ICANN
Trademark Clearinghouse - Responses to RFI Questions
10 November 2011

The following questions were submitted to tm-clearinghouse-rfi@icann.org between 1 - 4 November 2011. The full set of questions and responses are being provided to all who submitted questions, as well as being posted on ICANN's website.

Questions are grouped together where similar questions were received, or where the same answer is relevant to multiple questions.

Authentication & Validation

If translations of trademark certificates are needed, are machine translations acceptable?

Potential providers should propose a framework which will support the ability to perform authentication and validation processes that produce accurate and reliable results. If machine translations are useful as a tool to this end, they could be incorporated in such an approach.

What is the time frame expected for a mark to be validated (i.e., instantaneous, 24 hours, 1 week, etc.)? Can it vary by jurisdiction? Is it acceptable to use third-party databases, or must the validator check with the authorities in the jurisdiction at issue?

How long would you expect after validation before a record is available on the Clearinghouse for review by registries? What is the maximum time that this should take?

Would you expect the maximum allowable validation time to vary according to trademark jurisdiction?

For jurisdictions that do not have online databases, does someone need to visit the physical trademark office to verify the application?

Under what conditions can the Clearinghouse accept a self-assertion from an applicant if the publicly available trademark record conflicts with its application, or if there is no online database available?

Please describe what you expect the authentication of rights information to entail.

Will service providers be required to gather documentation from clients in addition to confirming such evidence is held against public records?

How does the provider of the validation service validate that the documents provided are correct? For registered word marks this can be done either via the online databases or via a local agent if no database is available. However, data verification can take a long time in some jurisdictions – more than 30 days in some cases; and what about court documents from "unusual" jurisdictions? And unregistered marks? If a signed letter of declaration is sufficient, what is the provider's responsibility?

The specific authentication and validation processes have not yet been defined, nor have the service-level requirements. These would be defined with the provider based on a survey of legal practices, with consideration of stakeholder recommendations. Defining authoritative sources would also be part of this work.

The RFI and other clearinghouse documentation are clear on the objectives of the authentication process. Potential providers should expect to work out these issues with ICANN, including engagement with a volunteer stakeholder group.

Your documentation refers to authentication/validation being renewed periodically. What do you consider to be an appropriate frequency for the Authentication and Validation process?

The reason for periodic authentication is to streamline the efficiencies of the Clearinghouse and the information that registry operators will need to process, and limit the marks at issue to the ones that are in use. The specific requirements will be determined in implementation, balancing the objectives of minimizing cost and effort and maintaining the accuracy of the data.

How long is a validation considered "valid"? Does the Provider need to track when various jurisdictions require renewal formalities?

Will proof of use also need to be re-validated along with the renewal of rights authentication?

Specific recommendations on timeframes for validity of data will be defined as part of implementation. Standards for renewal and length of validity of data for the clearinghouse will not necessarily need to be tied to those used in particular jurisdictions.

Does ICANN envision some type of training or certification to be required for individuals performing authentication and validation?

Proposals should include a description of how the provider would retain qualified individuals to perform these functions.

What standard will be used to determine "use" for sunrise? Will the standard be based on local trademark law or will it be one global standard?

Will validation require confirmation that proof of use has been provided and recorded at the relevant trademark office, or does this include collection and or validation of new proof of use evidence?

A requirement for proof of use from all registered trademark holders, for sunrise eligibility, is intended to help ensure that all registered trademarks receiving the same type of advantage from a particular rights protection mechanism are evaluated at substantially the same level. In other words, all registered trademarks should be treated equally. Specific validation standards for proof of use will be determined in the implementation process.

Given that proof of use is not required for renewal of trademarks in some countries, would you still expect this step to be relevant for all trademarks being added to the Clearinghouse?

Proof of use is not required for a trademark to be added to the Clearinghouse. Validation for proof of use will be performed to establish sunrise eligibility if requested by the trademark holder. Please refer to http://www.icann.org/en/topics/new-gtlds/trademark-protection-claims-use-15apr11-en.pdf and http://www.icann.org/en/topics/new-gtlds/trademark-protections-evidence-use-07jun11-en.pdf for additional background on proof of use.

