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|  | Main Issues | NCSG | ALAC | Registry | Registrar | BC | IPC | ISPC | Out of the Box |
|  | **IP CLEARING HOUSE** |  |  |  |  |  |  |  |  |
|  | Separation into two parts: Review/Approval/Repository | Yes | Yes |  |  | Yes | Yes |  |  |
|  | Centralised Database for maintaining the TMs and providing Sunrise and TM Claim services to the Registries; Change Name to “Trade Mark Database” | Yes | Yes |  |  | Yes |  |  |  |
|  | Regional Marks Validation Service Providers (VSP) | Yes | Yes |  |  | Yes |  |  |  |
|  | Validation vs. Database – Split Roles (above- as a first step) | Yes | Yes |  |  | Yes |  |  |  |
|  | VSP to adhere to minimum Standards/requirements under contract with ICANN | Yes | Yes |  |  | Yes | Yes |  |  |
|  | Centralised Database to have contract with ICANN | Yes | Yes |  |  | Yes | Yes |  |  |
|  | Identical – Matches means:  ‘identical match’ means that the domain name consists of the complete and identical  textual elements of the Mark. In this regard: (a) spaces contained within a mark that are replaced by hyphens (and vice versa), (b) spaces, hyphens, punctuation or special characters contained within a trademark that are spelt out with appropriate words describing it (Including but not limited to ~ @ # ! § % ^ © and &.), (c) punctuation or special characters contained within a mark that are omitted or replaced by spaces or hyphens will be considered identical matches, and (d) also the singular and plural of the mark (and vice versa) | Under review | Yes | Yes | Yes | Yes  Should also include Typographical errors  And aural and meaning | Yes |  |  |
|  | Eligibility of Mark:   1. Nationally Registered Mark 2. Court Validated Mark (through final judgement) | Yes | Yes |  |  | Yes  VSP & Database should be able to validate and repose data with respect to other Rights if the Registry so chooses |  |  | can we speak about letting in addition to this the Registry also seeking other rights that can be reposited in the Database |
|  | Post Launch  IP Claims Service |  | Yes | No | No | Yes |  |  | If IP Claims is only pre-launch a bad actor can game the solution by simply waiting until launch and then register.  The notice advantage in terms of a URS will not be available in such a case. If this is gamed en mass, it will practically make IP Claims redundant and ineffective |
|  | As clear information as possible on the IP Claims service so that the notice is a binding one | Yes  A set of minimum requirements for inclusion by Registries and Registrars in the TM Claims process  • Clear notice to the potential registrant of the description of goods or services being claimed by an existing TM owner (not just the international class, but the TM owner's own description). This is good for both TM owners (a mere International Class listing, to an ordinary registrant, would be unlikely to be considered fair notice as few would understand it);  • A link to the underlying TM registrations being referenced – a link into the specific listings of the TM Database. This will be particularly important, for commercial entities, especially in developing countries, seeking to name new services, new brands, and wanting to explore and understand what exists already – and where the room is for them.  • A solid notice of rights: that the rights being claimed above may or may not limit the ability of the registrant to register the domain name, particularly if the use is non-commercial, generic, highly descriptive, or in a completely non-infringing commercial manner; all reduce chilling effects. | Yes | Yes | Yes | Yes | Yes |  |  |
|  | It should be clearly stated in mandate of the TM Database that simply inclusion of a reviewed mark into the Database is not proof of any right nor does it confer any legal rights on the Rights Owner | Yes | Yes |  |  | Yes |  |  |  |
|  | **URSS** |  |  |  |  |  |  |  |  |
|  | Mandatory |  |  | Yes | Yes | Yes | Yes |  |  |
|  | Purpose: Garden variety Cyber squatting with no genuine contestable issue, clear and convincing (clear-cut) cases of infringement (Class B) | Yes  (If fair notice is fair and at least 20 days, process and appeals provided, and forum shopping eliminated) | Yes | Yes | Yes | Yes | Yes |  | Domain Lock on Complaint passing Initial Examination  Notice period 14 or 20 days *(14 days if restoration to be made available – 20 days if restoration not to be made available)*  basis of claim to be Garden variety Cyber squatting  Standard of proof to be prima facie case having no genuine contestable issue, clear and convincing (clear-cut) case  Emails on the domain still function  Even after default the Respondent can come back and restore the process to the Answer stage – site should go back up.  *(this would only be available if the notice period is 14 days)*  In case of Answer matter goes to substantive review  Complainant and Respondent to have right of de novo Appeal  *(this right would also be available in case of default if notice period to be 14 days and no restoration available* |
|  | De novo Appeal  &  Sanctions | Yes  (a) review on the merits,  (b) questioning the impartiality or abuse of discretion of the Examiner,  (c ) abusive Claim by the Claimant, or  (d) Perjury by the Claimant (lying about facts; lying about TM rights).  Panel should be a 3-Judge Panel comprised of a rounded group of experts: a Fair Use Attorney; an Academic in this Field; and a TM Attorney  Sanctions:  Sanctions by Appeals Panel:  • One finding of perjury (lying to the tribunal) and the Claimant, and its related entities, are barred from the URS process.  • Two findings of abusive Claims and the Claimant is barred from the URS process for a period of multiple years.  • Three findings of abuse of discretion (or perhaps merely 3 reversals) and the Examiner is removed. | Yes | Yes | Yes | Yes | Yes |  |  |
|  | Notice to Respondent should be clear | Yes | Yes |  |  | Yes |  |  |  |
|  | Panellists / dispute resolution providers – randomised and no choice of which to be available to Complainant to avoid overzealous TM holder gaming. | Yes  In case Panellists examination are being overturned then the Panellist loses Accreditation to be a URS Panellist | Yes |  |  | Yes (acceptable in exchange for Post Launch IP Claims & Domain Transfer) |  |  |  |
|  | Notice time to be increased from 14 to 20 days | Yes  Fairness of notice/response to the Registrant, and a Rapid Review and (upon successful decision) rapid end to the resolution of the domain name for the TM owner. By UDRP standards, a very rapid response. | Yes |  |  | Yes (acceptable in exchange for Post Launch IP Claims & Domain Name Transfer)  Either an extension in time from 14 to 20 days  Or  Right of Registrant to come back to restore the process to pre-default (website /domain goes back up)  But not both |  |  | Garden variety Cyber squatting to get 14 days with possibility of 7 day extension. Note the time taken to issue a decision by the Examiner will also add to the time available in addition to the 14 days, but review time is expected to be far less than UDRP Panel (URS= “Rapid Review”) |
|  | Modes of Notice through email, fax, hardcopy | Yes | Yes |  |  | Prefer email & fax |  |  |  |
|  | Upon a Successful Decision by a Complaint, option to transfer Domain Name for a fee | ? | Yes |  |  | Yes |  |  |  |
|  | Complaint and Answer should be limited and as formulaic as possible:  Limited Complaint with website attachment; Limited Response with website attachment.  IRT forms of Complaint and Answer to provide some guidance. | Yes  Consider fair for both Complaint and Answer to be limited and of equal length, e.g., one page each with one or a few attachments of website or other use/abuse exhibits. Forms may be helpful here; but not to replace textual comments completely. |  |  |  | Yes | Yes |  |  |
|  | Successful Complainant can obtain transfer of domain for a fee after 90 days if no appeal, UDRP or court action is filed | Under review | Yes | Yes | Yes | Yes | Yes |  |  |
|  | Reviews of the URS at regular intervals | Yes  Review at 6 months, 12 months, 18 months and a GNSO sunset provision (to properly bring everything into the PDP process). | Yes |  |  | Can consider |  |  |  |
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