
IRP-IOT MEETING

Thursday, February 8, 2018 -- 19:00-20:00

>>MR. McAULEY: Hello everyone. This is David McAuley speaking again. I believe we have a quorum.

So could I ask that the recording please be started.

Thanks very much. Hello everyone and welcome to the IRP Implementation Oversight Committee Meeting of February the 8th. Thank you all for being here.

I would like to note attendance in the Adobe Chat thanks to all those folks. Let me ask if there is anybody attending this meeting by phone only and is not in the Adobe Room?

Seeing no hands raised and hearing none, I will move on. And ask if anybody --

>> David.

>>MR. McAULEY: I'm sorry.

>> David, if I may, it's Malcolm Hutty speaking. Greg Saxton has said, asked to convey his apologies that due to a conflicting client call he's unlikely to be able to make this meeting. He'll try to get to it at the end if he can, but ask if I may also represent his position on time for filing issues. We discussed it beforehand and he asked me, his words were, "Take my proxy".

>>MR. McAULEY: That's fine. Thank you Malcolm.

So, I can't recall if I asked this, but let me ask if anybody has an update to their statement of interest that they would like to mention?

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Seeing no hands and hearing none, let's move on.

The second item on the agenda is an update with respect to preparations for helping SO/AC on the standing panel. I apologize that I just contacted Sam Eisner late about this, but Sam if you have any update, I would welcome you to give it now, or otherwise just say, you know, you don't have one. So let me turn it over to Sam.

>> Thanks David. This is Sam Eisner from ICANN legal. I'm not sure if everyone was, if anyone who is currently on the call is able to attend, but we had a webinar on the, the standing panel a couple weeks ago with the SO/AC leadership. And the webinar went well. It was good introduction to the topic. We have some text and that includes we're convening with meeting in Puerto Rico.

We're waiting to see the results of the, the conflict exercise that happened around the scheduling. So there will either be a session on Wednesday afternoon, which we think would be probably preferable to the. The other opportunity would be on the end of the day on Friday, WGD co-chairs have agreed to offer us an hour on the schedule to convene during that time, but we have a concern that not everyone who might be (indiscernible) or might want to participate will be in Puerto Rico by that time.

So, as long as we survive the conflict class, I think we'll see this coming up on the Wednesday afternoon schedule for Puerto Rico. So, the next, So there will, along the conversation will talk again about next steps. We had some really good recommendations come up about, explain the potential usage of a third party to provide some objectives, use of candidates and helping (indiscernible) reach the slate.

The conversation will mainly focus in Puerto Rico, on how we may come together to make a unified slate decision.

We also -- from the ICANN side are going to work through the proposal for community reaction on looking at what initially, what that initial qualification vetting might look like, and the types of qualification might be important.

So, we'll be releasing some documentation in advance of the Puerto Rico meeting once the agenda is set.

So, I think things are moving. We appreciate any attention you can help give to this issue within your SO or AC we'll provide that. IOT notice of when the meeting is, you can help publicize this with your SO/AC and make sure the right people are there who can contribute to the initial part of the conversation.

If you have any questions on it, let me know.

>>MR. McAULEY: Thank you, Sam.

David McAuley speaking again. I don't see hands, but I have a couple comments myself.

First, thank you for the update.

Let me stop on this subject just for a second. I neglected to do something that I wanted to do, and that is note the presence of Cherine Chalaby who is our board observer and I wanted to welcome Cherine.

Thank you very much again for joining us. It's very helpful for these calls.

Now, I will get back to the comment I was making in response to Sam. And that is I particularly have an interest in this. I participate in both the AC and SO and registry stakeholder group. So my request, Sam,

would be if there are correspondence going tout to SOand AC if you could copy the IOT, or if the IOT members are not interested, at least me as the leader of the IOT, I would be very interested in that, if that's possible.

The second thing I would say is you mentioned a potential meeting for Wednesday rather than Friday during the CCWG chief face-to-face meeting. I think that's a good idea. I'm glad Bernie is here on the call, because Bernie can relay that back to the CCWG. And while I'll be at that meeting on Friday, I think March 9th, Wednesday does make more sense for the reasons you just gave, probably have better attendance, that kind of thing.

So, thank you for that.

Does anybody have any questions or comments with respect to the standing panel efforts and endeavors to get the SOs and ACs prepared? I will add one more comment of mine that is Sam you mentioned potential use of third parties. I find that a very interesting topic to help in this process. I find that a very interesting topic and have a particular interest in that. And So would love to be included in those discussions as well, if possible.

