, Sunrise Registrations may be registered or Allocated to Sunrise Eligible Rights Holders during the Sunrise Period, but cannot be activated until the 120 day period has expired. The same prohibition on activation would also apply to any Qualified Launch Program or Approved Launch Program.

Launch Programs

Q27: *What is the status of the Qualified Launch Program described in Section 4.5.1?*

A: ICANN is currently reviewing the feasibility and implementation of Qualified Launch Programs. If a process that will allow Registry Operators to offer a Qualified Launch Program is approved by ICANN, ICANN will prepare an addendum to the TMCH Requirements providing for the implementation of the Qualified Launch Program for all Registry Operators. The addendum, if adopted, will be automatically incorporated into the TMCH Requirements.

Q28: *Besides for possible Qualified Launch Programs, is there any way for a Registry Operator to Allocate or register domain names prior to its Sunrise Periods?*

A: A Registry Operator may, after signing its Registry Agreement and until the start date of its Sunrise Period, apply to ICANN for approval to conduct an Approved Launch Program.

Q29: *How does a Registry Operator apply for an Approved Launch Program?*

A: For more detail on the process for requesting an Approved Launch Program, please visit <http://newgtlds.icann.org/en/about/trademark-clearinghouse/launch-application-process-12nov13-en.pdf>. Any Registry Operator's application to offer an Approved Launch Program may be published for public comment at ICANN's discretion.

Q30: *Does a Registry Operator have to apply to offer an Approved Launch Program?*

A: Yes. Pursuant to Section 2.2.4, the only way a Registry Operator can Allocate or register domain names to a third party prior to the Sunrise Period is through an Approved Launch Program or, if made available, a Qualified Launch Program. In order to offer an Approved Launch Program, a Registry Operator must apply to ICANN and have its application approved prior to offering the Approved Launch Program.

Q31: *I am a Registry Operator who described a launch plan in my application for my TLD. How does that affect me if I apply for an Approved Launch Program?*

A: If a Registry Operator applies to ICANN to conduct an Approved Launch Program that would implement programs set forth in its application for the TLD, there will be a

presumption that the Launch Program will be allowed so long as it was set forth in reasonable detail in the application for the TLD so as to allow for meaningful review and public comment of the plan at the time the application was posted. A Registry Operator who seeks the benefit of this presumption must state with specificity the relevant portions of its TLD application that describe the launch program as well as detail how the applied for program in its Approved Launch Program application compares to the launch program described in its TLD application. ICANN will review the Approved Launch Program application, as well as any public comments submitted in response to the program described in the TLD application, and may reject the Approved Launch Application if ICANN reasonably determines that such requested registration program could contribute to consumer confusion or the infringement of intellectual property rights.

Q32: *If ICANN has already approved an Approved Launch Program similar to the registration program that a Registry Operator applies for, does that mean the application will automatically be approved?*

A: If a Registry Operator seeks ICANN's approval of a registration program that is substantially similar to an Approved Launch Program previously approved by ICANN under similar circumstances for the new gTLD program, the requested registration program application will carry a presumption of being approved. A Registry Operator who seeks the benefit of this presumption must state with specificity why the Launch Application is similar to the allegedly similar Approved Launch Program and detail the facts and circumstances evidencing such similarity. ICANN will review the Approved Launch Program application and may reject the Approved Launch Program application if ICANN reasonably determines that the requested registration program could contribute to consumer confusion or the infringement of intellectual property rights.

Q33: *I am a Registry Operator who indicated in my application that my TLD would be a geographic TLD. What are my options with respect to Approved Launch Programs?*

A: A Registry Operator who indicated that its TLD would be a geographic TLD can apply to conduct an Approved Launch Program just like any other Registry Operator. In addition, if geographic TLD Registry Operators and representatives of the Intellectual Property Constituency recommend to ICANN the creation of a registration program that sets forth a defined list of labels or categories of labels that geographic TLDs may Allocate or register to third parties prior to or during a Sunrise Period, and ICANN accepts and implements such recommendation, there will be a presumption of approval for geographic TLDs that thereafter apply for that program. However, ICANN will still review the application and may reject the application if ICANN reasonably determines that such requested registration program could contribute to consumer confusion or the infringement of intellectual property rights. Neither the IPC nor any Registry Operator is required to have these discussions, but Registry Operators will always be allowed to individually apply to conduct an Approved Launch Program as discussed above.

Claims Period and Limited Registration Periods

Q34: *What is the Claims Period?*

A: For at least the first 90 days of General Registration, each TLD must provide the Claims Services. The Claims Services provide notice to potential domain name registrants that

the domain they are seeking to register matches a label in the Trademark Clearinghouse. If the registrant decides to register the domain name, the Trademark Clearinghouse will notify the applicable trademark holder of the domain name registration.

