



Bernard Turcotte <turcotte.bernard@gmail.com>

Re: [IOT] Research on Consolidation (Rule 7)

1 message

Elizabeth Le <elizabeth.le@icann.org>

Tue, Sep 22, 2020 at 1:51 PM

To: Flip Petillion <fpetillion@petillion.law>, Scott Austin <saustin@vlplawgroup.com>

Cc: "iot@icann.org" <iot@icann.org>

There has only been IRP one consolidation to date – in the *Little Birch LLC and Minds + Machine Group Limited v. ICANN* (re .eco) and *Despegar Online SRL, Donuts Inc., Famous Four Media Limited, Fegistry LLC, and Radix FZC v. ICANN* (re .hotel) consolidated matter. (<https://www.icann.org/resources/pages/various-v-icann-eco-hotel-2015-09-02-en>) There was no formal request to consolidate made. Rather, it appears that the consolidation was through agreement by the parties.

The parties agreed that the two cases “would be merged and...to keep written submissions separate but recognized that the issues presented by the two cases were closely linked and that the parties’ interests in the proceedings were so similar that both should be dealt with during a single hearing.” (See Final Declaration, para. 6, <https://www.icann.org/en/system/files/files/irp-despegar-online-et-al-final-declaration-12feb16-en.pdf>.)

From: Samantha Eisner <Samantha.Eisner@icann.org>**Date:** Tuesday, September 22, 2020 at 10:04 AM**To:** Flip Petillion <fpetillion@petillion.law>**Cc:** Scott Austin <saustin@vlplawgroup.com>, Liz Le <elizabeth.le@icann.org>, "iot@icann.org" <iot@icann.org>**Subject:** Re: [IOT] Research on Consolidation (Rule 7)

Thanks Flip. You are correct - I responded too quickly. Liz will be back to the group with more info.

Sam

Samantha Eisner

Deputy General Counsel, ICANN

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From: Flip Petillion <fpetillion@petillion.law>**Sent:** Tuesday, September 22, 2020 9:34 AM**To:** Samantha Eisner

Cc: Scott Austin; Elizabeth Le; iot@icann.org

Subject: [Ext] Re: [IOT] Research on Consolidation (Rule 7)

Hi Scott,

I recall that the .hotel and .eco cases have been consolidated by an iron panel confirming an agreement between Claimants, who I represented, and ICANN.

Hi Samantha,

My recollection is different than yours.

Could you check if there were any other cases than the .hotel and .eco cases?

Best,

Flip

Sent from my iPhone

On 22 Sep 2020, at 17:51, Samantha Eisner <Samantha.Eisner@icann.org> wrote:

We have never had a request to consolidate IRPs.

From: IOT <iot-bounces@icann.org> on behalf of Scott Austin <saustin@vlplawgroup.com>

Date: Tuesday, September 22, 2020 at 8:50 AM

To: Liz Le <elizabeth.le@icann.org>, "iot@icann.org" <iot@icann.org>

Subject: Re: [IOT] Research on Consolidation (Rule 7)

Elizabeth:

In IRP cases to date has there ever been a request for consolidation? If yes, what result.

Best regards,

Scott

Please click on a link below to calendar a 15, 30, or 60 minute call with me:

[a 15-minute call](#) [a 30-minute call](#) [a 60-minute call](#)

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<image002.jpg>

<image003.jpg>

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From: IOT <iot-bounces@icann.org> **On Behalf Of** Elizabeth Le

Sent: Monday, September 21, 2020 8:33 PM

To: iot@icann.org

Subject: [IOT] Research on Consolidation (Rule 7)

Dear IOT members,

On the last IOT call, ICANN org was asked to assess the consolidation rules used in International Center for Dispute Resolution arbitrations, the arbitration rules of the International Bar Association, and the rules for Class Actions and Multi District Litigation brought in United States Federal Courts on consolidation of separate IRPs into a single proceeding against the current text of Rule 7. As part of our research, we also consulted the rules pertaining to consolidation of cases brought in Federal Courts, the rules of the International Chamber of Commerce, the American Arbitration Association rules for commercial arbitration, and the arbitration rules of JAMS, another large and well-respected alternative dispute resolution organization. Attached is some information for the IOT's discussion on this matter. As the IOT considers this matter, the IOT may wish to consider the purposes served by the IRP and why/how consolidation serves this purpose. What is the purpose that is being achieved by consolidation, given the difference between "regular" arbitrations, court proceedings, and the IRP? IRPs, while they have a myriad of facts, are all limited to ONE question – did ICANN violate its Bylaws and Articles of Incorporation. The answer to that question has preclusive, binding effect on others. With that in mind, what is the most just use of consolidation in the IRP setting, understanding all of the other limitations put on the IRP?

Best regards,

Liz

Elizabeth D. Le

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