Nothing further, no hands being seen; I will move on to the next item in the agenda, which is administrative comments on our plans.

The first is 3.A, time for filing issue and consensus call. And I know that Malcolm, Malcolm and I and Bernie have been involved (cutting out). In this, excuse me just one second. I need to clear my throat.

Prior to the call and I believe that Malcolm and I are not of one mind on this. And I know he would like to make an objection, but before doing that, Malcolm, I would like to sort of set the table and tell the group, you know, what's been, what's been discussed.

In that respect, I would like to say that I decided to put this on the agenda for discussion in light of the drafting document that you all have seen that I put in front of you. And the drafting document is my effort to try and sort of drive us forward, get us to the point we can close our work on the rules.

And you will note that under USP.4, update of supplementary procedure .4, there was a holding note indicating that Malcolm was going to work on language for the greater part of that section.

In the interim, Malcolm indeed did that, and he and I discussed that language. He kindly sent me a draft. I'll let Malcolm discuss that. But the draft got me to thinking that I who had originally been in favor of a proposed period but then backed off of it, was a little bit concerned. My concern was resurfacing in light of seeing it expressed in language. And So I thought, hmm, maybe this would be something we should do a consensus call since it's such a major change.

And Malcolm, I think will state an objection to it that it had already been done. I've gone back through the records of our group and saw we did have a second reading of the issue without a repose period. And So I feel unprepared to talk to this particular agenda item today. I want to go back and listen to that meeting, because we don't have a transcript for it.

That having been said, what I would then propose to do is take agenda item 3.A and table it for now by which I mean not discuss it for now. And in the interim, this next week or whatever, next two weeks,

work with Malcolm to see if I and I could agree a combined statement of the issue. But that's where I think we are. I would like to ask Malcolm to comment, state his objection and, and make any comments he might have.

Malcolm.

>> Thank you, David. David, I would like to thank you for preparing the framework draft reports and everything. You clearly put a lot of work into that. That's been very helpful and I'm pleased to be able to offer an offering for this important section of it, which you asked me to come up with a draft for discussion.

Now, I've done that in the sense of I've offered some text that could be what goes in there. I'm not in any sense suggesting that the text that I offer needs to be the final text or needs to be, an I think we can certainly discuss for example to what extent we should discuss our reasoning, whether, to what extent we should discuss the comments that were made that we are responding to, that we received in the final comment, in the public comment and the impact that that's had on our thing; on our decision. And how this, how this is worded. All those things I think are entirely in order for discussion.

However, I think it is important that this should accurately reflect the decision that we took through the formal process of a first reading and then a second reading a week later, or two weeks later, I believe it was, with adequate verification to the list. To reverse that now would seem to me to be inappropriate.

We have a process, we need to move forward. We spent a year discussing, where most of the attention was focused on this one issue, and it did hold us back from concluding the other work that needed to be done. And we are late.

Now, we are planning to go out to another round of public comments. So if you're having second thoughts about whether that decision we took was really the right one, I think really that the appropriate thing would be for you to express that in public comment, just as you asked me to do when I was unhappy with the decision before the first public comment round and you told me that the appropriate way to deal with that would be to express those points in public comments.

So, I think now the task is to make sure that what we write in our reports, in our draft report here to go out for the second public comment round, accurately reflects the decisions that we have taken, rather than continually going back and reopening them. Thank you.

>>MR. McAULEY: Malcolm, thanks. It's David McAuley speaking again.

But it sounds as if you and I may still not be in agreement.

Oh, by the way, I do agree that at least with respect to the period of repose, well have to go out for public comment.

Back to the comments though, what I was saying is I am still, I am still of a view that there may be further discussion about time for filing in the consensus call, that kind of thing. So, I said I would like to sort of table or push off rather that part of the discussion until after I get a chance to go back and listen to the June 12th meeting.

So, where do you stand on that?

>> Okay. As for the June 12th meeting, there was actually, there was the discussion at the 25th may which was the first reading. And if you go back and open, since you spoke to or emailed me earlier today, I had an opportunity to go back and read the raw transcript, the raw transcript of the two meetings. And what you will find is that in the first meeting, in the first one, the 25th of may meeting, it was decided; A, to support dropping the second deadline. And it was decided, we discussed whether we should consider that the first reading and we decided that we should. That we would then put a notice out that that had been the decision on the mailing list, and to encourage anyone that was interested to reply to the mailing list or attend the next meeting. That message was sent I believe on the 8th of June, if I recall correctly.