Please describe what you expect the authentication of contact information to entail. What standard will be used to determine authentic contact information? Will it be up to the TMCH provider to determine the standard or will the IAG set the standard?

Standards for authentication of contact information will be determined in implementation. The IAG may provide a recommended framework for this process, but it will be ultimately at the discretion of ICANN.

How can unregistered rights be verified?

For validating trademarks protected by statute or treaty, or court proceeding, please describe what you expect this to entail.

Unregistered rights may be validated if protected by statute/treaty or validated by court proceeding. The specific standards for validation will be determined in implementation.

Will service providers be required to make a judgment on the validity of evidence received? If validity of evidence is required, please describe what steps would be required to satisfy validity.

A provider engaged to perform authentication and validation functions for the clearinghouse would be expected to perform an assessment on the validity of evidence received. The specific standards and processes will be determined in implementation.

Will you require validation of information beyond IP data? For example, given potential for future restricted TLD offerings, what data would be required?

The Clearinghouse is permitted to offer ancillary services, and may offer validation of other types of information as agreed with registry operators.

For a given trademark, do you expect owners to register their trademarks for all countries covered or just one individual trademark? If they only register one, what is the implication in terms of the protection offered?

How many times will a trademark holder have to register for global marks? A markholder may have thousands of national registrations, and a lesser number of individual marks. Will they need to provide ALL the data for each mark or can they choose only one registration?

The means by which trademark holders may enter data for individual trademarks will be determined in implementation. Some type of bulk entry may be available. Which trademarks are registered in the Clearinghouse will be at the discretion of the trademark holder.

Where the same trademark is owned by different proprietors in different jurisdictions, how do you expect this to be dealt with by the Clearinghouse?

The Trademark Clearinghouse is an information repository for trademark data from around the world. The database should be able to accommodate and store records for multiple entries relating to the same trademarks.

Is the solution supposed to accommodate figurative marks with a verbal content?

Please refer to section 3.2 of the [Trademark Clearinghouse model](), which provides the types of trademarks eligible for inclusion in the clearinghouse.

Is it foreseen that Registrants should authenticate themselves and only have access to specific Trademarks Claims notices (i.e., the ones which concern their own putative registrations)? Or is access to Claims notices to be general and public?

Level of access to Clearinghouse data is to be determined in implementation.

For the definition of identical match, is the lower-case/uppercase distinction to apply, where relevant?

No. There is no distinction between upper and lower case characters in domain names.

Some operators of validation systems in the past have re-used data submitted for one Sunrise during another Sunrise. Is ICANN expecting all validations for the Clearinghouse to be undertaken from scratch?

If an operator has compiled validated trademark records and supporting documentation from past sunrise periods, can this data be used as an authoritative source to perform authentication and validation?

The Trademark Clearinghouse will be a new entity, with specifically defined standards and processes. It cannot rely on the results of previous processes undertaken by other parties. Accordingly, for submission to the Clearinghouse, any trademark data would need to undergo authentication and/or validation by the Clearinghouse.

Award Process

What due diligence will ICANN be undertaking on applicants to operate the TMCH? Will ICANN require all parties in a bid to declare cross-ownership details and shareholdings, as you require of registry operators?

ICANN will apply appropriate due diligence on selected parties, but this may differ in some respects from that used for gTLD applicants.

Will ICANN publish any of the bidders' proposals?

ICANN may publish aspects of bidders' proposals, with their permission.

When does ICANN hope to complete their evaluations of the responses and begin follow-up discussions with preferred providers?

Please refer to Section 4.1 of the RFI for dates related to the selection of potential providers.

Are there any minimum qualifications required to be an authenticator or validator?

Qualifications for potential providers are described in the RFI Sections 2.2 and 3.2.

Who is the selection panel for TMCH providers? Will ICANN announce the applicant list? What is the clear standard of scoring?

Proposals will be evaluated and providers will be selected by ICANN. It is not currently expected that the list of respondents will be announced. Respondent proposals will be evaluated according to the criteria set forth in the RFI, particularly the degree to which the proposal addresses the Scope of Services listed in RFI section 2.1.

