What is the influence of ICANN's existing jurisdiction(s) relating to resolution of disputes (i.e., choice of law and venue) on the actual operation of ICANN's policies and accountability mechanisms?

A. Jurisdiction Concepts Relating to Resolution of Disputes

1. **Jurisdiction for Interpretation of Contracts, etc. (Choice of Law), including contracts with contracted parties, contracts with other third parties, and actions of the Empowered Community.**
   a. This refers to the jurisdiction whose laws will be used to interpret the rights and responsibilities of parties to a litigation, arbitration or other dispute resolution mechanism.
   b. Choice of law may be specified in an agreement. Under U.S. law, the parties are generally free to agree in a contract on a state or country whose substantive law will apply to disputes related to that contract. If the parties have not agreed on a choice of law, the judge, panel or other decision-maker will engage in a choice of law analysis, which will look at a number of factors set forth in that forum's "Conflict of Laws" rules, including the place(s) where the contract is performed and the jurisdiction of incorporation/HQ for both parties,
      i. California follows the rules set out in section 187 of the Restatement of Law 2d (1971) 561, Conflict of Laws, and will enforce the parties' choice-of-law clause, unless either:
         1. the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties' choice; or
         2. application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state.

2. **Jurisdiction for the physical location of litigation of disputes (Venue).**
   a. Types of Disputes
      i. Contractual disputes with contracted parties.
      ii. Contract disputes with other third parties.
      iii. Enforcement of actions of the Empowered Community.
   b. This refers to the type of proceeding (e.g., litigation, arbitration, IRP, etc.), the provider of that proceeding, and the physical location in which the proceeding will take place. It does not refer to the substantive law applied to the dispute, which is covered under Section 4 (Choice of Law).
      i. For IRP proceedings, there is no physical location of venue. Under Bylaw Section 4.3, the proceedings are designed to be done electronically. The IRP Implementation Oversight Team is close to finishing supplemental rules of procedures for IRPs and those too will likely direct a panel to

conduct its proceedings by electronic means to the extent feasible and if hearings are needed then to do those by telephone or video conference.

B. ICANN's existing jurisdictions relating to resolution of disputes

1. **Choice of Law**
   a. **Which jurisdictions' laws currently govern disputes involving ICANN?**
      i.
2. **Venue**
   a. **In which locations can disputes involving ICANN be commenced?**
      i. **IRP**
         1. **Has no location**
      ii. **Arbitration**
         1. **Locations typically specified in agreements**
            a. **Los Angeles for private parties**
            b. **Geneva for government and IGO parties**
      iii. **Litigation**
         1. **ICANN can be sued in the following locations:**
            a.

C. Influence of ICANN's existing jurisdiction(s) relating to resolution of disputes (i.e., choice of law and venue) on the actual operation of ICANN's policies and accountability mechanisms

1. **Influence on ICANN's Policies**
   a.
   b.
   c.

2. **Influence on ICANN's Accountability Mechanisms**
   a.
   b.
   c.