And then, subsequently then, the meeting on the, let me check these dates. The meeting, anyway the following meeting, the meeting on the 12th of June. There we are. The message went out to them on the 5th of June. And the following meeting on the 12th of June, it was tabled for second reading. And it was really then approved for second reading without further comment at that point.

So, you won't find discussion on the reasoning on the 12th of June transcript, but you will find it on the 25th may transcript.

>>MR. McAULEY: Thank you. I think I need to go back through both of those. So what I will do now is stop discussion on this agenda item and, and take a look at those. And if I feel the need to sort of revisit this agenda item, I will let the group know that on the list.

And Malcolm, I will let you know what I think as I progress through those two efforts. It will be before next -- the middle of next week, but I just can't say when.

So, that's the treatment right now for agenda item 3 is we will stop discussion on that for now but it could come up next week or in our next call, if our next call was next week or the week following.

So, I have agenda item 3 B which talks about the nature of our final report. And I would like to sort of move that down just a touch, because we'll get into that when we start going lieu the overall draft that Brenda has kindly put up on the screen.

Before we get to that you'll see an agenda item 3 C, treating the procedures in two buckets. The idea.

>> David, before you move on to the next point.

>>MR. McAULEY: Yeah.

>> If I may, may I ask two minor procedural things? Firstly, if you do wish to reopen this, can I ask that you give the list sufficient notice because I know that there were people, when Greg did wish to speak to this and he couldn't because there wasn't really sufficient notice for him to rearrange his conflicts. I know that there was others that might wish to notice. So could we please have 48 hours notice?

>>MR. McAULEY: Yes.

>> Before reopening this important point. Secondly I notice that Robin gross is written in support for what I've been saying for not reopening this. She said settled issue. In the chapter. I would like that read into the record, please.

>>MR. McAULEY: That's fine.

>> Robin's intervention was also noticed. Thank you.

>>MR. McAULEY: That's fine. Thank you. The, can with respect to agenda item 3 C, and I have to give credit where credit was due, having a discussion with Sam Eisner recently, and she made, she spoke about whether or not we could plan on issuing rules as completed rules where there is no, there is really no contention among us, perhaps rules that weren't even subject to public comments. Sort of the over used phrase the low hanging fruit. I thought boy that's a great idea. I would like to ask Sam to speak to it in a minute. But I thought it was a great idea because we are all interested in getting this new IRP up and running and off the ground and seeing accomplishments towards that end.

So, if it's okay, I would like to ask Sam to sort of talk about this to the group, So we could just maybe briefly touch on this idea.

Sam, are you willing to do that?

>> Sure. Thank you, David.

So, I reached out to David to float an idea with him and see if it was something that he thought was worth discussing within the IOT. So, within ICANN, we know today we have supplementary procedures that were developed for the old version of the IOP and given the work that this group has been doing on the supplementary procedures we don't have an updated set yet. And So, looking at the reality that it's highly probable able any day that I could have an IRP filed against it; we want to make sure that we're, we're starting to get prepared for that reality.

And So, we were thinking about given the status whereof the supplementary procedures were, that are being drafted through this group, could there be some way that we would, even without going through the finality of the process, maybe we could reach some agreement as to those parts of the supplementary procedures that have already been through public comment that haven't received substantial push back and we're not really doing a lot of changes within this group, because there are many parts of that document that fall into that, that we would agree that those would be the, kind of the first universe and I was referring to it on the calls with David yesterday, as kind of the supplementary procedures light.

That would be the first group of procedures that we would ask the ICDR to use if there was an IRP filed prior to having the full supplementary procedures packet completed through the board approval process.

The reasons we were thinking about this are, you know, we see this in David's draft too. There is a part about scope and the impact of rules when they change on pending proceedings. And there is a process that the panel would go through weighing the potential of impact on the parties and part of that has to do with how different the rules might be.

So, we were thinking, it's inevitable if an IRP was filed before the supplementary rules were finalized that the rules might actually get finalized during the pendency of the process. And, So, we would have to go through that change evaluation anyway with the panel. If we were able to use more of the language that's already has been out and isn't really objectionable, or that concerns haven't been raised on, we haven't spent significant time on in the IOT, we could use some of those items we get to a place that's

closer. And we reduce the potential of change within the IRP proceedings when a new set of rules went into place.