In the RFI, the rights and obligations of the database and validation center are actually combined. Can ICANN specify which RFI questions should be answered by database and validation center respondents respectively?

Potential providers should specify the scope of services they propose to provide, along with answers to the relevant questions and the supporting assumptions in their response.

Potential bidders are going to be proposing fees/costs based on certain assumptions on how the service will be run. To the extent that the IAG recommends a model that differs from what bidders assume, will the bidders be allowed to (or be required to) submit new information on fees and/or costs?

The purpose of the RFI is to identify potential providers, while the detailed clearinghouse processes are established. To the extent that the current assumptions are changed by future work, those changes can be addressed in the negotiations that follow on from responses to the RFI.

Section 4.3 of the RFI notes: "For ease of evaluation, please limit your response to no more than 20 pages, plus necessary appendices, including team resumes." Our evaluation is that this is quite short given all the information required. Can we were necessary give a high-level overview in the main document and attach annexes giving more detail?

Yes.

Ancillary Services

Can you give examples of additional services that it would be acceptable for the TMCH operator to run?

Can you give indications of the type of ancillary services that might be provided?

Please refer to the STI Report for discussion around types of ancillary services. Potential providers are responsible for determining and proposing any services that the bidder would expect to provide in the initial and future rounds of gTLD applications.

Business Model

Would ICANN consider a less expensive simpler model if this proved more popular and less expensive with the rights owners who requested it?

The RFI documents suggest ICANN wishes to protect integrity of data and avoid concerns that arise through sole-source providers. How does ICANN anticipate several independent parties working together to develop/deliver this service? How would ICANN regulate the

relationship?   Would ICANN prefer a linear or modular division of processes? (For example in a linear model, Authentication/Validation is completed by one provider then delivered to the database administrator for loading into the TMCH. By comparison, in a modular model, the administrator might receive and load client instructions and data is then passed to the Authentication/Validation provider for review and is returned to the administrator, once validated, for full inclusion on the TMCH.)

What is the relationship between database and validation center if there are more than two validation centers? Do validation centers have to sign a contract with each other? Can ICANN define in what ways a database operator and validation center can cooperate?

What number of database and validation centers does ICANN plan to have? Does ICANN prefer a model where a few databases cooperate with a large number of validation centers?

If ICANN decides on contracting with separate service providers, will ICANN consider selecting multiple service providers for authentication/validation or select only one?

In the event of ICANN selecting separate service providers for the database administration and authentication/validation functions, which party gets to decide the data formats and workflow? What if they can't agree?

Potential providers are encouraged to propose any model or models that meet all requirements specified in the RFI, and to include all assumptions used to develop the bid. Bids should respond to all of the RFI requirements. If there are multiple providers, contractual terms will be established after all parties are selected and will be part of the negotiation among the parties.

The [Trademark Clearinghouse Memo](#) refers to intellectual property of other types. Can you say a bit more what is meant by this?

The language in the memo (which is contained in the gTLD Applicant Guidebook) refers to "other marks that constitute intellectual property." Example of this could include geographic indications, names protected by statue or treaty, or other elements that are considered intellectual property within a specific country.

ICANN is seeking to introduce competition into the domain name system through the new gTLD program. Is it the preference for ICANN at this time that the community would prefer to have multiple TMCH operators or one TMCH?

Would ICANN consider contracting with multiple service providers to provide the authentication/validation functions?

ICANN has addressed this question in Section 2.2 of the RFI. The final decision on number of providers and their respective scope of services will be determined after reviewing responses to the RFI and before final selection of providers.

Contractual

Given the need for suppliers to recover their investment costs, what guarantees will be given to successful suppliers regarding potential renewal of contracts after the initial 3-5 years, assuming the service has met service levels and other terms set out within the initial contract?

What options would there be for service providers to terminate the contract with ICANN if the take-up is significantly below a certain volume (thereby making the service commercially unviable)?

In the case of separate service providers for the two functions, will they both have the same requirements for data escrow, security, customer service hours, language support, SLA, etc.?

