



**Facebook welcomes the opportunity to comment on the Trademark Clearinghouse
"Strawman Solution" and the Limited Preventative Registration proposal**

Founded in 2004, Facebook's mission is to make the world more open and connected. People use Facebook to stay connected with friends and family, to discover what's going on in the world, and to share and express what matters to them. Facebook has made a substantial investment in developing and providing its services. As a result of Facebook's pioneering efforts and devoting substantial effort and resources to providing only high quality services, the Facebook brand is known among Internet users globally. Indeed with over 1 billion active users of our services, the Facebook mark is one of the most famous trademarks on the Internet.

Facebook devotes significant resources to combating online fraud and abuse of the famous Facebook brand. We have an active domain name enforcement program in which we identify and contact registrants who have registered domain names that infringe our rights. This allows us to resolve trademark infringement quickly, efficiently, and without the need for litigation. This is essential for both consumer protection of over one billion active users, and intellectual property enforcement efforts.

Among only 5 gTLDs (.com, .net, .info, .org, and .biz), we routinely have tens of thousands of enforcement targets. These infringing domain names are frequently used in efforts to defraud our users. With the impending launch of over 1400 new gTLDs, we face enormous challenges in protecting our users and our brand. While we generally support the Trademark Clearinghouse "Strawman Solution," certain aspects of the proposal should be changed in order to improve the protection mechanisms.

Accordingly, Facebook provides the following comments:

Trademark Clearinghouse "Strawman Solution"

Facebook supports the 30-day Sunrise notice requirement, which will be helpful to us in preparing for over 1400 Sunrise periods that we expect will occur in a time span of 12 months or less. It will be important that the notices are clear, easy to locate, and easy to understand. Facebook also supports the 30-day extension of the Trademark Claims process (referred to as "Claims 1" in ICANN's document). This extension provides greater protection to potential registrants who may inadvertently seek to register a domain name that matches a trademark registration in the Trademark Clearinghouse and improves the likelihood that our brands will be protected from inadvertent infringement.

With respect to the newly proposed "Claims 2" process, we strongly recommend to modifications. First, the Claims notice should include the same information about the



trademark that triggered the notice as is contained in the Claims 1 notice. Otherwise, a potential registrant won't be able to assess if his desired domain name is a potential infringement. Second, the Claims notice must include the same type of acknowledgement contained in the Claims 1 notice. Without it, trademark owners, potential registrants, registrars, and ICANN Compliance are likely to find themselves disputing whether or not a particular registrant did, in fact, receive the notice. Facebook is willing to pay for a "subscription" for Claims 2 as long as the benefit it receives exceeds the cost.

Enhanced Trademark Claims Service ("ETCS")

Although, not a product of the consensus discussions that led to the Strawman Proposal Facebook strongly supports the proposed enhancement to the Trademark Claims service ("Enhanced Trademark Claims Service" or "ETCS") under which a trademark owner can associate with a Clearinghouse record up to 50 domain labels that have previously been determined to have been abusively registered or used. As part of its user protection and trademark enforcement efforts, Facebook routinely initiates UDRP and court proceedings against cybersquatters. It is unreasonable that a potential registrant's efforts to register domain labels already determined as infringing (e.g. Facebookemail, Facebook and Facebookdeveloper) triggers no action – not even a Claims notice. In our experience, domain names such as these are most likely used for fraud. The ETCS is narrowly focused to only provide notice and only to those domain labels that have been the subject of previous determinations of abusive registration or use.

Limited Preventative Registration ("LPR")

Facebook also strongly supports the Limited Preventative Registration ("LPR") proposal developed and put forward by the Business and Intellectual Property Constituencies. LPR is the only mechanism for addressing the resource "Black Hole" of defensive registrations, which will only increase in a world of 1400+ gTLDs. Indeed, Facebook already owns over two thousand defensive registrations, including those that were recovered from third parties. LPR applies only to identical matches of marks that are eligible for inclusion in the Trademark Clearinghouse and for a registry's Sunrise. Put more simply, LPR applies only to the domain names a brand owner could have registered in Sunrise anyway. By definition, LPR is not a block. The LPR proposal contains important registrant safeguards that don't apply to "regular" Sunrise registrations. The ICM Registry proved that it is possible to operate LPR as a second phase of Sunrise or even simultaneously with "regular" Sunrise registrations to be processed before LPRs.

Implementation



The policy vs. implementation debate seems to be detracting from a discussion of the substantive merits of the Trademark Clearinghouse Strawman Solution and the LPR. The only applicable PDP-developed consensus policy recommendation is "Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law." All rights protection mechanism developments since this policy recommendation was approved have occurred as implementation.

Finally, Facebook wishes to state its support for several points from the original BC/IPC consensus proposal that were deferred in discussions leading to the Trademark Clearinghouse "Strawman Solution," namely:

1. Complete the URS as a low cost alternative and improve its usefulness - if necessary, ICANN could underwrite for an initial period.
2. Validate contact information for registrants in WHOIS.
3. All registrars active in new gTLD registrations must adhere to an amended RAA for all gTLD registrations they sponsor.
- 4 Enforce compliance of all registry commitments for Standard applications.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in blue ink that reads "Susan Kawaguchi".

Susan Kawaguchi
Domain Name Manager
Facebook, Inc.