

PROPOSED REVISIONS TO RULE 4: TIME FOR FILING Proposed final draft of 26 August 2022

A	<p>A CLAIMANT shall file a written statement of a DISPUTE with the ICDR within the following timeframes:</p> <ul style="list-style-type: none"><li data-bbox="342 443 1697 592">i. for DISPUTES challenging Board or Staff action, within 120 days after the date on which the CLAIMANT became aware of, or reasonably should have become aware of, being materially affected by the action being challenged in the DISPUTE; or<li data-bbox="342 644 1715 793">ii. for DISPUTES challenging Board or Staff inaction, within 120 days after the date on which the CLAIMANT became aware of, or reasonably should have become aware of, being materially affected by the failure to act being challenged in the DISPUTE.

B	Subject to Rule 4C below, a statement of a DISPUTE may not be filed more than 24 months from the date of such action or inaction being challenged in the DISPUTE.
C	The CLAIMANT may be permitted by the IRP Panel to file its written statement of a DISPUTE after the timeframes set forth in Rules 4A and 4B above under certain limited circumstances. Such a CLAIMANT shall apply for permission to file late a written statement of DISPUTE by demonstrating by clear and convincing evidence that either:
	i. exceptional circumstances not caused by the CLAIMANT and out of the CLAIMANT's control prevented the CLAIMANT from becoming aware of the action or inaction being challenged in the DISPUTE within the timeframes set forth in Rule 4A or Rule 4B, or being eligible under the Bylaws as a CLAIMANT (Bylaws section 4.3(b)) within those timeframes; or
	ii. exceptional circumstances not caused by the CLAIMANT and out of the CLAIMANT's control prevented the CLAIMANT from being able to file a written statement of a DISPUTE within 24 months from the date of the action or inaction being challenged in the DISPUTE within the timeframes set forth in Rule 4A or Rule 4B.
	The application for permission to file late a written statement of DISPUTE shall include an explanation of how the CLAIMANT satisfies the standing requirements set forth in the Bylaws (Bylaws section 4.3(b)).

D	Under no circumstances may a CLAIMANT seek to file a statement of a DISPUTE more than four years after the date of the action or inaction being challenged in the DISPUTE.
E	<p>Any application for permission to file late a written statement of a DISPUTE under Rule 4C shall be accompanied by CLAIMANT's proposed statement of a DISPUTE and must be filed within 30 calendar days of:</p> <ul style="list-style-type: none"> i. the CLAIMANT becoming aware of being materially affected by the action or inaction being challenged in the DISPUTE, if the late filing is requested under Rule 4C.i above; or ii. the CLAIMANT becoming able to file a written statement of a DISPUTE, if the late filing is requested under Rule 4C.ii above. <p>Nothing in this Rule 4E is intended to preclude a Claimant who has initiated an IRP in the belief that their claim is within time, but where that timeliness is successfully challenged, from then requesting permission to pursue their IRP out of time.</p>
F	Any application for permission to file late a written statement of a DISPUTE under Rule 4C shall be directed to the IRP Provider, who will appoint a single Panelist to consider and make a determination on the application.

	<p>i. Where the Standing Panel is in place, ICANN and the CLAIMANT shall endeavour to agree on a single Panelist. Where they are unable to do so either Party may request that the IRP Provider appoints a single Panelist from the Standing Panel using the procedure set out in ICDR Rule 13(6).</p> <p>ii. In the event that no STANDING PANEL is in place ICANN and the CLAIMANT shall endeavour to agree on a single Panelist. Where they are unable to do so either Party may request that the IRP Provider appoints a single Panelist using the procedure set out in ICDR Rule 13(6).</p>
G	When considering whether an applicant should be permitted to file an IRP Claim out of time, the Panelist shall have regard to the Purposes of the IRP and any jurisprudence of IRP panels relevant to interpretation of this clause in the light of the Purposes.
H	For avoidance of doubt, ICANN shall have a right to respond to a CLAIMANT's application for permission to file late submitted pursuant to Rules 4C and 4E.
I	In order for an IRP to be deemed to have been timely filed, all fees must be paid to the ICDR within three business days (as measured by the ICDR) of the filing of a statement of a DISPUTE.

Note that the time for filing reflected in this Rule 4 is subject to the agreement reached by the IOT on Fixed Additional Time. Rule text to reflect this FAT concept to be drafted.