All final terms of the contract will be determined during contract negotiations. Potential providers should include in their bid response all terms and assumptions that are used to develop their bid.

Some potential bidders have declared that they own the intellectual property in the concept of a Clearinghouse. Will you be requiring applicants to declare if they have sought or obtained patents in a Clearinghouse and whether they will use these patents to stop ICANN or selected vendors if they are not selected?

ICANN will not require such a declaration from potential bidders, but ICANN will take intellectual property issues into account in contracting with the selected provider(s).

Would ICANN consider allowing the service provider for the database function to contract directly with the service provider(s) for authentication and validation?

Yes. Contractual terms related to the scope, quality, customer service to the community, and SLAs would be subject to approval by ICANN.

Why are the two functions of data validation and services provision separated? Won't the two functions have to rest on the same system and database, so that there will necessarily be interactions between the two Service Providers if two are retained?

A possible separation of functions was suggested by public comments during the development of the Clearinghouse model as a means to prevent abuses - such as, for an example, an incentive to falsely validate trademark claims.

Note that ICANN has not determined that the two functions must be performed by separate providers. That matter will be part of the provider selection process. In the event that the two functions are contracted through separate providers, processes, systems, and contractual terms will need to reflect the required provider interactions necessary to deliver clearinghouse services.

Data

What is foreseen with respect to the building of the system for management of the TMCH? Is this to be entirely designed, built and financed by the Service Provider(s), or will ICANN be involved in the design, procurement, financing, and implementation process for the system?

Potential providers should propose and develop all systems as required. This may be guided by ICANN and stakeholder recommendations for system requirements. Any additional assistance expected by the provider should be proposed in the RFI response.

Is it possible that the solution could be developed by a third party, independent of the Service Provider(s)?

Yes. Potential providers may engage a third party for services to support their response to this RFI and to develop and/or deliver services specified in this RFI. Such arrangements to develop or deliver services would be subject to approval by ICANN.

If a back end registry service provider gathers TMCH data for sunrise or domain name registrations for one gTLD client, may that data be used for its other gTLD clients?

The responsibility for use of the data is with the registry operator, who must conduct its operations in accordance with its contractual obligations and the data classification and security guidelines developed for the clearinghouse. This includes the use of current data.

There is significant concern amongst rights owners at copies of the TMCH database being distributed beyond the Clearinghouse, as has been discussed in order to support Trademark Claims. Reasons given are data protection, the fear of the data being sold or otherwise abused. What is the view of ICANN of these concerns?

The ICANN community has provided various considerations on this topic, and it is expected to be part of the discussions with the relevant parties.

Should a mark holder wish to remain in the clearinghouse, how would you expect the process to renew records periodically to differ from the process for initial entry into the TMCH?

Standards for data entry, maintenance and periodic renewal will be determined in implementation.

Is it foreseen that trademark holders should be able to register over the Web or will they make a paper application?

Potential providers should propose a solution that will support trademark registrations globally and that can flexibly accommodate multiple forms of interaction with the clearinghouse.

Dispute Resolution

Will additional information be required for dispute handling over and above that reviewed as part of authentication and validation?

In most instances, dispute resolution requires additional information. In the case of the clearinghouse, the specific details of the supporting data needed for dispute resolution processes will be developed in implementation.

If clearinghouse services are adopted by existing gTLDs and registries, how might existing dispute mechanisms be affected?

There is no current requirement for use of the clearinghouse by existing TLDs. Respondents are free to propose ways in which existing dispute resolution mechanisms could be adapted to take advantage of clearinghouse services.

Can you indicate what type of services/information the TMCH and service provider is expected to provide with respect to dispute resolution?

Is the management of challenges to be serviced by the Service Provider? That is, do the responsibilities of the Service Provider with respect to challenges/disputes involve: (a) providing information relevant to the issue, (b) providing legal and professional opinions on the issue, or (c) resolving or giving a decision on the issue? The second and third options here would seem to go beyond the remit of a Service Provider. Can you confirm?

There is potential for disputes around various aspects of TMCH services, and ICANN is interested in proposals for handling these disputes as described by respondents, whether such would be administered by the provider or referred to other relevant venues.

