

Julie Bisland:Welcome to the IGO INGO Curative Rights Protection PDP Working Group on Thursday, 14 September 2017 at 16:00 UTC

Julie Bisland:Agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_hSkhB&d=DwIFaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=3sOO3lbNkgVyBHA-6sNr2jT7a2AihjQCvD6psPM_Ebw&s=H3ganCxlySD8b3a07oPb61YkaaxLzNGsKbJBMdskcbe=

George Kirikos:Hi folks.

Julie Bisland:hello George!

George Kirikos:Hi Julie.

George Kirikos:If I'm the only PDP participant in attendance today, it'll be easier to form a final consensus. :-)

George Kirikos:Hi Mason & Phil.

Mason Cole:Greetings all

Philip Corwin:Hello all. Petter has a conflict and won't be joining today.

Paul Tattersfield:Hello everyone

George Kirikos>Welcome Paul.

Paul Tattersfield:its better

Paul Tattersfield:it's

Mary Wong:We have pasted feedback received from Paul Keating via email to this revised diagram in the Notes pod on the right.

Julie Bisland>Welcome Osvaldo Novoa

Osvaldo Novoa>Hello all, sorry I'm late

George Kirikos>Welcome Osvaldo.

George Kirikos:It would be permissible to appeal to higher courts.

Paul Tattersfield:Do we also have to define the provider(s), the governing law and the rules or arbitration?

Julie Bisland>Welcome Jay Chapman

Jay Chapman:Forgive my being late

George Kirikos>Welcome Jay.

Jay Chapman:Thanks, George

George Kirikos:2nd question is easier.

George Kirikos:+1 Phil

Steve Chan:There is a callout (highlighted in blue) on the chart, noting where this option is possibly envisioned.

George Kirikos:Conceivably it can be for the box above that, right.

George Kirikos:In addition to the current box, not to replace it.

George Kirikos:Perhaps send it to the mailing list, for further thinking.

Paul Tattersfield:George's solution seems more elegant

George Kirikos:It would just be another option, though, Paul. i.e. some might find it better to wait until the UDRP panel has weighed in.

Paul Tattersfield:Paul K wanted it to be for all UDRPs

Paul Tattersfield:they would have to close the judicial rights if it went to arbitration

George Kirikos:I personally wouldn't expect to make that choice for myself, but it might be an option for someone else, depending on the circumstances.

George Kirikos:That might have been a typo.

George Kirikos:(by Paul K)

George Kirikos:We'd not be able to change the arbitration for all respondents (that's something the RPM PDP might be able to do, but beyond our scope).

George Kirikos: IGO can't raise immunity defence in an "in rem" case, since they're not actually being sued. (i.e. that's why Option 6 is so interesting).

Jay Chapman: Paul's concern there is my greater concern with creating any type of arbitration appeal - other groups may be encouraged to seek their own appeal process

Mary Wong: Staff agrees that recommending arbitration is likely beyond the PDP scope.

George Kirikos: Very true, Jay.

Paul Tattersfield: If an arbitration and Judicial options were both open to a registrant could try the arbitration if that was lost he could then try the judicial route

Mary Wong: Yes, sorry for not being clearer

George Kirikos: @Paul: But the idea of going to arbitration is to give up the right to access the court.

Mary Wong: @Paul T, the arbitration would be binding.

Mary Wong: (taking off staff hat) I'm not a public international law expert but I would think that the IGO will, as a rule, still be able to assert jurisdictional immunity as it is still a party to the dispute - unless perhaps the policy requires that agreement to this limited scope amounts to a waiver of immunity.

George Kirikos: Default judgement.

Jay Chapman: agree Phil

George Kirikos: Right, Phil.

Jay Chapman: To be clear - not all of us have tentatively agreed to an arbitration option. Still listening though

George Kirikos: +1 Jay :)

Paul Tattersfield: Good point Jay I think we're only exploring if alternatives are workable

George Kirikos: <https://www.icann.org/sites/default/files/tlds/accountants/accountants-agmt-html-20mar14-en.htm> (5.2)

Mason Cole: Would love to share, George, but out of my remit. I'd have to defer to our legal team, and you're right, can't comment on .web.

George Kirikos: Right, don't want to force any comment....just curious if the ICC rules seemed "fair".

George Kirikos: (since those are what ICANN and registry operators have appeared to agree to, or were compelled to agree to)

Paul Tattersfield: @Mary did you have chance to find the Ki-moon letter?

Steve Chan: @Paul, Mary stepped away to another meeting, even if it looks like she's present. I'll follow up with her.

George Kirikos: I think there was an arbitration via ICC, see:

https://urldefense.proofpoint.com/v2/url?u=https-3A-www.icann.org_resources_pages_governance_litigation-2Den&d=DwlFaQ&c=FmY1u3Pj6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QIF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=3sOO3IbNkgVyBHA-6sNr2jT7a2AihjQCvD6psPM_Ebw&s=IwG_RSOFnaDHjn29tdsh0_hAw57vFsIfc58MFIRZtjA&e=

George Kirikos: OpenTLD v. ICANN

George Kirikos: Also Employ Media v. ICANN

Paul Tattersfield: Thanks Steve appreciated

Jay Chapman: Thanks, all.

Osvaldo Novoa: Thank you, bye

George Kirikos: Bye folks. Have a great day.

Paul Tattersfield: Thanks all bye