

Microsoft Corporation Comments on
Trademark Clearinghouse Rights Protection Mechanism Requirements

<u>Section</u>	<u>Comment</u>
2	“Limited Registration Period” is not defined here and a definition first appears in Section 3.2.4. The definition should appear the first time it’s used. Moreover, the definition in Section 3.2.4 is inconsistent with the “General Registration” definition in Section 2. This requires clarification.
2.1.1	ICANN should publish on its website (promptly after receipt from the Registry Operator) the TLD Startup Information called for in sections 2.1.1.2-2.1.1.5. Further, because the intention of the 30-calendar-day period is to provide notice to trademark owners, that 30-day period should start from the date ICANN publishes the TLD Startup Information, <i>not</i> the date the Registry Operator provides the TLD Startup Information to ICANN.
2.1.1.3	ICANN should require the Registry Operator to submit the Sunrise Dispute Resolution Policy required under Section 2.3.6 as part of the TLD Startup Information.
2.1.2	Although ICANN will presumably reject TLD Startup Information it deems non-compliant with the TMCH Requirements, this section does not state that – and should. Moreover, ICANN should publish on its website if it deems a particular TLD Startup submission to be non-compliant and the basis for its determination.
2.1.3	ICANN should also publish on its website updated TLD Startup Information.
2.2.4	Names withheld from registration or allocated to any entity other than the Registry Operator under Sections 3.2 and 3.3 of Specification 5 of the Registry Agreement must be subject to this requirement. Otherwise, ICANN is allowing the Registry Operator to circumvent the Sunrise RPM. Microsoft suggests the following revision: Registry Operator MUST NOT allocate (i.e., assign, designate, or otherwise earmark), release or register a domain name in the TLD, including any names withheld from registration or allocated to any entity other than the Registry Operator pursuant to Sections 3.2 or 3.3. of Specification 5 of the Agreement, to a registrant that is not a Sunrise-Eligible Rights Holder with a valid SMD (as provided in 2.4.1 below) prior to the conclusion of the Sunrise Period.
2.3.1.4.	The one-year period referenced in this section is not consistent with section 6.2.4(iv) of the Trademark Clearinghouse portion of Module 5 of the Applicant Guidebook. It is not clear what is referenced by “other applicable record”. ICANN should clarify or delete that phrase.
2.3.3	Microsoft supports this new section.
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2.3.6	See comment above regarding 2.1.1.3.

<u>Section</u>	<u>Comment</u>
2.4.3	<p>As written, this section is too narrow. Microsoft suggests the following revision:</p> <p>If Registry Operator reserves domain names from registration during the Sunrise Period in accordance with Section 2.6 of the Agreement and Specification 5 of the Agreement, then, if Registry Operator later makes available, activates or allocates any such domain name to any entity other than Registry Operator at any time following the conclusion of the Sunrise Period, such domain name MUST be subject to the Claims Services specified in Section 3 hereof as long as the Trademark Clearinghouse (or any ICANN-designated successor thereto) remains in operation.</p>
3.2.1 3.2.3	<p>Because RFC 2119 does not include “MAY NOT” and MUST NOT appears to be the intent, ICANN should substitute uses of “MAY NOT” with “MUST NOT.”</p>
3.2.4 3.2.5	<p>As noted in the comment on Section 2 above, the definition of “Limited Registration Period” seems inconsistent with the definition of “General Registration Period.”</p>