General

If TM owners do not choose to utilize the TMCH service, what would be the mechanism for refining or replacing it?

The operation of the TMCH will be assessed as part of the ICANN study of the new gTLD program to be conducted after the first application round. Consideration of possible refinements to the TMCH will be taken up at that time.

Section 2.5 of the RFI notes that "Reporting must be delivered in accordance with the schedule and format established by ICANN." Can you say more about this?

Upon selection, ICANN will work with the provider to establish a contractual relationship that incorporates reporting requirements, taking into account community input from the IAG and other sources.

Please describe how ICANN sees this service being of benefit to clients during the initial 90 days of a gTLD launch.

While it is not certain which clients the question is meant to refer to, the RFI states the following in section 1.4: "As stated in the IRT report (see http://www.icann.org/en/topics/new-gtlds/irt-final-report-trademarkprotection-29may09-en.pdf), the general purpose of the clearinghouse is to support new gTLD registries in operating cost-effective rights protection mechanisms that do not place a significant financial or administrative burden on trademark holders. The original proposal has undergone multiple revision cycles based on ICANN's public comment process, resulting in the current model."

Please describe how ICANN sees this service being of benefit to clients after the initial 90 days of a gTLD launch.

In addition to the objectives supported by the authentication and validation, sunrise, and trademark claims services of the Clearinghouse (refer to the [IRT report](#)), respondents are free to propose additional ancillary services that will have value to the community beyond the minimum mandatory sunrise and claims periods.

How do you anticipate the service will evolve over the first 3 years?

Evolution of the clearinghouse service will involve a collaborative, continuous improvement effort between ICANN, the community, and the provider.

Section 4.2 of the [Clearinghouse memo](#) notes that "In order not to create a competitive advantage, the data in the Trademark Clearinghouse should be licensed to competitors interested in providing ancillary services on equal and non-discriminatory terms and on commercially reasonable terms if the mark holders agree." Is this confirmed? Doesn't this detract from the advantage service provides may see in providing TMCH services?

Please refer to the Special Trademark Issues Review Team Recommendations at http://gnso.icann.org/issues/ for a discussion of the considerations around competition for

services. Note that the requirement in 4.2 refers to licensing data for ancillary services, not for the specialized functions of the Clearinghouse.

What currencies should the TMCH support?

Respondents should propose a payment system is flexible enough to accommodate a global, multi-currency environment for users of Clearinghouse services. A list of target currencies has not been established.

Is 24/7 customer service expected in all six languages or can the 24/7 customer service be provided in a few languages, but "within 24 hours" for the rest?

Respondents should propose a model that they believe will meet the needs of the global multilingual community and incorporate those assumptions into their pricing model.

How do you define "multi-language"? Can ICANN give us an accurate number of languages that the TMCH needs to serve to be considered "multi-language"? Is there any special language ICANN thinks a TMCH must serve?

When ICANN mentions multi-lingual support, does that mean just the ICANN languages, some other number or every language spoken?

The services are to be available in multiple languages. Please define the minimum languages to be covered.

Can you specify which languages are required?

Are the languages envisioned already known?

The goal is to accommodate as many languages as possible. ICANN is interested in proposals that demonstrate how to practically create the broadest possible reach.

What are the UN Sponsored Languages/those expected for availability as Trademarks Claims languages?

The UN languages are Arabic, Chinese, English, French, Russian, and Spanish. However, the goal is for the Clearinghouse to accommodate as many languages as possible. ICANN is interested in proposals that demonstrate how to practically create the broadest possible reach.

Section 2.3 of the RFI notes that "The Trademark Clearinghouse database must be operated in accordance with ICANN's policies, high-level requirements, and technical interface standards." Can you say a bit more, and indicate any reference documents concerning this?

These will be elaborated in detail in the agreement between ICANN and the provider; however, reference sources include the gTLD Applicant Guidebook and supporting materials on the ICANN website.

Will alternative ideas/approaches to the TMCH be accepted?

Any proposed approach must meet all of the TMCH requirements as described in the Applicant Guidebook. Respondents should thoroughly describe their proposed approach(es), assumptions, and rationale in their response.

