

Terri Agnew:Welcome to the IGO-INGO Access to Curative Rights Protection Mechanisms Webinar on Thursday, 12 October 2017 at 16:00 UTC for 60 minutes .

Terri Agnew:agenda wiki page: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_community.icann.org\\_x\\_64ZEB&d=DwlCaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=jCiBRhrp9BStEUfyRqy9ROB46H\\_cAWyMB8\\_8f2XAPJ8&s=Y2oSnKkApgEsLpjzh99wXc5q\\_JN MwwqlQj4nW6GsL80&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_64ZEB&d=DwlCaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=jCiBRhrp9BStEUfyRqy9ROB46H_cAWyMB8_8f2XAPJ8&s=Y2oSnKkApgEsLpjzh99wXc5q_JN MwwqlQj4nW6GsL80&e=)

George Kirikos:Hi folks.

Mary Wong:14 counting title slide and the Questions slide :)

Osvaldo Novoa:Hello all!

George Kirikos:Can the slides be unlocked?

Mary Wong:@George, we are keeping them locked at the moment, to enable the presenters to go through them (unless otherwise instructed by the co-chairs).

Paul Tattersfield:Sorry I'm late

Osvaldo Novoa:Can the presentation be downloadable?

George Kirikos:i.e. initial recommendation was Article 6ter registration was PROOF (sufficient) of TM rights; new recommendation is that Article 6ter registration is EVIDENCE of rights.

Mary Wong:@Osvaldo, we will circulate the slides and post them to the Working Group wiki space after this call.

George Kirikos:The 1st prong of the UDRP is so low, though, so it should make no practical difference. UDRPs are usually decided on the 2nd and 3rd prongs.

George Kirikos:We had 6 options, ultimately. But, now distilled into 3. :-)

George Kirikos:Since much of the call for a new procedure was based on the introduction of new gTLDs, Option B reflects a compromise, targeting the new Option C to newly created domains only.

James Bladel:Just an aside, but PDP WGs need to avoid terms like "vitiating."

George Kirikos:@James: right, we've suggested other language, e.g. "set aside".

George Kirikos:I think in the final report, it'll be wordsmithed better.

James Bladel:I'm a native English speaker with advanced degrees, and I had to look it up. I'm not a poet, but that's a good barometer that it's going to pose a problem for translation, etc.

George Kirikos:Good point, James. Are all the policies being translated now into the 6 UN languages?

James Bladel:@GK - The Final report will be translated, but not sure about all 6. If the language makes it in to a standard contact (RAA/RA), it will also need Mandarin. And changes to the UDRP might also be reflected in the languages of paenlists (which include Czech and....I forget where the Asia Dispute Center is located. Korean, perhaps?).

George Kirikos:[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.adndrc.org\\_mten\\_index.php&d=DwlCaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=jCiBRhrp9BStEUfyRqy9ROB46H\\_cAWyMB8\\_8f2XAPJ8&s=bQbrEIK9RWwl-6htuYE-WhmNoZBnVFK1hqJb2LBXqKM&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.adndrc.org_mten_index.php&d=DwlCaQ&c=FmY1u3PJp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=jCiBRhrp9BStEUfyRqy9ROB46H_cAWyMB8_8f2XAPJ8&s=bQbrEIK9RWwl-6htuYE-WhmNoZBnVFK1hqJb2LBXqKM&e=) :-)

Brian Beckham - WIPO:Petter, can you clarify, if I read Option A correctly: if an IGO "wins" its UDRP case, and "wins" in asserting its immunities in court, the UDRP decision in its favor would nevertheless NOT be implemented (it would be "vitiating")?

James Bladel:@GK - Ah, Hong Kong. Ok.

George Kirikos:Informing ICANN is important, in terms of data collection for future reviews (i.e. overcomes some of the problems we've had with data in other existing PDPs, e.g. the RPM one).

Mary Wong:The ADNDRC comprises 4 offices - in Beijing (China), Korea, HK and Malaysia.

Mary Wong:The slides have now been unsync'ed for scrolling.

George Kirikos:Thanks, Mary.

George Kirikos:@Brian: Yes, that's a correct reading.

James Bladel:Yes, I also don't understand how that works in Brian's scenario

George Kirikos:Option A ensures that the registrant's legal rights to have the case heard in court are preserved.

Brian Beckham - WIPO:Thanks Mary - and Petter/Phil, if "yes" what is the public policy rationale for this?

George Kirikos:i.e. by asserting immunity, the IGO would be violating the undertaking it made that the case should be heard in court on appeal.

Brian Beckham - WIPO:Thanks Phil (Mary) for clarifying.

Paul Tattersfield:Absent UDRP the IGO would be required to waive immunity for the court to consider the matter.

George Kirikos:Option A doesn't deprive the IGOs of any rights, since they can still a case properly, through the courts. Or they could have filed via agent, licensee, etc. to avoid the immunity issue entirely.

George Kirikos:In other words, Option A preserves the "status quo" if the UDRP had never existed.

George Kirikos:Because, IGOs shouldn't have greater rights, relative to the underlying law, simply by making the strategic choice of filing a UDRP first.

James Bladel:Agree with Phil, Option A does not pass the "smell test" and would not get past Council, let along the Board.

George Kirikos:The "bargain" that was made when the UDRP was created was that it wouldn't interfere with either sides' legal rights, so Option A preserves things.

George Kirikos:A fully informed view of Option A might change your view, James.

James Bladel:@George - even if it is legally & technically sound, it is politically untenable.

George Kirikos:Right, I can understand the political argument. But, there are solid reasons for wanting to preserve the status quo.

George Kirikos:i.e. should ICANN be creating a policy that takes away the rights of registrants to due process?

George Kirikos:It was an unintended consequences of the UDRP itself, since no one contemplated the specific scenario above.

George Kirikos:Option A fixes that unintended consequence, while still giving the IGO the full ability to have its case heard (in a court).

George Kirikos:Option A doesn't say "the matter is over". It just says "the UDRP is set aside". IGO can use other means to get its desired results.

James Bladel:IN that scenario, it wouldn't be ICANN but the courts making that decision. Which is what they're supposed to be doing.

Brian Beckham - WIPO:Thanks all for your work/explanations - apologies, I have to run.

Philip Corwin:Thanks for your attendance, Brian

George Kirikos:@James: Right, Option A says \*only\* the courts have supremacy.

George Kirikos:Option A tends to get misrepresented by those who oppose it.

George Kirikos:There are thoughtful reasons behind it.

James Bladel:Need to drop, but glad to see this group is closing in on a conclusion to its work. Thanks to all for your continued hard work on this.

George Kirikos:So, the consensus call will be post Abu Dhabi?

George Kirikos:Or next week?

Mary Wong:@George, I think the idea is to have a preliminary consensus call on just the three Options, but to have a full and formal consensus call on all the final recommendations after ICANN60.

George Kirikos:Sounds good, Mary. Especially as we've not seen the draft final report yet, to review and edit, etc.

Poncelet Ileleji:+1

George Kirikos:It should be pointed out to the GNSO council members that the IGOs declined active participation in this PDP.

George Kirikos:Despite many invitations to participate.

George Kirikos:(and despite their participation in the predecessor PDP that led to this one)

George Kirikos:Bye folks!

Donna Austin, Neustar:Thanks Petter and Phil

Paul Tattersfield:Bye everyone

Poncelet Ileleji:thanks all bye