So, we approached David to see if that was something he would, what his thoughts were on it and see if that's something we could raise with the IOT because the other aspect that's important on this, I think, is that it's not just ICANN declaring what those interim supplementary procedures might be, but that it would be necessary for there to be some agreement on that within the community and have some, have some, you know, recognition of legitimacy of moving forward with that.

So it's not necessarily a necessary step, but we were thinking it was, it might be a good interim solution to take while we're waiting for the, for all the rest of the work. And clearly we in this group are not the ones waiting, we're doing a lot of the work on it, but as we try and move forward to get to that final packet.

So, with that, I'll turn it back to David, to you, both as the leader and the person with the handout.

>>MR. McAULEY: Thank you, Sam.

And my comments now are as participant in the group not as a leader. I think this is a very constructive suggestion. And So my thanks to you for making it. And I wish that we would do this.

Sam, if I'm not mistaken, you would be willing to help in the effort to sort of ascertain exactly which rules we might be able to throw into this first bucket; if we can do it.

I don't think it will disrupt our progress towards tend. I will continue drafting suggested language towards the other USP procedures as I've been doing in this final draft that's in front of us. And I think it would give us a sense of accomplishment.

Becky has just written a comment. I think it would be, I think it would reduce the risk of confusion that wouldn't necessarily occur if the panel was using the old supplemental rules but applying the new standard of review. Fair point.

So, Sam, I guess my question would be to you, would you be willing to do something like that, and to the group, are there objections to this kind of procedure?

So, let me before I turn to Sam, let me recognize Avri and give the floor to Avri.

>> Thank you. This is Avri speaking. I have a question. In terms of the, those hard issues that we're still discussing, that aren't So called low hanging fruit, a term I truly despise, because it -- but anyway.

How will those issues be dealt with? And is there a correspondence in the old rules for all of them? What would we do in the interim on those rules? And I also am just curious as whether this would make the amount of time to resolve the other issues longer and if people had actually thought through that.

I think it's a very good idea, very good idea to get the rules as soon as possible, and if dividing them somehow, you know, works and such, definitely a good thing to consider, but I have the two questions.

Thank you.

>>MR. McAULEY: Thanks Avri. This is David McAuley speaking again for the record.

I believe that, and I would be happy to hear from Sam, Becky and others that have some expertise in this area, but I believe that with respect to the harder rules, the ones that we don't issue in the first bucket, that they're, that the panel would look at the existing rules that are in effect, and those rules consist of two parts. One is the rules that are issued by the international center for dispute resolution. And it has fairly comprehensive rules. I think I put the link in our proceedings once or twice, I'm happy to do it again, I just don't have it in front of me right now.

So, the ICDR rules apply.

And then with respect to the ICDR rules, there are supplementary procedures with respect to those, for the preexisting IRP. And I think they would still be in effect until we have new supplementary procedures. And the supplementary procedures are intend to take account of the idiosyncrasies of ICANN and make sure they are covered when you apply the ICDR rules. And thus when there is some kind of a conflict between ICDR rules on the one hand and supplementary rules on the other, the supplementary rules would take precedence because they're drawn up with ICANN's unique points in mind.

Is there anyone else, Sam, or Becky, is there anyone else that would like to comment on that? The sum of what I'm saying is I believe the panel would have rules to go by.

>> David, this is Sam. I agree with that assessment. In full disclosure because we wanted to get a sense of what the IOT thought about this before we started investing a lot of time in it. We haven't really done any mapping. And we, within ICANN, we're happy to take that labor or

produce the mapping.

And I think after you Avri that goes to your second point. If the we see once we do that, that it's going to take a lot of time away from the effort of just getting the supplementary procedures completed, that that might be, that might weigh in favor of not trying to go through this exercise.

So, I think, you know, we'll go through, we'll see -- because I think part of it from what you were asking Avri, we need to understand which parts, was there a style on, I think David is right with the application of the ICDR rules. Typically you would default to the main rules provided by the provider, unless as he said, there was special provisions that haven't been considered or new things that we need to refine within the supplementary procedures. So we would likely just go to that, to a default place if there was something new within the knew IRP that we just hadn't yet had a supplementary procedure completed on.

So, you know, I think we're happy to go back and start actually doing the mapping exercise So we can look at these exact questions; see if it's creating more confusion or if it actually has a path to making things a little bit cleaner in the future.

>>MR. McAULEY: Thank you, Sam. It's David McAuley speaking again.

And, let me just say to Avri, I too detest that phrase, I'm not sure why I used it, but such, that's what happens.

