

**Zoom Chat Transcript**  
**IRP-IOT Meeting – 9 June 2020**

14:03:53 From Bernard Turcotte : No SOIs have been received - will re-circulate

14:08:30 From Bernard Turcotte : Google doc version is at -  
[https://docs.google.com/document/d/1qWPOWr\\_7VWuXYQBgfA3GPEumvZGyVyi2laJq2mm9dO4/edit](https://docs.google.com/document/d/1qWPOWr_7VWuXYQBgfA3GPEumvZGyVyi2laJq2mm9dO4/edit)

14:09:35 From David McAuley (Verisign) : did we lose Susan

14:09:40 From Robin Gross : audio out?

14:09:43 From Bernard Turcotte : no sound here

14:09:53 From David McAuley (Verisign) : same here

14:09:57 From Kristina Rosette : same

14:10:10 From Bernard Turcotte : No audio Susan

14:10:36 From Liz Le : No audio

14:10:38 From Sam Eisner : David/Kristina, can you hear Susan again?

14:10:42 From David McAuley (Verisign) : it happens

14:10:46 From David McAuley (Verisign) : yes, can hear

14:10:47 From Kristina Rosette : yes

14:24:44 From Mike Rodenbaugh : Good point Greg

14:25:34 From Kristina Rosette : Is there anyone who objects to deleting that collective page limit?

14:25:55 From Kurt Pritz : I agree with Mike, Helen, and the conclusion drawn by Greg

14:26:00 From Helen : I think this is one area where the ICDR rule would be helpful here

14:26:03 From Mike Rodenbaugh : Who made this proposal in the first place?

14:26:18 From Helen : If in fact, there is a conflict with the ICDR rules, it would be helpful to know.

14:26:30 From Sam Eisner : This proposal, as I recall, was introduced by Sidley in their prior drafting work

14:31:44 From Mike Rodenbaugh : ICDR appointed a Procedures Officer?

14:31:47 From Kurt Pritz : Assuming there are efficiencies to be gained by lumping all procedural issues under one role and related to Samantha's suggestion earlier: could we compare the ICDR's Arbitration Arbitrator with our Procedures Officer? And then perhaps include a better explanation of the relationship between the Consolidation Officer and the Procedures Officer in our doc?

14:34:39 From Helen : Yes, ICDR appointed the Procedures Officers in the Afilias IRP

14:34:50 From Helen : but only after the parties were unable to agree

14:35:33 From Mike Silber : that is not an ideal situation

14:36:40 From Sam Eisner : The Supplementary Procedures don't define rotation, as I recall

14:37:03 From Mike Rodenbaugh : That could be rotating, then.

14:37:58 From Mike Rodenbaugh : That is already provided in the Bylaws re Requests for Interim Measures

14:38:40 From Helen : once the standing panel is implemented it could be rotating. What about in the intervening time?

14:39:19 From Mike Rodenbaugh : There is no intervening time. These Rules hopefully will be done at the same time as Standing Panel implementation....?

14:42:53 From Mike Rodenbaugh : That is vague "through the chair". Does it mean through a vote of the SO, or merely through a request from the Chair?

14:43:56 From Mike Rodenbaugh : Also, how would a dispute "challenge" a provision of a Consensus Policy?

14:46:41 From Mike Rodenbaugh : Sounds more appropriate for SO to be amicus, than intervenor, imho

14:47:04 From Mike Rodenbaugh : SO still has no harm akin to actual IRP Claimant

14:48:36 From Kurt Pritz : This is confusing to me. First, the SO makes Consensus Policy RECOMMENDATIONS. It is not Consensus Policy until the Board says it so. Would that not make the Board the intervenor? (But that makes no sense.) Second, if not an amicus, it seems like the SO would be a witness and not an Intervenor? I am clearly missing something.

14:50:40 From Mike Rodenbaugh : Intervenor = new Claimant; Amicus = witness

14:51:06 From Sam Eisner : This was an issue that was primary in our prior IOT conversations, and I agree the terminology is not right here

14:51:39 From Helen : I agree also.

14:51:58 From Helen : The standard is that "amicus" has a material interest, yet is only granted the status of a "friend."

14:52:22 From Mike Rodenbaugh : "Material interest" is too vague

14:53:03 From Scott Austin : Do the rules provide for the ability for either party to implead someone they determine may be responsible for or contributing to the violation (assuming this can be done by someone other than ICANN. Also is there the possibility for interpleader to force a third party to enter the dispute that may be necessary to the administration of justice as it relates to the

14:53:34 From Scott Austin : relates to the compliance with the policy.

14:55:20 From Sam Eisner : That's right, Susan

14:56:55 From Sam Eisner : @Scott, the IRP focuses solely on ICANN's violation of Bylaws/Articles

14:59:21 From Sam Eisner : A party to the dispute, or have the ability to participate as an amicus?

15:00:06 From Bernard Turcotte : time check - 30 minutes left in call

15:00:11 From Becky Burr : how would you have jurisdiction over a third party?

15:00:12 From Sam Eisner : Do you have examples where someone could assist ICANN with the violation of the Bylaws?

15:00:19 From Becky Burr : in that case?

15:00:23 From Mike Rodenbaugh : Could be useful as to ICANN contractors such as EIU, at least to require them to provide relevant documents and witnesses

15:00:54 From Becky Burr : you don't need to bring someone in to get docs

15:01:19 From Mike Rodenbaugh : Not really true, since ICANN never provides any

15:01:23 From Becky Burr : where/how would you get jurisdiction

15:01:42 From Becky Burr : this seems to be boiling the ocean.

15:02:33 From Sam Eisner : And how jurisdiction would support an adjudication of whether ICANN violated the articles of Bylaws

15:02:43 From Mike Rodenbaugh : We should think about it

15:08:48 From Mike Rodenbaugh : We should add some language that those specific parties might also be appropriate intervenors. It is their option which route to choose.

15:10:26 From David McAuley (Verisign) : I don't recall offhand

15:12:24 From Kristina Rosette : It's the little (I) in the Amicus section. Was there any consideration of limiting the eligible parties to a "person, group or entity that participated in an underlying proceeding . . . ." IN WHICH THE IRP CLAIMANT WAS ALSO A PARTY? (The CAPS is the language I'm wondering about.)

15:13:06 From Mike Rodenbaugh : @Kristina, who else are you worried about?

15:13:46 From Kristina Rosette : @Mike, I'm not. But, adding that language would limit the universe of potential amicus curiae. As is, it seems quite broad to me.

15:14:53 From Mike Rodenbaugh : Amicus should be broadly allowed, imo

15:15:21 From Mike Rodenbaugh : But only get public docs

15:16:03 From Helen : we should consider what would occur if amicus were NOT broadly allowed

15:16:14 From Helen : Would there be implications where the IRP decision could be attacked in litigation?

15:16:27 From Mike Rodenbaugh : yes

15:17:21 From Kristina Rosette : To answer your question, Susan, I do think we need to refine the n.4 language to be more specific/provide more specific guidance.

15:17:35 From Kristina Rosette : Although I haven't come up with any yet.

15:19:13 From Mike Rodenbaugh : We should define "material interest" more specifically

15:21:41 From David McAuley (Verisign) : Fair point, July 7 sounds good

15:23:53 From Bernard Turcotte : bye all

15:24:00 From David McAuley (Verisign) : Thanks Susan, Bernie, and Brenda

15:24:18 From Kristina Rosette : Thanks, all. Be well!