<u>Pricing</u>

Do "operational costs" include capital investment as well?

All costs, whether allocated, amortized, or expensed, which have the potential to affect the end user pricing for TMCH services should be included.

What do you consider to be 'reasonable pricing' for Authentication / Validation services?

What would you envision the potential licensing charge to be for distribution of client information to third parties, for ancillary services?

Has any market research been conducted on what price clients would be willing to pay for the various services? Please share any relevant information.

How do you expect pricing to increase over the duration of the supplier contract? For example, would pricing be fixed for the duration of the supplier contract, or increase annually?

ICANN cannot offer any guidance on services and pricing beyond the guidance discussed in the [IRT report](#)*. Respondents should propose a pricing model that reflects their understanding of the market and costs involved.*

How would you envision the fee model to work for adopters of the services, particularly given the preference to use several providers? For example, is there one fee to cover all parts of registration, authentication, and validation, etc.? If so, how would you see this working in the context of different suppliers fulfilling different parts of the TMCH?

ICANN has not stated a preference for multiple providers and cannot offer any guidance on services and pricing beyond the guidance discussed in the [IRT report](#)*. Respondents should propose a pricing model that reflects their understanding of the market and costs involved.*

Is differential pricing for trademark validation permissible between trademark jurisdictions where electronic versus paper-only trademark information is available?

Would you expect there to be a difference in charging for validation of trademarks in different jurisdictions?

The respondent should propose a pricing model that reflects their anticipated costs for operating a global service. One of the factors in the choice of providers will be competitive pricing across jurisdictions.

Regarding recovering operational costs, could you be more specific in terms of years for what you consider to be "short," "medium," and "long" term?

Short term 1-3 years, medium term 3-5 years, long term 5-10 years.

What evidence do you have that trademark holders will be prepared to pay for registration in the TMCH? Will they not expect to be protected as a matter of course – by ICANN or other suitable bodies?

The TMCH was proposed by IP experts and rights holders, and the solutions were developed with significant discussion in the community. The TMCH implementation aims to design and build a service that meets the needs of these and other stakeholders, but there is no guaranteed level of registration.

Section 2.6 of the RFI refers to "incentives to minimize registration time and maximize quality of registrations without raising costs on industry participants." Does this language refer to registration in the clearinghouse or registration of domain names?

This language is intended to refer to both processes.

Would you expect there to be a difference in charging for initial registration versus recurring fees for regular renewal of data? If so please describe how this might vary.

While this may be possible, ICANN cannot offer any guidance on services and pricing beyond the guidance discussed in the IRT report. Respondents should propose a pricing model that reflects their understanding of the market and costs involved.

Can a new company apply to be a TMCH provider? If the answer is yes, how can a new company answer the questions 3.3.1 in the RFI and provide the financial statements?

Yes. Such a company would need to demonstrate how they have the capacity, experience, and financial stability required, and comply with the requirements outlined in the RFI, particularly those outlined in Section 3.3.

Restrictions

Please clarify the issue conflict of interest in the RFI. It's hard to understand that if one company acts as a validation center with a transparent validation process, how can the company have a conflict of interest if the company is also a registrar?

One example of such a conflict could involve preferential treatment of the registrar's customers over those of other registrars in the case where a registrar was performing the validation functions, but there are other possible examples.

What opportunities will there be for service provider branding and advertising through delivery of TMCH services?

ICANN is open to discussing specific proposals for accomplishing this in a way that is fair and unobtrusive for users of the clearinghouse. The clearinghouse operator cannot use data gathered from users as a direct marketing opportunity.

Is there any restriction on those persons submitting responses to the RFI also participating in the IAG?

Bidders may participate so long as they consistently disclose their interest when participating in IAG activities.

Could you elaborate on the potential conflict of interest that could exist between the database administration function and the authentication/validation functions?

A possible separation of functions was suggested by public comments during the development of the Clearinghouse model as a means to prevent abuses - such as, for an example, an incentive to falsely validate trademark claims.

Role of the TMCH

Does ICANN see the TMCH service being adopted by existing gTLDs and registries?