With respect to the workflow, one of the reasons I'm happy to hear that Sam may be looking at the mapping, is my plans as the group leader are to continue drawing up draft language, draft language to

address the rules, to try and capture the discussions we've held since last August or whenever it was we started talking about the rules in the context of having received the public comment.

So, that's my plan for now. And So we will make progress on both sides. And I do think that Sam's mapping effort would not simply be executed, it would come back to this group and say, this is the plan, yes or no, we looked into it, doesn't seem feasible or we've looked into it. It does seem feasible and here's the plan moving forward. So I think we're okay on that.

Does anybody else have anything they would like to say about this?

If not, let's talk, let's start going through the draft, if that's okay.

And thank you Brenda for pulling the draft up in front of on the screen. I have in the meantime, I believe, fixed the head set that I like to use, So that I have both hands able to do work. If anyone is having difficulty hearing me, please let me know.

And I see a question in chat. Before we get onto the draft, I see a question in chat from Cherine, how will the appeal mechanism work if the full standing panel is not sitting en banc.

Let me try to and I will ask others if they want to comment on that. Basically the way the new IRP works Cherine, is that an issue, an IRP issue would go to a panel constructed from the standing panel. And if there is no standing panel it would be constructed the way the IRP panels were in the past.

And if a party chooses to appeal a decision of an IRP panel, it would then go to the full standing panel.

And if that's not sitting en banc at the time, it's really up to this group to handle appeals up for the bylaws

and that's work that we have to address. That's one of the reasons I want to get these updated supplementary procedures done.

Hopefully that's responsive.

So, if we can turn to the draft. Let me ask a couple over arching questions first among the group. One about using this as the approach to reach closure. And you'll notice in the draft that I have chosen to take what might be called a minimalist approach, in other words not discussing the public comments but rather discussing and putting out our treatment of the public comments and where we got.

That's why in the draft, in the introductory part of the draft, I point to readers, to all the resources they can choose to look into what the discussions were. Between those features and the search features and the search functions within those features they can get to where they need to be.

So, does anybody have a comment about the nature of this document, and I will mention along the way that you've also had access lately, but access nonetheless to Malcolm's suggested draft with respect to procedure 4. And you can see that he took a little different approach than I did in that he went back and cataloged a bit, surveyed some of the public comments.

So, I'm just opening the floor now for anyone to comment one way or the other about these approaches, otherwise I plan to move forward as I have indicated. And Malcolm and I are discussing by email and we're not done, his suggested approach.

Any comments, any questions from anyone?

Okay. I'm sorry, Malcolm, you have your hand up. Why don't you take the floor.

>> Yes. I want to say that speaking, I actually support your approach of not going into much detail on this. As a wise man told me recently, sometimes less is more.

So, I don't think we should be trying to have an exhaustive recapitulation of all the arguments and so forth. I think that's more work than needed or anybody is really looking for.

But in a couple of cases, I think it might be useful to give some basic explanatory background So that the person who is reading it understand what it is that they are reading and especially where we made a change, or a significant change, the fundamentals of why we have done So; otherwise they'll just be having to look at multiple documents at once which will make it harder for them. But broadly speaking I think we should be looking to minimize that and keep it as succinct as possible as you have suggested.

>>MR. McAULEY: Thank you, Malcolm.

I appreciate those comments. And So I think what I'll do is come back to you on the next couple of days with some reaction to your draft. I've given you a little bit of feedback, but I might follow-up on that, I think that's fine that we can nail that down.

>> Yeah, I'm in no way the exact wording of how that draft, as it stands at the moment. I don't want you to think that I am. I'm very happy to make changes.

MR. McAULEY: Thank you.

So, moving on in the draft, let's go to the actual sections. And the first is USP number 1, which is on the second page. And you all should have individual scroll control on the document that's on the screen, as well as having access to a copy that you may have gotten in, in the mail.

Inevitably there is going to be a little reading involved, but basically my direction to Sidley in this particular section is that they amend the sentence in some explanatory text at the bottom of page 1 of the supplementary procedures to say that the effective date of the procedures would be the, not the effective date of the bylaws, which is past in 2016, but would be the effective date of the UTRSP once they're proved. I think that's probably noncontroversial but I'll but it out there and see if anyone has any concerns about that.

And Malcolm, is that an old hand?

>> I beg your pardon, yes. Let me get rid of it.

>>MR. McAULEY: Okay. Thanks. I don't see any comments or hear anyone. So let's move on to USP number two. The scope section.

