

# IRP IOT – moving toward first reading of TRANSLATION/INTERPRETATION issue

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Dear members of the IRP IOT:

For background, please see my e-mail<<http://mm.icann.org/pipermail/iot/2017-September/000313.html>> of Sept. 25th and you can also see the records<<https://community.icann.org/pages/viewpage.action?pageId=69282208>> of our call on Oct 5th when we got into this subject

In brief, while some commenters asked for these services on request, the bylaw speaks of the services on an as-needed basis. I propose we confirm these as a function of need.

And, in my opinion, need does not reach instances where the claimant speaks/understands English even though claimant's primary language is other than English. Put simply, these services would truly be a function of need, not convenience, factoring in all of the languages in which the requester has reasonable competency.

In addition, given the practice by ICANN of using the six official UN languages (Arabic, Chinese, English, French, Russian and Spanish) when it provides translation services at ICANN meetings, I suggest these be given primacy, so that when a claimant speaks two languages (but not English), and one of them is an official UN language, then that official UN language would be the translation service provision.

I also believe that the Bylaw language "if needed" means that if 'claimant' includes more than one person (for instance claimant is a company), then if one of those persons (e.g. an officer of the company) speaks English that would suffice for using English in the IRP.

With respect to the issue of costs that Kavouss mentioned on our call of Oct. 5th, I suggest language along the line that the IRP Panel should assess, when considering the translation of documents, the fair balance to be accorded to materiality of the document versus the costs/delay to translate - all in the context of ICDR Article 18 on Translation and Bylaw 4.3(n) on ensuring fundamental fairness and due process.

Thus, my suggestion is that we ask Sidley to incorporate these overall suggestions into draft Rule 5 along with language that implementation issues are for the sound discretion of the IRP panel (e.g. whether claimant is sufficiently capable in English language, or how to weigh cost of translation in decision to hold/not hold a hearing).

I hope we can move this to first reading on our next call on Nov. 14 at 19:00 UTC - please comment on list by that date if you cannot be on that call.

If you wish to suggest an alternative handling, please put that on list and state the rational and include specifically proposed alternative language.

I look forward to seeing those of you who plan to attend ICANN 60.

Best regards,

David

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