

## Panelists Sought for ICANN Independent Review Process

### Panelist Position Description

The Internet Corporation for Assigned Names and Numbers (ICANN),<sup>1</sup> maintains an Independent Review Process (IRP) is a procedure for independent third-party review of ICANN actions alleged by an affected party to be inconsistent with the Articles of Incorporation or Bylaws.<sup>2</sup> The IRP is intended to ensure, together with other accountability procedures and mechanisms, that the decisions, actions and/or inactions by ICANN are consistent with ICANN's Bylaws and Articles of Incorporation.

ICANN seeks to identify individuals to serve as panelists of the omnibus standing panel for the IRP. Each panelist shall serve a five-year term, **except that the initial terms of the members of the first standing panel shall be staggered.**<sup>3</sup> The panelists shall be available for appointment to serve on individual panels for requests for Independent Review. The panelists shall act pursuant to the terms of the ICANN Bylaws and the IRP Updated Supplementary Procedures (the "Updated Supplemental IRP Procedures") which supplement the [International Centre for Dispute Resolution's \(ICDR\) International Dispute Resolution Procedures](#).<sup>4</sup>

The panelists shall:

- be impartial and independent, unaffiliated with any: contracted parties; structure or body within the ICANN Organization; or known potential or actual top level domain (TLD) applicants;
- make a thorough statement of interest for assessment of potential conflicts of interest;

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<sup>1</sup> ICANN is a not-for-profit, private sector corporation based in California formed by a broad coalition of the Internet's business, technical, and academic communities in 1998 to serve as a global consensus entity. Its historical mission has been to coordinate the assignment of Internet protocol parameters, the management of the domain-name system, the allocation of the IP address space, and the management of the Internet root server system.

<sup>2</sup> The IRP is set out at [Article 4](#), Section 4.3 of the ICANN Bylaws.

<sup>3</sup> NOTE to IOT: While the Bylaws state a 5-year term, ICANN would like to recommend that there be some staggering of terms among the first group installed as the panel, so that there is continuity in panel membership and there is not a risk of losing all panelists every five years. An example of staggering could be that ½ the panelists are selected for an initial 3-year term, and the remainder for a 5-year term. Upon the expiration of the initial 3-year term, the panelists returned or selected anew would then be seated with 5-year terms. Does the IOT agree with the concept of staggering terms? If so, what staggering would be acceptable to the IOT?

<sup>4</sup> ICDR is a not-for-profit, private sector organization established in 1996 as the global component of the American Arbitration Association. The ICDR provides conflict-management services in more than 80 countries with a staff fluent in 14 languages. It is an independent provider of international dispute resolution services, including mediation, early neutral evaluation, fact-finding, dispute review board, and arbitration. It assists the global business community in minimizing the impact of disputes by resolving them earlier.

- have substantive expertise in dispute resolution procedures through experience in judicial proceedings and alternative dispute resolution proceedings, including, but not limited to, experience in commercial disputes involving allegations of breach of Bylaws and/or Articles of Incorporations and allegations of conflicts of interests;
- have general knowledge of the Internet, and of ICANN's mission and work, policies, practices, and procedures;
- be able to assess relevant principles of international law, international conventions, local law, and have knowledge of common law and civil law systems.

#### Required or Highly Preferred Skills

The Bylaws require that ICANN select panelists with a variety of expertise. Factors that ICANN would view to be relevant in assessing a panelist's application include the following:

- Significant legal expertise in one or more of the following areas: international law, corporate governance, judicial systems, alternative dispute resolution, and/or arbitration.
- Demonstrated ability to show impartiality in decision making.
- Ability to objectively review and analyze submissions, and ensure that such submissions are fully and objectively considered when making decisions.
- Ability to review detailed information, perform a comprehensive analysis, and provide a reasoned opinion.
- Experience in disputes involving allegations of breach of Bylaws and/or Articles of Incorporations and allegations of conflicts of interests.
- Strong communication skills, including an ability to communicate effectively with individuals from various backgrounds and cultures.
- Demonstrated awareness of how ICANN's Board decisions may impact the party filing the IRP Request, third parties, the public in general and the Internet.
- Understanding how international law, national laws, rules and regulations may be relevant to assess the consistency of actions or inactions by ICANN's Board of Directors with its Bylaws and Articles of Incorporation.

#### Required or Highly Preferred Experience

- Familiarity with the Internet and ICANN's role, as well as some understanding of the New gTLD Program's Objection and Dispute Resolution Procedures.
- Extensive experience working with multinational organizations.

- Awareness and understanding of a variety of cultures.
- Proven ability to communicate complex and often controversial information, concepts, and positions, both verbally and in writing, to co-panelists and counsel.
- Ability to participate effectively and timely in dispute resolution proceedings, and to work collaboratively with co-panelists and counsel to manage the IRP proceedings through the dispute resolution process.
- Fluency in English and knowledge of one other major language.
- Experience working with non-profit organizations.

### Time Commitment

The panelists will be expected to make a five-year commitment.

The amount of time needed to carry out a panelist's duties in an IRP proceeding will be at the discretion of the panelists. Pursuant to Article 5 of the Updated Supplemental IRP Procedures, panelists shall conduct IRP proceedings by electronic means to the extent feasible.

The panelists will be required to agree contractually to perform services in a first-rate manner.

### Compensation and Selection of Panelists in IRP Proceedings

Consistent with the Bylaws, a three-member IRP Panel shall be selected from the standing panel to hear a specific dispute. Assignment from the standing panel to IRP Panels shall take into consideration the standing panel members' individual experiences and expertise in issues related to highly technical, civil society, business, diplomatic, and regulatory skills as needed by each specific proceeding, and such requests from the parties for any particular expertise. The panelists of the omnibus standing panel will be compensated based on hourly rates pursuant to the ICDR Arbitration Rules.