I mentioned in there, that some of the public commenters asked that we take the standard, the new IRP standard that was adopted October 1st of 2016 and apply that standard, apply the scope retro actively. And we have discussed this a number of times and believe it's beyond our remit. We can deal with the rules, but we can't change the bylaws that created this IRP and this scope to an IRP on October 1st of 2016.

Prior to October 1st, 2016, it was a different scope, that's beyond our ability to change.

Then next in scope section I say that some commenters asked that the USP be applied retro actively in certain cases that were filed before the bylaws changed. And I noted that there probably, it's probably a moot question now, but the comment could apply to IRPs that Sam was just talking about. Let's say an IRP was filed today before the rules exist. And then the rules come into existence. You can see, we requested that it simply amended So a party can request it and decision would be within discretion of the panel.

And we give a little guidance to the panel that they, for them to apply this rule. Basically saying that absent consent wouldn't apply the new rules to pending cases this that would work a substantial unfairness or increase in cost or otherwise be unreasonable. So that's where we are on that one. I would ask if anyone would like to comment, object, or suggest other language.

That prompts me to say, as I have been saying lately. If you do have concerns in this respect, I wouldn't necessarily expect you to do it now, but I do ask folks for specific language where they're suggest being a change.

We can move on in the document and look at USP 3 which is composition of the reviewable. And the rule that was drafted that talks, spoke in terms of two forms of notice. Let me stop.

Sam, did you have your hand up? Did you want to make a comment?

>> I did. It was just kind of a general comment for the document as it exists. We've been looking through the document. I think for the most part we just have some minor minutes we would be offering but no major issues. But there are a couple places but we're not going to be raising that

as we're running through. Because they are not major change.

>>MR. McAULEY: Okay, if you would kindly put them on list, is that what you mean?

>> Yep.

>>MR. McAULEY: With specific language. Okay.

>> Yeah.

>>MR. McAULEY: Okay. Thanks.

In the USP 3 there is talk in the rules with respect to two notices. A notice of an appointment to a standing panel and another notice with respect to appointment to a specific IRP panel. We basically have discussed this and we're asking simply to enlarge this to state each of these noticed documents will have to contain at least, and I'll read a little bit, sorry about that; a requirement the standing panel members must be independent of ICANN and its supporting organization and advisory committees and continuing on to state that therefore upon consideration for the standing panel and on an ongoing basis, panelist shall have an affirmative obligation to disclose any material relationship with ICANN, a supporting organization. An advisory committee or any other participant in an IRP proceeding.

And I'll go on and mention the last paragraph there, which, it goes to say this section should also add a provision that a notice of IRP panel appointment will provide each panelist shall be impartial and independent of the parties and the meet, at the time of accepting the appointment and shall remain some until the final decision has been rendered or the proceedings have otherwise been terminated.

That latter part, we adopted at the suggestion of deli university suggested that we look at the international arbitration rules for panelists. And we did, we didn't take all of their suggestions but we did take that part.

So, with respect to that, USP 3. I'm going to ask again, if anyone has comments, questions, concerns, please raise your hand or note in the chat.

Okay. Not seeing any or hearing any.

The next is, time for filing. We've spoken about most of that; in other words we're not going to get into that now.

But I did add a section in the USP 4 that I had not asked Malcolm to address. And it has to go to the concept of notice that we've discussed a number of times.

So, we're going to request that Sidley amend 4; to add the notice under the rules in ICDR rules shall also be given to ICANN supporting regulation that consensus policy to involve when a inI (indiscernible) material provision or plural provisions of an existing consensus policy in whole or in part.

With respect to that one part of USP 4, anyone have any concerns or questions?

Next the independent 5, conduct of the review. First is administrative item. We say, there was a missing number of days. You know, the provision, we had a provision in the draft rules that said the, all evidence including witness statements must be submitted in writing within blank days. In advance of a hearing.

We're suggesting that be 15 days. Not 15 business days, not 15th, not 15 that, just 15 days, which will be read as calendar days. And any concerns about that? Seems fairly minor.

Next, in the conduct of the I understand review section. We request additional provisions. And what we're asking here, those provisions that reflect what we discussed and agreed with respect to translation and interpretation.

And, let me just press on here and say, with respect to these services, we are asking Sidley to make certain changes.

All translation services have to be based on need. We've discussed that, not preference. And we're asking Sidley to take care of the fact or to address with appropriate language instances where the claimant speaks English and another language and would prefer any other language, we would be against that.