Q35: *What is a Limited Registration Period?*

A: A Limited Registration Period is any registration period between the end of the Sunrise Period and the start of General Registration. Thus, a Limited Registration Period must have some registration restriction that limits domain names from being generally available to all registrants that are qualified to register domain names within the TLD. Any registration during a Limited Registration Period must be subject to the Claims Services in the same manner as registrations registered or Allocated during the Claims Period.

Q36: *Can a Limited Registration Period overlap with the Claims Period?*

A: No. The Claims Period is the first 90 days of General Registration. A Limited Registration Period by definition is a registration period prior to the TLD's General Registration. Thus, a Limited Registration Period cannot occur at the same time as the Claims Period / General Registration.

Q37: *What must a registrar do when processing Claims Registrations?*

A: The specific technical obligations that registrars must satisfy when processing Claims Registrations is available at <http://tools.ietf.org/html/draft-lozano-tmch-func-spec> sections 5.3.4 and 5.3.5. In general, Registrars must verify domain name availability with the Registry Operator and obtain a CNIS lookup key if the label is covered by a trademark record, registrars must query the CNIS to obtain Claims Notice Information (see section 6.5 of <http://tools.ietf.org/html/draft-lozano-tmch-func-spec> section), use the Claims Notice Information to populate the Trademark Notice (see Exhibit A of <http://newgtlds.icann.org/en/about/trademark-clearinghouse/rpm-requirements-30sep13-en.pdf>), clearly and conspicuously display the Trademark Notice to the potential domain name registrant and inquire as to whether the potential domain name registrant wishes to continue with the registration. The Trademark Notice must be provided by the registrar at the time of potential registration in real time, without cost to the prospective domain name registrant, and must be in the form specified in the Trademark Notice Form (an example of which is attached to Exhibit B of the TMCH Requirements). The Trademark Notice must require an affirmative confirmation by the potential domain name registrant to continue with the registration.

Q38: *What language does the Trademark Notice need to be provided to potential domain name registrants in?*

A: The Trademark Notice must be provided by the registrar to the potential domain name registrant in English. Additionally, to best serve its potential domain name registrants, registrars should provide the Trademark Notice to potential domain name registrants in the language of the registrant's registration agreement.

Q39: *What can registrars query the CNIS for?*

A: Registrars can only query the CNIS for domain names that have been applied for by a potential domain name registrant. Registrars are prohibited from querying the CNIS for any other purpose.

Q40: *Can Registry Operators query the CNIS?*

A: No. Only registrars may query the CNIS.

Q41: *Can a Registry Operator offer a “landrush period” at the start of its General Registration or, alternatively, as a Limited Registration Period?*

A: General Registration begins on the first day that domain names are generally made available to all registrants that are qualified to register domain names in the TLD. A “landrush period” that meets the above description would be considered General Registration. If, however, the “landrush period” has eligibility requirements that limit the availability of domain names to registrants satisfying certain conditions, then the “landrush period” would technically be considered a Limited Registration Period and not the beginning of General Registration. That being said, if it desires, a Registry Operator may designate a “landrush period” that would technically be considered the start of General Registration as a Limited Registration Period in its TLD Startup Information, but the “landrush period” must be treated as any other Limited Registration Period, including the providing of the Claims Services, and must not overlap with General Registration. Registry Operators are encouraged to be clear in defining their periods so as to aid the Community’s understanding and to avoid questions about compliance with the TMCH Requirements.

Q42: *Can a Registry Operator later release for Allocation or registration a domain name that it had reserved in accordance with the Registry Agreement?*

A: Yes. If a Registry Operator reserves a domain name from registration in accordance with the Registry Agreement and thereafter releases for Allocation or registration the reserved domain name at any time prior to the start date of the Claims Period, the domain name must be treated like any other domain name for any applicable Sunrise Period, Limited Registration Period, Launch Program or Claims Period. However, if the domain name is released for Allocation or registration at any time following the start date of the Claims Period, the domain name must be subject to the Claims Services for a period of 90 calendar days following the date it was released (even if the domain name is released following completion of the scheduled Claims Period), provided that this requirement will expire if the Trademark Clearinghouse (or any ICANN-designated successor thereto) is no longer in operation.

Revision Log

12 November 2013	Publication of Rights Protection Mechanism (RPM) Requirements FAQ.
9 April 2014	<p>Revision to incorporate updates to the following questions:</p> <p>Q3 – added informational page link and updated answer to reflect the current process and criteria for Integration Testing.</p> <p>Q23 - updated to provide further clarification on the allocation of domain names.</p> <p>Q29 – updated to reference the published process for requesting an Approved Launch Program.</p> <p>Q36 – updated to provide additional clarification on Limited Registration Periods.</p> <p>Q41 – updated to provide additional clarification on Limited Registration Periods and the “landrush period.”</p>