### How to apply

Candidates for the IRP omnibus standing panel shall describe in their Expressions of Interest how they meet the required or highly desired skills and experience outlined in the above position description.

Candidates are also asked to submit any additional information they think should be considered when selecting candidates.

The deadline for Expressions of Interest is [insert date], 23:59 UTC.

Expressions of Interest should be submitted to [IRPstandingpanelEOI@icann.org](mailto:IRPstandingpanelEOI@icann.org).

ICANN's Bylaws and Articles of Incorporation can be found at <https://www.icann.org/resources/pages/governance/bylaws-en/#article4> and <https://www.icann.org/resources/pages/articles-2012-02-25-en>, respectively.

Additional information about the IRP can be found at Article 4, Section 4.3 of the ICANN Bylaws, at <https://www.icann.org/resources/pages/governance/bylaws-en/#article4>.

ICDR's International Dispute Resolution Procedures, as amended and effective 1 June 2014, and Fee Schedule, amended and effective 1 July 2016 can be found on ICDR website at <https://www.icdr.org/> under Rules & Procedures.

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## Overview of ICANN

ICANN is a not-for-profit, public-benefit corporation with stakeholders from around the globe. ICANN mission is to “ensure the stable and secure operation of the Internet's unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems.” In particular, ICANN:

- (i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS") and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains ("gTLDs").
- (ii) Facilitates the coordination of the operation and evolution of the DNS root name server system.
- (iii) Coordinates the allocation and assignment at the top-most level of Internet Protocol numbers and Autonomous System numbers. In service of its Mission, ICANN (A) provides registration services and open access for global number registries as requested by the Internet Engineering Task Force ("IETF") and the Regional Internet Registries ("RIRs") and (B) facilitates the development of global number registry policies by the affected community and other related tasks as agreed with the RIRs.
- (iv) Collaborates with other bodies as appropriate to provide registries needed for the functioning of the Internet as specified by Internet protocol standards development organizations. In service of its Mission, ICANN's scope is to provide registration services and open access for registries in the public domain requested by Internet protocol development organizations.

Please go to [www.icann.org](http://www.icann.org) for more information on ICANN's core values, processes and scope of activities.

## Overview of the Independent Review Process

The IRP is a procedure for independent third-party review of ICANN actions alleged by an affected party to be inconsistent with the Articles of Incorporation or Bylaws. It is intended to ensure, together with other accountability procedures and mechanisms, that the decisions, actions and/or inactions by ICANN are consistent with ICANN's Bylaws and Articles of Incorporation. The IRP is intended to hear and resolve Disputes for the following purposes:

- (i) Ensure that ICANN does not exceed the scope of its Mission and otherwise complies with its Articles of Incorporation and Bylaws.
- (ii) Empower the global Internet community and Claimants to enforce compliance with the Articles of Incorporation and Bylaws through meaningful, affordable and accessible expert review of Covered Actions (as defined in Section 4.3(b)(i)).
- (iii) Ensure that ICANN is accountable to the global Internet community and Claimants.
- (iv) Address claims that ICANN has failed to enforce its rights under the IANA Naming Function Contract (as defined in Section 16.3(a)).
- (v) Provide a mechanism by which direct customers of the IANA naming functions may seek resolution of PTI (as defined in Section 16.1) service complaints that are not resolved through mediation.
- (vi) Reduce Disputes by creating precedent to guide and inform the Board, Officers (as defined in Section 15.1), Staff members, Supporting Organizations, Advisory Committees, and the global Internet community in connection with policy development and implementation.
- (vii) Secure the accessible, transparent, efficient, consistent, coherent, and just resolution of Disputes.
- (viii) Lead to binding, final resolutions consistent with international arbitration norms that are enforceable in any court with proper jurisdiction.
- (ix) Provide a mechanism for the resolution of Disputes, as an alternative to legal action in the civil courts of the United States or other jurisdictions.

Any person, group, or entity, that has been materially affected may submit a request for independent review of that decision or action.

An IRP Panel shall conduct an objective, de novo examination of the dispute.

Decisions/opinions of IRP panels are issued in the form of Declarations, not in the form

of Orders or Awards, by a majority of the IRP panel members.

An IRP Panel has the authority to:

- a. summarily dismiss disputes that are brought without standing, lacking in substance, or that are frivolous or vexatious;
- b. request additional written submissions from the party seeking review or from other parties;
- c. declare whether an action or inaction constituted an action that violated the Articles of Incorporation or Bylaws, declare whether IANN failed to enforce ICANN's contractual rights with respect to the IANA Naming Function Contract or resolve PTI service complaints by direct customers of the IANA naming functions;
- d. recommend that the Board stay any action or decision, or take any interim action, until such time as the opinion of the IRP Panel is considered by the Board;
- e. consolidate requests for independent review if the facts and circumstances are sufficiently similar, and take such other actions as are necessary for the efficient resolution of disputes;
- f. determine the timing for each proceeding; and
- g. determine the shifting of IRP costs and expenses to the losing party to pay administrative costs and/or fees of the prevailing party in the event that the Panel identifies the losing party's claim or defense as frivolous or abusive.

The IRP is governed by the Updated Supplemental IRP Procedures, which are currently under development and which supplement the [ICDR International Dispute Resolution Procedures](#), amended and effective 1 June 2014, and Fee Schedule, amended and effective 1 July 2016. In the event there is any inconsistency between the Updated Supplemental IRP Procedures and the ICDR International Dispute Resolution Procedures, the Updated Supplemental IRP Procedures govern.

All panel members shall adhere to conflicts-of-interest policy stated in the ICDR operating rules and procedures.