And it's consistent with the bylaw direction to be efficient and cost, and to be attentive to costs. So it's true that not everybody speaks English, but where someone speaks English, that's basically going to be the language of the arbitration.

And we talk about claimants such as corporations where there are more than one person. If you have a responsible person that speaks English, that's going to be the language, et cetera.

And Kavouss asked us to be attentive to translation costs of documents. And we basically that translates into language that the IRP panel or emergency panelist, I'm at the top of the next page now; if the case

maybe to endeavor to strike a fair balance between the materiality of the document versus the cost/delay to translate. All in the context of ICDR article 18 on translation. ICANN by law 4.3 and on ensuring fundamental fairness and due process and ICANN by law 4.3 S on expeditious proceedings.

Are there concerns amongst any of us on this? Any questions?

Next. We have given the implementation of these translation issues up to the discretion of the panel. We address what would happen in the unusual cases of hearing. So, you've seen the language, it's on the screen. We're adding that claimant would at least in this context include people who are joined as parties to an IRP.

Anybody have any concerns or questions about this language?

It seems to me that this approach may be a good approach, because we're moving along fairly nicely. I don't want to, I'm not trying to stifle conversation or issues, but thank you.

Next section addressed is USP 6 written statements. Where we say that, we ask Sidley to add language along the lines in addition, the IRP panel may request grant to (indiscernible) admitted as a party or as an Amicus, upon a showing of a compelling basis for the request.

In the event the IRP panel grants a request for additional written submissions, any such additional written submissions shall not exceed 15 pages.

Comments, questions, to this provision?

Thank you, Sam. You can take the floor.

>> Thanks David. Just as one of the things that we'll be submitting, I know one of the comments we had made earlier during this deliberations is that 15 page limit should be collective among the appointment. But the issue in the IRP is still unified issue, not, and should be very similar to each claimant, because the issue of I can violated the bylaws or not. So that would, that would be one of the changes that you see. And I just wanted to flag that, so may see that as more substantial than others.

>>MR. McAULEY: Thanks, Sam. I do recall seeing a page limit where in a different context, it was 25 pages. I think in making the claim or something like that. And treating that cumulatively when other parties are added. And I thought to myself.

>> Yes.

>>MR. McAULEY: That didn't make sense.

>> Yes.

>>MR. McAULEY: Okay. So, anyway. I will anticipate and we will look at what you submit on the list.

>> Great. And also we will be submitting one of the Ed it's on the clarification that these are double spaced and limited pages that we're talking about.

>>MR. McAULEY: Okay. I think that's consistent with what was in the preceding rules and in the ICRrules.

>> Yeah.

>>MR. McAULEY: Okay. Thank you.

Next section is the USP 7 with respect to consolidation intervention and joinder. And I made it a comment in the column here.

And, the comment in the column was, that the language that I suggest that we put, and you can see it there, it's fairly lengthy, So I don't know if I'll read it. But it's sitting there. And you can take a look at it. But I noted that in recent discussions, Malcolm and Liz hopefully a little difference of opinion and to be honest with you, I thought they had resolved it. And I thought it was resolved. But I simply wanted to flag it to Malcolm and lids. -hi Liz. That the language that I put in this particular section, may or may not capture what they agreed.

But rather than read it, you can see that I'm dealing here with people, groups, entities, that came from expert panel decisions below. Those kinds of appeals. And how they could be, how they could intervene in IRP. These are consistent with what we discussed. And consist at the present time with, largely consistent with the comments that were in the public comments.

We also go on to say that people that did not participate in the underlying expert panel proceeding, these are usually with respect to new TGDLDs, things like legal objections that kind of thing, string similarity. They can intervene as a party if they satisfy the standing requirements of the bylaws. If the standing requirement isn't satisfied, they can intervene as an Amicus based on panelists discretion.

And then finally, we give supporting organizations intervention rights who develop a consensus policy involved when the dispute challenges that policy.

So, you can see those there.

At the end of paragraph 3 under USP 7 is where that 25 page, 25 page limit came in. And I added a comment there. Sam, if you have a comment on that one too, we'll look for your comment on the list; unless you want to comment now. But I see no hands but I will invite anybody to raise your hand, make a comment, ask for the floor with respect to anything in this USP7 section.

And if not, we will have run through the string of what I've accomplished So far.

I will note at the, I will note at the bottom that, at the bottom of the draft that I suggest certain administrative items that we at least want to consider. One, we'll ask Sidley to give us a red line in the clean version. There are footnotes that we have to attend to. I see Malcolm has his hand up, So I'm going to ask Malcolm to take the floor now.

