**IRP-IOT Meeting #22**

**11 October 2018 @ 19:00 UTC**

**Decisions, Action Items and Requests (DAIRs)**

6 Participants at start of call

Decisions (regarding interim supplementary rules 20180925):

* Rule 1 – Definitions – Approved no comments (20181009 meeting)
* Rule 2 – Scope – Approved no comments (20181009 meeting)
* Rules 3 – Composition of Independent Review Panel – Approved no comments (20181009 meeting)
* Rule 4 – Time for Filing – Approved with the current footnote and the understanding that this may change depending on the decision of the IOT on this topic and that the Safe Harbour concept applies.
* Rule 5A – Nature of IRP Proceedings – Approved with typo correction (20181009 meeting)
* Rule 5B – Translation – Approved for Interim Rules with the understanding that the issue of cost shifting of documents translated at ICANN’s request must be addressed in the final rules to avoid unfair shifting of these to the plaintiff (agreed MH, SE).
* Rule 6 – Written Statements – Approved with amended text by KW
  + For any DISPUTE resulting from a decision of a process-specific expert panel that is claimed to be inconsistent with ICANN’s Articles of Incorporation or Bylaws, as specified at Bylaw Section 4.3(b)(iii)(A)(3), any person, group or entity that was previously identified as within a contention set with the CLAIMANT regarding the issue under consideration within such expert panel proceeding shall reasonably receive notice from ICANN that the INDEPENDENT REVIEW PROCESS has commenced. ICANN shall undertake reasonable efforts to provide notice by electronic message within two business days (calculated at ICANN’s principal place of business) of receiving notification from the ICDR that the IRP has commenced.
* Rule 8 - Exchange of Information – Approved with following edits by DM
  + On the motion of either Party and upon finding by the IRP PANEL that such exchange of information is necessary to further the PURPOSES OF THE IRP, the IRP PANEL may order a Party to produce to the other Party, and to the IRP PANEL if the moving Party requests, documents or electronically stored information in the other Party’s possession, custody, or control that the Panel determines are reasonably likely to be relevant and material to the resolution of the CLAIMS and/or defenses in the DISPUTE and are not subject to the attorney-client privilege, the work product doctrine or otherwise protected from disclosure by applicable law (including, without limitation, disclosures to competitors of the disclosing person, group or entity, of any competition-sensitive information of any kind). Where such method(s) for exchange of information are allowed, all Parties shall be granted the equivalent rights for exchange of information.
* Rule 9 – Summary Dismissal – Approved no comments (20181009 meeting)
* Rule 10 - Interim Measures of Protection – Approved no comments
* Rule 11 – Standard of Review – Approved no comments
* Rule 12 – IPR Panel Decisions – Approved no comments
* Rule 13 – Form ad Effect of an IRP Panel Decision – approved with following addition
  + D. The decisions of the IRP Panel shall be posted in English. If the decision is translated into other languages the authoritative version shall be the English version.
* Rule 14 – Appeal of IRP Panel Decisions – Approved no comments.

Action Items:

* Rule 7 - Consolidation, Intervention and Participation as an Amicus – SE – post language based on the discussion.
  + >> MH Yes I wanted to get a quick clarification to for Sam so she knows we are not as far apart as maybe she might thing we are. I'm not suggesting -- mostly for you David, for me I'm not suggesting for a moment that we should allow this language in this paragraph to change who is qualified to be claimant.

All this paragraph is intending to say, is that if you are otherwise qualified to be aclaimant. If you additionally satisfy the situation described in this paragraph you should be able to intervene as a claimant as of right. Rather than wait for another case.

Similarly if you -- even if you don't qualify as a claimant, but you satisfy the conditions in this paragraph you should be allowed to intervene as an amicus and it shouldn't be merely discretionary. That's the aim. Not the change the definition of who qualifies as a claimant. That should be untouched by this language.

>> DAVID McAULEY: Thanks Malcolm. And I will also make a comment as a participant, Sam, I think that I can live with what Malcolm has just said. I think he's right in what he's saying and I think it's quite possible that we could crack this nut with amicus status as long as it's not discretionary it is a matter of right and as long as amicus can protect the language in did.

Requests:

* (None)

Next meeting:

* (None)