Will the TMCH have a role to play regarding restricted TLDs? Please describe how this might evolve.

The Applicant Guidebook describes the TMCH requirements with respect to new gTLDs only. While there are currently no requirements for existing TLDs to use the TMCH services, there is also nothing to prevent use of the TMCH in any TLD should the Registry so choose.

Who will be responsible to monitor and verify that all TLDs implement sunrise and trademark claims correctly? Will this be ICANN or the TMCH?

ICANN is responsible for monitoring compliance with gTLD Registry agreements, including implementation of the trademark claims and sunrise processes in accordance with contractual requirements.

<u>Schedule</u>

Will there be an advance period to populate the TMCH and validate records before the gTLDs launch in September 2012? If so how long would you expect this to be?

If gTLDs and the TMCH are launched on the same day, how might you expect this to impact on the process initially? Have you considered how the length of time to validate, and the initial client take up might impact the schedule?

When does ICANN expect the first new gTLD Sunrise Period to begin?

What TMCH functions must be operational for the September 2012 milestone?

ICANN expects the first new gTLD Sunrise Period to occur no earlier than December 2012. A TMCH "go live" in September 2012 will allow 90 days for registrations and validation activities before the first Sunrise period. It is expected that all TMCH functions shall be implemented, integration tested, and fully operational for the September 2012 TMCH "go live" milestone; however, deviations from this expectation will be considered as appropriate. Respondents should describe assumptions and alternatives in their responses.

<u>Technical</u>

Will technical requirements be developed and delivered to the selected provider(s), or will the provider(s) be working from business requirements? Will the provider(s) participate in determining technical requirements?

Can you be more specific about the service level requirements providers will need to satisfy?

What is the process for enumerating additional TMCH requirements and when will they be available?

Is it the responsibility of the Clearinghouse to say explicitly whether a sunrise claim is valid or not, or just to give information for a Registry to judge?

Is there a community preference for Registries or Registrars to get data from the Clearinghouse in real time on a per-mark or per-domain basis? Or is the preference to have periodic "downloads" of the data?

In the RFI, ICANN refers to 365 (days) x 24 (hours) availability several times. What specific services are required on a 365x24 basis?

Does ICANN have any technological preferences for the building of the system?

ICANN will work with the selected provider(s) to specify requirements beyond those specified in the Applicant Guidebook. Additionally, ICANN has solicited community participation in the Implementation Assistance Group (IAG) (http://www.icann.org/en/announcements/announcement-26oct11-en.htm) to help refine requirements. Selected provider(s) will be expected to work cooperatively with relevant stakeholders in detailing the requirements for these processes. When responding to this RFI, Respondents should clearly describe any assumptions regarding requirements and effects of significant deviations from those assumptions.

Where is the system to be hosted? At ICANN or on the premises of the Contractor?

The contractor(s) (and/or providers engaged by the contractor(s)) would host all aspects of the TMCH including technical, administrative, legal, and customer service operations.

Volumes

What do you estimate to be the volume of marks that would take up the services and how quickly do you expect trademark and domain name owners to adopt it?

What is the anticipated volume of trademarks to be entered into the Clearinghouse? What should the Provider be prepared for?

In view of the expectation that "Costs should be completely borne by the parties utilizing the service," do you have any indications about expected data volumes: a. Expected numbers of trademarks submitted? b. Expected number of service requests from registrars and registries?

ICANN is unable to speculate on TMCH volume and renewal rates at this point. Respondents should make assumptions regarding expected volume, query rates, renewal rates/timing, and other key metrics, and document these assumptions and rationale in their responses.

Do you have any indications concerning the expected geographical spread of use of the Trademark Clearinghouse?

The TMCH must fully support the global nature of the new gTLD program as documented in the Applicant Guidebook. ICANN is unable to speculate on TMCH adoption rates or distribution from geographic regions/jurisdictions at this point. Respondents should make assumptions regarding these factors and document these assumptions and rationale in their responses.

Can you say more about the expected renewal schedule? Is it related to renewal of the trademark, or is the rhythm of renewal in the TMCH independent?

Standards and requirements for renewal of trademark data will be developed in implementation.