>> Yes. Thank you David.

You mentioned the discussion that Liz and I were having about the precise wording in that USP 7. From Liz's clarification, I think we are both actually aiming for the same thing. We're not actually having a debate about what is a desirable outcome, just whether these words clearly express it and accurately express it.

So, we're going to in any case, have the benefit of Sidley's review of this, So I think the main thing is to make sure that we are as clear about what we are intending as possible, So that we get the benefit of their advice as well, without constraining them too much on, to a particular form of words.

>>MR. McAULEY: Okay. Malcolm. Thank you.

I see that Greg has joined the meeting. I was just about to say, Greg, that we've run through the comments that I had a chance to get into the draft. So we're probably going to end a few minutes early.

That having been said, and by the way, Greg, Malcolm did express your concern on agenda item 3 A and we did not discuss that in depth, other than to say I'm going to go back and take a look at the record. And So we may revisit this issue in our next meeting.

Malcolm, that an old hand from you?

>> Sorry. Yeah.

>>MR. McAULEY: That's all right.

>> Okay, sorry. My fault.

>>MR. McAULEY: Thanks.

So, I'll give the floor to Avri.

>> Thank you, this is Avri speaking. The question I had is and I'm probably just not recognizing it. Which of these sections will include the discussion of the ongoing monitoring and the review of this? And maybe I'm just not understanding which section it falls under. Does it fall in a separate document or what?

>>MR. McAULEY: Avri, that's a good question. It's David McAuley speaking again.

I believe that you will find at the bottom of page 1 of this draft, a comment with a red-tinged background that we can't discuss on this phone call, because we're running out of time. But it's a comment that I meant for us to discuss as to the, should we make a comment like this. But it basically says that we got

certain public comments that went beyond the scope of the rules. There is no procedural rules for ongoing monitoring, because it doesn't deal with the procedure of running an IRP. But we do want to address these public comments or at least most of them.

And So, I was thinking that we would address these in a separate document and talk about ongoing monitoring in a second document; and other things that were simply beyond the bylaws.

So, we can discuss this further in the next meeting, but ongoing monitoring is one that would not come up, in my opinion at least, under any USP numbered provision.

So, Avri, your hand is still up, I take it that's a new hand; is that right? Maybe I'm wrong.

So, that's, we will discuss that, probably at the next meeting.

Which brings up the topic of the next meeting. Bernie I'm going to put you on the spot and ask you to mention when our next meetings are scheduled, and then let's discuss that a little bit.

>> As I put in the chat, our next meeting is Thursday, that would be February 1900. And I was asking if you would like to extend that to 90 minutes. And after that, I believe we are currently will scheduled for, (indiscernible).

>>MR. McAULEY: I'm pretty sure we had one on the 22nd, is that right, Bernie?

>> (indiscernible) then we are, yes, March 1st, Thursday March 1st, 1900 also. Currently they're all scheduled for 60 minutes.

>>MR. McAULEY: Thank you. And So, we have two minutes left in this call.

We have three meetings between now and ICANN 61, and yet, three meetings totaling 180 minutes. I'm attempted to suggest that this group cancel the meeting next week and meet for 90 minutes on the 22nd. And one reason I suggest that is I'm drafting some of these provisions. These provisions for the USP rules, we've gone through them very quickly but they take awhile to draft, to be honest with you. I'm not sure how productive we can be next week. In the meantime I'll also be going back to listen to two meetings. And I have a day job. So I'm wondering if anybody would object if we canceled next week, met two weeks from now for 90 minutes instead of 60 minutes. And then we would put the meeting on March 1st, at a 90 minute meeting if we need it. We're making great progress and I'm very appreciative. We're probably going to have to go out to the list with certain requests, but we're really moving forward. I'm very happy about that.

Any objections or concerns with the schedule that I just set out?

If not, Bernie, I think we can wind this call up. I ask you to maybe cancel the next meeting, next week. Give us two weeks for me to do some drafting and make that a 90 minute meeting.

And then in the meantime I'll be in touch with Malcolm on these things that we've discussed separately.

If that's okay, I would like to thank everybody for their attendance. Sam, thank you for your suggestion on the buckets and we'll look forward to that. I think it's an out standing idea.

And we can end the meeting. Thank you all. And good bye.

>> Thank you.

>>MR. McAULEY: You can stop the recording.

(Off the record).