

IRP IOT – moving toward second reading of JOINDER issue

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Dear members of the IRP IOT:

Here below is suggested language for second reading on the Joinder issue we have been discussing.

I have deleted the word "endeavor" in paragraph #4 as requested by Kavouss but have maintained all-caps for PROCEDURES OFFICER inasmuch as that is how it appears in the draft rules.

Please consider and agree on list or on next call (Nov. 14 at 19:00 UTC), or if you suggest a change please provide specific language and rationale.

SUGGESTED JOINDER LANGUAGE:

1. That only those persons/entities who participated in the underlying proceeding as a "party" receive notice from a claimant (in IRPs under Bylaw section 4.3(b)(iii)(A)(3)) of the full Notice of IRP and Request for IRP (including copies of all related, filed documents) contemporaneously with the claimant serving those documents on ICANN.

2. That, subject to the following sentence, all such parties have a right to intervene in the IRP. Notwithstanding the foregoing, a person or entity seeking to intervene in an IRP can only be granted "party" status if (1) that person or entity demonstrates that it meets the standing requirement to be a Claimant under the IRP at Section 4.3(b) of the ICANN Bylaws and as Defined within these Supplemental Procedures, or (2) that person or entity demonstrates that it has a material interest at stake directly relating to the injury or harm that is claimed by the Claimant to have been directly and causally connected to the alleged violation at issue in the Dispute. The timing and other aspects of intervention shall be managed pursuant to the applicable rules of arbitration of the ICDR except as otherwise indicated here. Subject to the preceding provisions in this paragraph, the manner in which this limited intervention right shall be exercised shall be up to the PROCEDURES OFFICER, who may allow such intervention through granting IRP-party status or by allowing such party(ies) to file amicus brief(s), as the PROCEDURES OFFICER determines in his/her discretion. An intervening party shall be subject to applicable costs, fees, expenses, and deposits provisions of the IRP as determined by the ICDR. An amicus may be subject to applicable costs, fees, expenses, and deposits provisions of the IRP as deemed reasonable by the PROCEDURES OFFICER.

3. No interim relief that would materially affect an interest of any such amicus to an IRP can be made without allowing such amicus an opportunity to be heard on the requested relief in a manner as determined by the PROCEDURES OFFICER.

4. In handling all matters of intervention, and without limitation to other obligations under the bylaws, the PROCEDURES OFFICER shall adhere to the provisions of Bylaw section 4.3(s) to the extent possible while maintaining fundamental fairness.

Best regards,

David

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